

TECHNATION^{CA}

February 22, 2022

**DST Act Consultation
Tax Policy Branch
Department of Finance Canada
90 Elgin Street
Ottawa, Ontario
K1A 0G5**

RE: Digital Services Tax Consultation

On behalf of Canada's technology sector, TECHNATION, Canada's leading national technology association, appreciates the opportunity to provide input on the Department of Finance's draft legislation for the Digital Services Tax Act.

TECHNATION has consistently and strongly supported the movement towards a new international tax framework. We encourage the Government of Canada to drop its retroactive and unilateral measure and implement the OECD solution as quickly as possible. **Global tax policy challenges require global solutions, and any unilateral approach only serves to further complicate efforts to implement a multilateral consensus.**

Many of our members have long supported international tax reform and we were pleased to see the October 2021 historic agreement by over 135 countries, including Canada, at the OECD to modernize global tax rules and remove harmful digital services taxes (DST).

Retroactive Application

We are disappointed to see that Canada has decided to continue pursuing a retroactive DST, potentially causing us to become the first country to violate the moratorium in the OECD agreement that would pause any implementations of unilateral DSTs. This is a troubling move for a country that has long championed the importance of multilateralism and the rule of law. We require open, fair markets for our own tech companies to export to and Canada's tax laws must reflect this.

The DST is a tax on companies using both data and digital means to connect with consumers – a means of survival during the pandemic and its numerous lockdowns. Technology is one of Canada's fastest growing sectors and will help drive Canada's economic recovery in a post-pandemic context. A retroactive tax would have a chilling effect on new entries to the market and for firms who seek to innovate and connect with Canadians in a digital economy.

The decision to create a two-year retroactive tax is also outside the norms of international taxation. This is an unprecedented application that will create market instability for companies currently operating here and those wishing to expand or invest in the market.

A retroactive tax undermines the principle of tax certainty and could exacerbate significant compliance burdens posed by an unusual extraterritorial tax on revenue.

This approach creates increased challenges; any retroactivity would mean in-scope companies would have to establish new compliance systems and reserve potential payments going back to January 1, 2022, even when it is not clear whether the tax will actually ever be collected. This capital could be used to make

TECHNATION^{CA}

investments in Canada, exactly when needed the most to promote economic recovery and growing our digital economy for long-term future success.

Risks of Trade Retaliation

Pursuing a unilateral approach presents serious implications for global trade and negatively impacts the relationship with our North American partners in the Canada-United States-Mexico Agreement (CUSMA) and could lead to potential retaliation as governments respond to discriminatory tax measures. This at a time in which the Canada – United States relationship is threatened by protectionism that could undermine our collective recovery from the pandemic.

We have previously raised concerns on the potential for retaliatory trade measures from the United States and pointed towards comments made by United States Trade Representative (USTR), Ambassador Tai. The Biden Administration has repeatedly raised its opposition to Canada's DST, further demonstrated by the December 15, 2021, statement by USTR Spokesperson Adam Hodge, "If Canada adopts a DST, USTR would examine all options, including under our trade agreements and domestic statutes."

This puts *all* industry sectors at risk of retaliatory measures.

The USTR continues to be consistent in responding to countries imposing these taxes, and it is in Canada's best interest to avoid an escalatory response from our largest trading partner. Canada can be a strong ally to the U.S. by working through the OECD.

Threat to the OECD Process

TECHNATION has consistently supported Canada working through, and even leading, the OECD/G20 Inclusive Framework developments. Minister Freeland has been public with her support of the Inclusive Framework, and we urge the Minister of Finance to maintain this support. However, any decision to move forward unilaterally with a DST will be seen by other countries as being at odds with this endorsement of the Inclusive Framework process. It could also derail implementation should other countries decide to borrow from Canada's playbook and introduce a similarly structured retroactive DST.

Increased Costs to SMEs + Double Taxation

The world's economy is facing a crisis due to the pandemic, and countries are adopting pro-growth tax policies to aid in recovery. Recovery is not guaranteed, either internationally or domestically and Canada must consider that any tax proposal can be a growth-depressing measure at precisely the time the Canadian economy needs recovery.

Now is the time for the Canadian government to embrace digitalization, which will create economic opportunity for tech businesses small and large and improve the economic and social future for their citizens.

There is a tangible risk of double taxation for both domestic and international companies that pay tax in Canada, and additional burdens could lead to flow through costs for SMEs. This will undermine the goal of achieving "tax fairness" as taxes would be levied multiple times in the supply chain on the same revenue.

To compete internationally, Canada needs domestic policies that attract technology investments and enable creative businesses to thrive. Also, the tech sector should be a priority growth area for the Government of Canada, one that will be especially important for our transition to a low-carbon economy.

TECHNATION^{CA}

Conclusion

Technology firms are positioned to drive Canada's economic recovery, fuel the creation of innovative, high-quality, well-paying jobs and position our changing economy for long-term success. During the COVID-19 pandemic, the tech sector allowed Canadian businesses to continue operating, products to get to market, students to keep learning and families to stay connected.

Our technology sector has the ability to be a world leader, however, we must have the appropriate policies in place. It is *critical* for Canada to ensure its tax policies are in alignment with the goals of the federal government, to build Canada's digital economy and compete on a global stage.

TECHNATION strongly encourages Minister Freeland and the Government of Canada to drop the retroactive Digital Services Tax and focus exclusively on implementing the OECD solution.

Thank you for the opportunity to submit this commentary.



Nevin French
Vice-President, Policy

About TECHNATION

TECHNATION is the authoritative national voice for Canada's \$230 billion information and communications technology (ICT) industry. Canada's 44,000 ICT firms directly and indirectly generate over 1.2 million jobs in Canada. The ICT industry in Canada also creates and supplies goods and services that contribute to a more productive, competitive, and innovative economy and society. Our membership ranges from large multinational platforms, to leading Canadian internet-service providers (ISP) to cutting edge domestic tech companies.

For over 60 years TECHNATION, formerly the Information Technology Association of Canada (ITAC), has been the industry-government nexus for technology prosperity in Canada. As a member-driven, not-for-profit, vendor-neutral TECHNATION unites Canada's technology sector, governments, and communities to enable technology prosperity from coast to coast. Our top ten largest companies collectively employ over 92,000 Canadians in every region of the country.