



FedEx Regulatory Alerts & Updates

Regulatory Alert: Update – USTR Announces Termination of Actions in Certain Section 301 Digital Services Tax Investigations

December 14, 2021

BACKGROUND

On June 2, 2020, the Office of the United States Trade Representative (USTR) initiated an investigation into Digital Services Taxes (DST) either imposed or being proposed by certain countries or regions upon particular U.S. companies.

In January 2021, the USTR determined that the DST adopted or under consideration by Austria, France, India, Italy, Spain, Turkey, and the United Kingdom were subject to action under Section 301 because, in their words, those decisions discriminated against U.S. digital companies, were inconsistent with principles of international taxation, and burdened U.S. companies.

On June 2, 2021, the USTR announced its final determination in those investigations was to impose additional tariffs of 25% on certain goods from these countries, while simultaneously suspending these new tariffs for up to 180 days to provide additional time to complete the ongoing multilateral negotiations on international taxation.

WHAT HAS CHANGED?

On November 18, 2021, the USTR announced that due to an agreement to address tax challenges arising from the digitalization of the world economy it decided to terminate the Section 301 actions taken in the respective investigations of specific countries' DSTs: Austria, France, Italy, Spain, and the United Kingdom. As a result, the additional Section 301 duties on certain products of these countries are now eliminated.

On December 1, 2021, the USTR announced that due to an agreement to address tax challenges arising from the digitalization of the world economy it decided to terminate the Section 301 actions taken in its investigation of Turkey's DST. As a result, the additional Section 301 duties on certain products of Turkey are now eliminated.

On December 2, 2021, the USTR announced that due to an agreement to address tax challenges arising from the digitalization of the world economy it decided to terminate the Section 301 actions taken in its investigation of India's DST. As a result, the additional Section 301 duties on certain products of India are now eliminated.

Q & A

Q1: What are Digital Service Taxes (DST)?

A1: As noted in the USTR's notice announcing the initiation of the Section 301 investigations, DST are taxes adopted "...on revenues that certain companies generate from providing certain digital services to or aimed at users" in the specific countries.

REFERENCES

November 18, 2021 USTR Notice on Termination of Actions in the Section 301 Digital Services Tax Investigations of Austria, France, Italy, Spain, and the United Kingdom

<https://www.govinfo.gov/content/pkg/FR-2021-11-18/pdf/2021-25199.pdf>

December 1, 2021 USTR Notice on Termination of Action in the Section 301 Digital Services Tax Investigation of Turkey

https://www.govinfo.gov/content/pkg/FR-2021-12-01/pdf/2021-26116.pdf?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription+mailing+list

December 2, 2021 USTR Notice on Termination of Action in the Digital Services Tax Investigation of India

https://www.govinfo.gov/content/pkg/FR-2021-12-02/pdf/2021-26198.pdf?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email

Overview of USTR Actions Related to the Section 301 Investigations of Digital Services Taxes

<https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>

RegAlert 22-006: USTR Section 301 Investigation into Digital Services Taxes: (posted on 6-9-2021)

https://www.fedex.com/content/dam/fedex/us-united-states/International/upload/RegAlert_22_006_USTR_Section_301_Investigation_into_Digital_Services_Taxes.pdf

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