

The American Chamber of Commerce in Canada

Halifax, Montreal, Ottawa, Toronto, Calgary, Vancouver

August 2, 2023

The Hon. Chrystia Freeland
Deputy Prime Minister and Minister of Finance
Department of Finance Canada
90 Elgin Street
Ottawa, Ontario K1A 0G5

Dear Deputy Prime Minister Freeland,

We are writing today on behalf of the American Chamber of Commerce in Canada, AmCham Canada, to express our disappointment with Canada's decision to pursue a unilateral digital services tax (DST).

AmCham Canada is a membership-based organization that promotes the two-way flow of trade, goods, services and investment between Canada and the United States. We are a proud member of the United States Chamber of Commerce, the largest international business organization in the world with affiliates in over 112 countries.

Our members recognize the importance of international tax reform, modernization and removing a "race to the bottom" on broader corporate taxation, and believe the OECD process is the best solution to this issue. However, we are concerned with Canada's decision to pursue its own DST, standing out while 138 OECD countries have agreed on a one-year extension to the current moratorium on DST enactment. This is a troubling move for a country that has long championed the importance of multilateralism.

This course of action by the Government of Canada would not only result in discrimination against U.S. companies, it would also contravene Canada's obligations under both the Canada-U.S.-Mexico Agreement (CUSMA) and the World Trade Organization (WTO). In fact, United States Trade Representative (USTR)'s Katherine Tai has already warned Canada that the U.S. Government would have no choice but to implement countermeasures on Canadian businesses should the implementation of a unilateral DST be pursued.

As previously shared during the February 2022 consultation phase of the draft legislation, the scope of this tax and its application are broad and will have extensive negative economic impacts on our members, including the potential for double taxation. The DST unfairly targets American companies that have long invested and served the needs of Canadian consumers. This tax unfairly focuses on the use of digital means to connect with consumers, a critical element of our modern economic context.

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Furthermore, the retroactive nature of this tax is an unprecedented application that creates market instability for American companies operating in Canada and consequently threatens the broader investment climate. The decision to create a two-year retroactive tax is outside the norms of international taxation, and it undermines the principle of tax certainty and could exacerbate significant compliance burdens posed by an unusual extraterritorial tax on revenue.

We urge you to join the nearly 140 OECD members that have agreed to a one-year extension to the current moratorium on DST legislation, and communicate clearly your intent to drop the retroactive application of the draft DST legislation.

Sincerely,



Rick Tachuk
President
American Chamber of Commerce in Canada