

Ron Estes

(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. RES.

Expressing strong opposition to the imposition of digital services taxes and other relevant similar measures by other countries that unfairly discriminate against United States companies.

IN THE HOUSE OF REPRESENTATIVES

Mr. ESTES submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Expressing strong opposition to the imposition of digital services taxes and other relevant similar measures by other countries that unfairly discriminate against United States companies.

Whereas a digital services tax (DST) or a relevant similar measure is a tax levied by a government on a company that provides a digital service to a person or company of that country;

Whereas several countries have also proposed or implemented other measures that similarly discriminate against United States digital services providers that are novel and

extraterritorial taxes like DSTs and pose significant challenges to United States companies;

Whereas many companies that provide digital services are not physically located in the countries where the people that use the company's services reside and generate revenue from a global enterprise;

Whereas, under current international income tax and trade agreements, the country where multinational companies have a permanent establishment are granted the primary right to tax the income rather than the country where their products are sold or used;

Whereas the scope of DSTs are based on revenues unconnected to in-country presence and applied to gross revenue rather than income;

Whereas certain countries have implemented DSTs that deviate from this international income tax system that are discriminatory to United States-based companies and threaten the success and competitiveness of United States companies and workers in these international markets;

Whereas many countries, including France, Italy, Spain, Türkiye, Austria, and the United Kingdom, have already implemented a DST, and other countries, including Poland and Belgium, are actively considering enacting their own DSTs;

Whereas the United States and more than 145 countries are continuing to engage in constructive dialogue related to the tax challenges of the digital economy, including global minimum taxes;

Whereas, from 2019 to 2021, in response to the DSTs of France, Italy, Türkiye, Austria, Spain, and the United

Kingdom, the United States Trade Representative published reports prepared in investigations under Section 301 of the Trade Act of 1974 (Section 301);

Whereas the reports made 5 main findings, including—

(1) these DSTs are intended to, and by their structure and operation do, discriminate against United States digital companies;

(2) these DSTs' retroactive application is unusual and inconsistent with prevailing tax principles and renders the taxes particularly burdensome for covered United States companies, which will also affect their customers, including United States small businesses and consumers;

(3) these DSTs' application to gross revenue rather than income contravenes prevailing tax principles and imposes significant additional burdens on covered United States companies;

(4) these DSTs' application to revenues unconnected to a presence in-country contravenes prevailing international tax principles and is particularly burdensome for covered United States companies; and

(5) these DSTs' application to a small group of digital companies contravenes international tax principles counseling against targeting the digital economy for special, unfavorable tax treatment;

Whereas the United States Government has many options to combat DSTs, including bilateral engagement, withdrawal of trade preference programs, World Trade Organization dispute settlement, or imposing duties, fees, import restrictions, or taxes on the goods or services of countries that unfairly target United States companies;

Whereas the United States Trade Representative's use of Section 301 investigations on digital services taxes has proven to be useful tools in compelling foreign jurisdictions to negotiate fair, profit-based tax treatment;

Whereas sustained United States trade engagement has already led to certain trading partners agreeing to withdraw or repeal existing DSTs or formally commit to not impose DSTs in the future;

Whereas the United States will continue bilateral and multi-lateral engagement on DSTs, based on the principles of no double taxation, evidence-based taxation, net taxation over gross taxation, and legal certainty; and

Whereas, even with ongoing negotiations, several jurisdictions continue to maintain or consider DSTs that specifically target the gross revenues of United States-based companies, creating a persistent environment of double taxation and market distortion: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) is committed to free and fair trade between
3 the United States and other countries;

4 (2) agrees with the findings of the reports
5 issued by the United States Trade Representative
6 that found DSTs discriminate against United States
7 companies and violate existing international income
8 tax and trade agreements;

9 (3) supports the Office of the United States
10 Trade Representative for initiating on June 5, 2020,
11 investigations into discriminatory DSTs;

1 (4) calls on all other countries to cease and de-
2 sist from implementing any DST or similar meas-
3 ures, to repeal existing DSTs, and to immediately
4 stop unfairly targeting United States companies;

5 (5) calls on all countries to continue to work to-
6 ward consensus with the Organisation for Economic
7 Co-operation and Development (OECD) to address
8 the tax challenges of a global, digitalized economy
9 based on the first principles of no double taxation,
10 evidence-based taxation, net taxation over gross tax-
11 ation, and legal certainty;

12 (6) calls on the relevant United States Govern-
13 ment agencies to use all appropriate and available
14 methods and resources to protect United States
15 companies from the discriminatory treatment and
16 burdensome effects of DSTs; and

17 (7) supports of the of appropriate tax and trade
18 tools, including section 301 investigations into the
19 implementation or proposal of digital service taxes
20 by any nation.