July 11th, 2024

Toronto Region Board of Trade
100 Queens Quay E
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Toronto, ON M5E 1Y3

The Honourable Chrystia Freeland
Deputy Prime Minister and Minister of Finance
Department of Finance Canada
Department of Finance Canada
90 Elgin Street
Ottawa, Ontario K1A 0G5
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Re: Canada's DST: Advocating for a Coordinated International Approach

Dear Deputy Prime Minister Freeland,

Now that Bill C-59 and the Digital Service Tax (DST) has been passed – The Toronto Region Board of Trade (The Board), on behalf of its members, would like to offer some important considerations as the regulations are enacted to mitigate unintended consequences for the business community. We underscore the importance of aligning with the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) to address the challenges posed by the digital economy and implore the government to reconsider the retroactive application of the tax to January 1st 2022.

The Issue at Hand

The digital economy has presented significant challenges for international tax frameworks, necessitating resolutions that ensure profits are taxed where economic activities occur and value is created. While Bill C-59, which includes the DST, has now passed into law, its implementation raises critical concerns. The DST seeks to address these challenges by taxing revenues from certain digital services provided to Canadian users. However, we believe that its current form, especially the retroactive application, imposes undue burdens on businesses and may lead to unintended negative consequences.

Given that the bill has already passed, we urge the government to consider opportunities to mitigate potential negative consequences during the implementation phase and to examine possible amendments to improve its efficiency. These could include reducing the retroactive period to provide businesses with a more reasonable timeframe to comply and adjusting the tax structure to better align with international standards. Such changes would mitigate the adverse impacts on the business environment and demonstrate Canada's commitment to fair and practical tax policies within a cooperative international framework.

The Need for a Unified Multinational Response
Given the multinational nature of the digital economy, it is essential that tax policies are coordinated at an international level to prevent the creation of a patchwork of regulations that would complicate compliance for businesses and potentially erode trust in Canada's commitment to international cooperation. Countries such as Germany, Ireland, and Japan have chosen to abstain from implementing unilateral DSTs, preferring instead to support the OECD's efforts to develop a multilateral solution. These countries are recognized for their strong standing in the international community and their commitment to fair and consistent tax policies. Their decision to avoid unilateral action underscores their dedication to addressing global issues within a cooperative international framework.

Potential Consequences of Unilateral Action
Implementing a unilateral DST could have several adverse effects on Canada's economic landscape and international relations. Key concerns include:

1. **Erosion of Business Confidence**
   Multinational companies may view unilateral measures as contrary to the principles of fair play and good faith that underpin international economic relations. This could undermine business confidence and deter investment in Canada.

2. **Trade Tensions**
   The United States, our largest trading partner, has strongly opposed unilateral DSTs, viewing them as discriminatory. The U.S. Chamber of Commerce and other associations have urged the U.S. government to take action against such measures, warning of potential retaliatory tariffs and strained trade relations. Given Canada's reliance on the U.S. as a trading partner, any actions that could jeopardize this relationship should be carefully considered, especially with CUSMA up for review in 2026. Such trade tensions could have far-reaching consequences for Canadian businesses and consumers.

3. **Economic Impact**
   Many businesses, especially SMEs rely heavily on digital platforms for advertising, sales, and reaching new customers. The DST may be passed on to our small businesses, adding undue pressure to their already stressed bottom lines. This will make it harder for them to compete and thrive, ultimately stifling innovation and reducing competition.

4. **Reliance on the U.S. Technology Sector**
   Canada's economy benefits significantly from the thriving U.S. technology sector. Implementing a unilateral DST could strain relations with these American technology leaders, upon which the Canadian innovation ecosystem heavily relies. Such a move could jeopardize the benefits Canada gains from this relationship and hinder collaborative innovation and investment opportunities.

Recommendation to Reconsider Retroactive Application
Given that Bill C-59 has already passed, we urge the government to reconsider the length of time the DST will be applied retroactively. Implementing the tax retroactively to January 1, 2022, imposes an undue burden on businesses that have not had adequate time to prepare for compliance and risks, throwing Canada's rollout of the DST further out of sync with the ongoing development of Pillars One and Two of the OECD/G20 Inclusive Framework on BEPS. This retroactive application could lead to significant administrative challenges and financial strain, particularly for innovative businesses that continue to grapple with post-pandemic recovery

efforts. Reducing the retroactive period would mitigate these impacts and provide a more reasonable timeframe for businesses to adjust to the new tax requirements.

This adjustment would ensure that as Canada implements its unilateral approach, at a bare minimum, we do not do so in a way that unfairly targets and discourages investment in Canada from multinational digital businesses. Furthermore, we urge the government to align with international standards and revert to the agreed-upon multilateral approach once Pillar One and Pillar Two negotiations are complete. This would demonstrate Canada's commitment to fair and practical tax policies within a cooperative international framework and ensure long-term sustainability and equity in global tax practices.

Moving Forward

We urge the Government of Canada to carefully consider implementation and consequential economic impact of the DST and to affirm Canada's intention to re-commit to the OECD/G20-led multilateral process, once Pillar One and Two negotiations are complete. This globally focused approach is more likely to result in a fair and sustainable solution that supports economic growth and innovation while ensuring that all countries can benefit from the digital economy. We believe that Canada's participation in this multilateral effort will strengthen our international standing and foster a more stable and predictable tax environment.

Thank you for considering our views on this important matter. We appreciate the opportunity to provide our input and are available to discuss our concerns further at your convenience.

We look forward to the continued dialogue on how best to address the tax challenges of the digital economy in a way that supports Canada's long-term economic interests.

Sincerely,



Roselle Martino
Executive Vice President, Policy, Advocacy, and Stakeholder Engagement
Toronto Region Board of Trade