



October 14, 2019

The Honorable Michael R. Pompeo
Secretary of State
United States Department of State
2201 C Street NW
Washington, DC 20520

The Honorable Steven Mnuchin
Secretary of Treasury
United States Department of the Treasury
1500 Pennsylvania Ave NW,
Washington, DC 20220

The Honorable Robert E. Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20006

The Honorable Larry Kudlow
Director, United States National Economic
Council
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Secretary Pompeo, Secretary Mnuchin, Ambassador Lighthizer, and Mr. Kudlow:

On behalf of U.S. industry, we write to raise time-sensitive concerns regarding Mexico's proposal to impose discriminatory requirements on the digital economy. The proposal, found in Mexico's 2020 Economic (Budget) Package, seeks to undermine U.S. investment in Mexico's technology market and has the potential to threaten compliance with the United States–Mexico–Canada Agreement (USMCA). We urge the U.S. government to engage with your Mexican counterparts to discourage them from proceeding with the proposal.

The proposal, which would require services that facilitate intermediate business transactions between users to withhold VAT (value-added tax) and income tax, would disproportionately affect U.S. industry.

- The government is seeking to require non-resident companies providing digital services to customers in Mexico to keep a record of, and share, potentially sensitive information. Companies should only have to provide simple and clear documentation that provides a summary of the sales and tax collected, without revealing confidential customer information.
- For the purposes of determining a customer's location, the current proposal requires companies to charge VAT when a customer is deemed to be in Mexico when one of three considerations is met. However, requirements to determine a customer's location should not be overly onerous and should take into account typical customer information already collected by businesses. Companies should be able to make a determination to tax a transaction in a single location relying on two pieces of non-contradictory information. If not adjusted, the current proposal may lead to double taxation. For example, based on the current proposal, if a Mexican

citizen goes to college in the U.S. and uses their Mexican credit card for digital purchases, the company would need to charge VAT in Mexico. However, should two pieces of data support that the customer is based in the U.S., U.S. taxes would also be charged.

- The proposal requires that marketplaces which intermediate business between users withhold income tax, which is highly unusual and unjustified, and VAT. Due to the complexities of the process, companies will likely have to block Mexican individuals or businesses from selling on their marketplaces or close business lines altogether due to compliance and system challenges, or due to the inability to comply with the proposals in the currently articulated timeframe.
- Lastly, the “kill switch” provision, which would punish companies for noncompliance by suspending the internet connection on non-resident entities to Mexico, disproportionately affects U.S.-based companies and is in potential violation of free trade principles.

Unilateral measures such as the Mexican proposal threaten the progress of multilateral, collaborative work that considers all aspects of the changing global economy. Mexico should continue to engage with the process at the OECD to develop a long-term solution for global taxation that does not disproportionately focus on a single sector of the global economy, or single out foreign companies for unique treatment.

In order to continue to allow businesses to thrive in both countries, and ensure that Mexico is able to implement commitments found in USMCA, we ask that the U.S. government exercise its leadership and take action with your Mexican counterparts in the very near term. We appreciate the prioritization of this issue on behalf of U.S. industry.

Sincerely,

ACT | The App Association
Computer & Communications Industry Association (CCIA)
Computing Technology Industry Association (CompTIA)
Consumer Technology Association (CTA)
Engine
Internet Association (IA)
Software & Information Industry Association (SIIA)
TechNet
Travel Tech

CC: Speaker Nancy Pelosi, Leader Mitch McConnell, Republican Leader Kevin McCarthy, Democratic Leader Chuck Schumer