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Canada Finally Enacts the Digital Services Tax (Maybe)

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The new *Digital Services Tax Act* came into force with an order-in-council on June 28, 2024, imposing a 3% digital services tax (DST) on certain Canadian-source digital services revenue of large entities. The DST would first be payable in 2025, with the initial payments retroactively covering calendar years back to 2022. For further details regarding the DST see Davies' bulletins of [2021](#) and [2023](#).

The Canadian government first proposed a DST in 2020, following a model that had already been implemented by other countries such as the United Kingdom, France and India; but the government then suspended enactment subject to the implementation of the Organisation for Economic Co-operation and Development's Pillar One initiative by the end of 2023. However, with Pillar One having failed to be implemented by that deadline, Canada is now proceeding with the DST.

The DST has attracted considerable criticism and threats of retaliation from U.S. government and trade groups, which view the tax as aimed primarily at certain large U.S. multinational corporations. From that perspective, it is interesting to note that the government drafted the legislation with an unusual number of built-in off-ramps before the tax would ever be payable. Even with the *Digital Services Tax Act* having come into force on June 28, 2024, the government is still able, by regulation, to delay or attenuate the initial application of the tax - a tool that it may consider using in future discussions with the United States. However, as things stand now the obligation to pay the tax is fully in force, and the government has not given any public indication that it is considering diverting from the road to the DST.

Corporate groups that believe they may be subject to the new tax may want to consider (i) whether the simplified DST calculation rules available for the retroactive pre-2024 years would be advantageous in their circumstances; (ii) whether any opportunities exist to restructure in a fashion that takes them out of the scope of the DST (through either the €750-million global revenue threshold or the C\$20-million Canadian in-scope digital revenue threshold); or (iii) whether any lobbying efforts in relation to the potential off-ramps would be worthwhile.

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