Bipartisan Ways and Means contingent blasts Canada's plan to reinstate digital services tax

House taxwriters on both sides of the aisle have found some common ground on international taxation in an unlikely place: Canada.

Echoing a position already taken by the Biden administration, 23 Republicans and 18 Democrats from the House Ways and Means Committee this week sent a letter to Treasury Secretary Janet Yellen, US Trade Representative Katherine Tai, and Karen Enstrom, the US's interim representative to the OECD, decrying Canada's plan to begin collecting its digital services tax (DST) in 2024, as other countries extend a moratorium on their own levies.
URL: https://pascrell.house.gov/uploadedfiles/canada_dst_letter_-_final.pdf

As part of an OECD-led project to revise international tax rules, known as Pillars One and Two, negotiating countries agreed in 2021 to pause through 2023 the collection of DSTs that had begun to proliferate and cause trade tensions—and were generally viewed as targeting US high-tech companies. In the two years since, participating countries have worked to finalize a multilateral agreement to implement Pillar One, which would reallocate some taxing rights among jurisdictions. With these Pillar One negotiations taking longer than originally intended, 138 of the 143 countries involved released an "outcome statement" on July 11 that included an agreement to continue the DST moratorium through 2024 and possibly extend it through 2025, subject to certain caveats. (For additional details, see *Tax News & Views*, Vol. 24, No. 26, July 14, 2023.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230714_1.html

Canada was among the five countries that did not sign on to the July statement, saying that it could not support an extended pause in tax collection "without any firm and binding multilateral timeline to implement Pillar One." Canada's DST is a 3 percent tax on the revenue large businesses earn from online marketplaces, social media platforms, sale and licensing of user data, and online ads. Unless the country backs down before January 1, 2024, it will collect the tax retroactive to January 1, 2022.

The House taxwriters argue in their letter that "Canada's unusually aggressive and discriminatory approach would target US companies and workers who would disproportionally bear the burden of this new tax, Further, Canada's approach raises serious questions about its obligations under the United States-Mexico-Canada Agreement and the World Trade Organization Agreement."

The signatories on the letter, who generally have been at odds over Pillar Two of the project, went on to align themselves with a warning shot on this Pillar One issue that the administration has already fired.

"We echo the Biden administration's message that Canada should drop its proposed tax, along with the warning that the United States 'would examine all options, including under our trade agreements and domestic statutes,' if Canada does not change course," they wrote, adding that "[i]f Canada chooses to proceed with its DST despite this moratorium, that choice would be risky and may damage bilateral relations with its largest trading partner."

In the run-up to the original OECD agreement in 2021, countries including France and the UK implemented DSTs, and the US responded with retaliatory tariffs on targeted goods from those nations. The inclusion of a moratorium in the global agreement was key to alleviating tensions and tit-for-tat responses between the US and its trading partners.

The Ways and Means members urged Biden administration officials to “impress upon your counterparts in Canada that its unilateral approach is discriminatory and, if enacted, could face significant consequences.” They also asked officials to provide an update on those efforts by October 3.

A spokesperson for Canadian Finance Minister Chrystia Freeland said in an e-mailed statement to Canada’s *National Post* September 20 that the government “has been clear for several years” that it would go ahead with the tax on January 1, 2024, “if a global agreement is not reached. And we are committed to protecting Canada’s national economic interest.” The statement added that “Canada’s priority and preference has always been a multilateral agreement.”

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