



June 6, 2025

Mark Carney
The Prime Minister of Canada
House of Commons
Ottawa, Ontario
Canada
K1A 0A6

François-Philippe Champagne
Minister of Finance and National Revenue
House of Commons
Ottawa, Ontario
Canada
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Via email: mark.carney@parl.gc.ca; francois-philippe.champagne@parl.gc.ca

RE: U.S. Retaliatory Taxes under Proposed Section 899

Dear Prime Minister Carney and Minister Champagne:

On May 22, 2025, the United States' House of Representatives passed a reconciliation bill, the "One Big Beautiful Bill Act" ("the Act"). The Act would add section 899 to the U.S. Internal Revenue Code, entitled "Enforcement of Remedies Against Unfair Foreign Taxes." Section 899 would implement retaliatory tax measures against certain countries, including Canada. Section 899, as currently drafted, would levy an unprecedented and economically destabilizing level of taxation on Canadian investors and Canadian multinational corporations operating in the United States.

The proposed measures under section 899 apply progressively higher levels of corporate and withholding taxes on Canadians and Canadian based multinationals to the extent Canada has adopted rules constituting an "unfair foreign tax." An unfair foreign tax includes the Digital Services Tax ("DST") and Under Taxed Profits Rule ("UTPR") as implemented by the Global Minimum Tax Act ("GMTA").

On behalf of Tax Executives Institute, Inc. ("TEI"), I am writing you to express our concern about the economic instability section 899 would introduce to Canadian investment in the United States as well as Canadian multinational businesses doing business there.

About TEI

TEI was founded in 1944 to serve the professional needs of in-house tax professionals.¹ Today, the organization has 55 chapters across North and South America, Europe the Middle East & Africa, and Asia, including four chapters in Canada. Our over 6,000 members represent 2,800 of the world's leading companies, many of which either are resident or do business in Canada. Over 15% of TEI's membership comprises tax professionals who work for Canadian businesses in a variety of industries across the country. The following recommendations reflect the views of TEI as a whole but, more particularly, those of our Canadian constituency.

TEI Comments

If Canada continues to maintain its DST or implements a UPTR under the GMTA as previously proposed, section 899, as currently drafted, will increase the withholding tax on fixed, determinable, annual, or periodical ("FDAP") income earned by Canadians by five percent per year to a maximum of 50% (20% over the 30% U.S. statutory withholding tax rate). This increased rate would be applied, for example, to interest income earned from U.S. issuers and dividends received from U.S. resident corporations. Therefore, where typically the Canada-U.S. Tax Treaty would reduce the withholding tax rate to nil for interest, and to 5% or 15% for dividends, this proposed measure will override the reduced Treaty rate, and the withholding rate will increase by 5% increments until it reaches 50%.

Canadian residents conducting business in the United States or earning effectively connected income ("ECI") from the United States would also be subject to a five percent per year of additional tax on that income to a maximum of 41% (20% over the 21% U.S. federal statutory rate), as well as increased branch profits tax by five percent per year until it reaches 50% (20% over the U.S. 30% statutory rate).

In addition to the tax imposed on FDAP income, ECI, and branch profits tax earned by non-residents of the United States, the proposed measure would increase the amount of tax imposed by the U.S. Base-Erosion and Anti-Abuse Tax ("BEAT") on U.S. subsidiaries of Canadian multinational companies. If Canada does not eliminate such "unfair tax regimes," the BEAT liability of Canadian owned U.S. subsidiaries will increase via an increase in the BEAT rate, changes to the availability of deductions, and the elimination of safe harbours. This would result in higher U.S. taxes and lower amounts of capital available for repatriation to Canada and reinvestment by Canadian companies. Section 899, as proposed, is broad based and would impose billions in additional taxes on Canadian

¹ TEI is organized under the Not-For-Profit Corporation Law of the State of New York. TEI is exempt from U.S. Federal Income Tax under section 501(c)(6) of the U.S. Internal Revenue Code of 1986 (as amended).

companies. Moreover, section 899 also negatively impacts Canadian individuals and Canadian Pensions Plans holding investments in U.S. companies and securities.

If section 899 is passed into U.S. law as currently drafted, we urge the government to promptly ensure Canadians, Canadian multinational companies, and Canadian Pension Plans are not negatively affected. At a minimum, we recommend the government announce that it will: (i) repeal the DST with retroactive effect to its implementation date (or at least pause its application and delay its effective date), and (ii) review the GMTA to assess its impact on Canadian economic competitiveness and withdraw its intention to enact a UTPR in Canada.

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TEI appreciates the opportunity to provide our views regarding the impact of proposed section 899 on Canada. Should you have any questions regarding this letter, please do not hesitate to contact Sandy Shanks, Chair of TEI's Canadian Income Tax Committee, at sandy.shanks@conocophillips.com, or Benjamin R. Shreck of TEI's legal staff at bshreck@tei.org or +1 202 464 8353.

Respectfully submitted,

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International President
TAX EXECUTIVES INSTITUTE

Cc: Chris Forbes, Deputy Minister of Finance
Trevor McGowan, Associate Assistant Deputy Minister, Tax Policy Branch