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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Digital Services Taxes May Give Leverage In US Trade Deals

By **Dylan Moroses**

Law360 (January 22, 2026, 5:13 PM EST) -- As President Donald Trump and his administration continue to negotiate with trading partners seeking to lower tariff rates, countries with digital services taxes could find those measures build some leverage with U.S. negotiators aiming to eliminate them.

Experts told Law360 that they expect countries in talks with the U.S. over potential trade deals to be willing to eliminate their DSTs as part of a broader trade agreement. Many countries with significant U.S. trading relationships have digital levies on their books, including the U.K., France and India.

Sandy Bhogal at Gibson Dunn & Crutcher LLP said the key questions are how and when the U.S. chooses to prioritize eliminating those measures in trade negotiations. He said he expects that countries with DSTs will be willing to eliminate them as part of a broader trade and economic deal with the U.S.

But Bhogal noted that it's difficult to predict what the Trump administration may prioritize, as its trade agenda is both ambitious and constantly evolving, seemingly on a daily basis.

The issue does appear to still have the attention of Congress. Last week, the House Ways and Means Trade Subcommittee held a hearing examining digital trade where attention was devoted in part to how DSTs and other trade barriers can impede U.S. innovation and business expansion.

Rep. Ron Estes, R-Kan., reaffirmed his position during the meeting that DSTs are discriminatory to U.S. businesses with customers overseas. Estes said while the U.S. has secured some agreements from trading partners not to implement them, there is still work for U.S. negotiators to accomplish.

Nigel Cory at Crowell Global Advisors told lawmakers during the discussion that U.S. negotiators maintaining pressure on countries to eliminate their DSTs will prove instrumental to maintaining momentum on DST removals. Cory acknowledged there have already been several commitments by U.S. trading partners to remove DSTs or not move forward with them.

Robert S. Chase II at Eversheds Sutherland said that, prior to Trump's second administration, he didn't view countries as willing to repeal their DSTs in an agreement with the U.S.

Now, given how Trump has "put so much stuff on the table" in terms of economic policy to strike agreements with trading partners, the calculus may have changed for those countries to be more receptive to that idea.

"I think this administration has sort of taken an economic approach that says, 'I'm looking for all of the outflows that companies in the U.S. have to absorb, and I'm looking at all of the inflows, and I'm going to take them all as one giant economic bundle,'" Chase said. "'I'm looking at all of the economic incentives that you receive as a result of being a trading partner with the U.S., and I'm looking at all the economic incentives that I get, and I want a balance there.'"

Gibson Dunn's Bhogal said other countries with DSTs may find themselves in U.S. trade negotiators' and Trump's crosshairs in the event the U.S. intends to "flex its muscles."

He said that possibility is more likely as the Organization for Economic Cooperation and Development's Pillar One project has indefinitely stalled, which was designed in part to eliminate current and prospective DSTs.

Pillar One's Amount A would apply to 25% of profits above a 10% margin from roughly the top 100 multinational corporations, excluding finance and extractive firms, and would benefit countries that forgo unilateral DSTs. Amount B, also part of Pillar One, would require related companies to show they're able to accurately price transactions using a one-sided analysis to calculate a fixed return with data from unrelated firms.

"I think increasingly, even without Pillar One, digital services taxes are going to be part of any political compromise that the U.S. reaches with countries who are imposing them at the moment," Bhogal said.

Bhogal highlighted that Trump threatened to stop trade talks with Canada unless it rescinded its DST, which Prime Minister Mark Carney agreed to do in an effort to continue trade negotiations with the U.S., though those talks have largely remained stalled.

As a potential example, Bhogal said eliminating the U.K.'s DST could be a commitment in a more comprehensive trade agreement with the U.S., though the prospects of such a deal remain unclear.

"The U.K. government would be loath to get rid of it because it's raising increasingly more revenue, and they probably don't want to get rid of it until such time as they know they've got something to replace it with, but would they stop a comprehensive trade deal over the DST? No way they would," Bhogal said. "They would get rid of it if they had to."

Bhogal said the U.K.'s revenues generated by its DST could be replaced indirectly by the terms of a significant trade deal.

"A favorable trade deal is going to replace that revenue in a heartbeat," he said.

Tiffany Smith at the U.S.-based National Foreign Trade Council said in a statement it has been encouraging to see the Trump administration's efforts thus far in eliminating DSTs. She highlighted last year's developments with respect to Canada eliminating its DST and framework trade deals that included language to prohibit DSTs but noted that there are still countries considering keeping or implementing those measures.

"It is troubling that many countries are still maintaining and considering their own DSTs," Smith said. "We hope the trend towards eliminating these measures continues and that the administration keeps pushing back on all digital barriers, including DSTs."

Last year, Trump reached a series of framework trade agreements with Southeast Asian countries, and several of those deals included language that would prohibit trading partners from implementing measures that would discriminate against digital trade involving U.S. firms.

Bhogal said he views the included language about prohibiting measures that would impede U.S. digital trade in several framework trade agreements with U.S. trading partners as a "classic political compromise" that doesn't "necessarily move the debate on DSTs."

Eversheds' Chase said he suspects the digital trade language included in those deals is intended to cover DSTs but noted that whether that happens is largely uncertain. A fundamental challenge with any language prohibiting the tax is how to properly define those measures, he said.

Bhogal said if trading partners do attempt to impose DSTs, or measures that have a similar effect, the dynamics between the U.S. and countries that have agreed to remove digital trade barriers may change.

"If [countries] do try and get inventive, to try to find different ways of taxing U.S. companies doing digital business in foreign jurisdictions, I think that basically gives the U.S. government something to hang their hat on," Bhogal said.

Chase said from his view, perhaps the better way to address DST issues is through terms included in a bilateral tax treaty. He said this is similar to the approach developed by the United Nations, which had crafted model treaty provisions to address digital taxation before shifting focus more recently toward developing a multilateral instrument to deal with those issues.

"Making this a treaty issue makes more sense to me, so that rather than having it as part of a trade negotiation, I'd really rather it was addressed in an income tax treaty or something along those lines," Chase said.

The Office of the U.S. Trade Representative didn't immediately respond to a request for comment.

--Additional reporting by Kevin Pinner. Editing by Neil Cohen and Emma Brauer.

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