Dear client,

We would like to inform you of a recent development in U.S. tax legislation that could affect Canadian investments in U.S. equities. This bill is changing daily, and this update is accurate as of June 19, 2025.

Proposed US Tax Code Section 899 – Potential Impacts on Canadian Investors

Section 899, included in the One Big Beautiful Bill (OBBBA), targets residents of countries considered by the United States to apply unfair taxes[1]. Changes to the legislation recently made by the Senate have changed the rules such that they will apply differently depending on the type of Unfair Taxes the U.S. considers is being levied by the country in question[2]. While Canada is expected to be considered a country imposing Unfair Taxes, **based on the current state of the legislation, there should not be any increase in withholding taxes for Canadian investors.**

The Senate can still adjust the text by June 24, with a view to a vote scheduled for June 26, subject to maintaining the legislative calendar.

Background explanation

The original version of section 899 proposed by the House included a gradual increase in dividend withholding to 50% for Canadians, starting in 2026. The Senate version published on June 16 now limits this increase to countries that apply an extraterritorial tax, which is not the case for Canada.

Discriminatory Taxes, like the DST, would only trigger additional taxes on certain activities of Canadian companies, without directly affecting the withholding rates applicable to investors, unless a UTPR tax is implemented in Canada in the future.

Keep an eye on

A separate existing provision, section 891, could allow for a future increase in withholding rates in the event of extraterritorial or discriminatory taxes. This measure has never been used, and its interaction with the U.S.-Canada tax Treaty remains uncertain.

Next steps

As always, we recommend that you consult with your tax advisors before making any decisions. We are monitoring the situation closely and will keep you informed.

1 Unfair Taxes include both Discriminatory taxes and Extraterritorial taxes, but the implications to a country may be different depending on the type of unfair tax it is considered to impose on the U.S.

2 Be it an extraterritorial tax or a discriminatory tax (DST), or both. The Trump Administration [and Republicans in general] view OECD Pillar 1 & Pillar 2 rules, and specifically the UnderTaxed Profits rule portion (UTPR), along with local country Digital Services Taxes (DST) as unfair foreign taxes levied on the US ("Unfair Taxes"). The Unfair Taxes may qualify as either an extraterritorial tax (e.g., UTPR), or a discriminatory tax (e.g., DST) under US rules. Canada has both a DST and Pillar 2 rules but has not yet enacted the UTPR rule of Pillar 2. The previous Liberal Government was planning to enact the UTPR, but it was deferred and has not yet been taken up by the current Government.