



March 12, 2020

Dear Member of the Maryland General Assembly:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write to express our strong opposition to Senate Bill 2 and House Bill 0695, the "Digital Advertising Gross Revenues-Taxation" bills. If adopted, this tax would significantly impact digital advertising within the state of Maryland, hurting the ability for small businesses to grow and prosper. We hope you will stand with taxpayers and small businesses by rejecting this misguided tax hike.

As you are fully aware, SB 2 and HB 0695 would create a new tax on digital advertising revenues of companies, with tax rates reaching as high as 10 percent of gross advertising revenues. This structure raises several economic concerns. By taxing digital advertising but not other types of advertising, the bill creates a tax code that is not neutral between similar businesses. Only one narrow industry is taxed, while other competitors are left untaxed. As a result, advertisers would be encouraged to shift their advertising placements from one medium to another not based on sound business reasons, but as a result of government influence through the tax code.

Additionally, the clear intention of this legislation is to tax large digital advertising companies, but the true burden will ultimately fall on small businesses and consumers in Maryland. Advertisers will inevitably raise the price of advertisements. Maryland businesses will choose to no longer advertise and risk losing new customers, or pay the higher cost. If the latter occurs, the retailer will likely pass the added cost onto their consumers through higher prices. Additionally, these higher costs could force Maryland employers to consider passing the tax to their employees in the form of fewer job opportunities, or by limiting hours, benefits, or wages.

While the tax is forecast to raise \$100 million, its implementation is certainly to draw immediate legal challenges, making collection of any amount unlikely. As written, the legislation is a clear violation of the federal Permanent Internet Tax Freedom Act (PITFA). Signed into law in 2016 by President Barack Obama, the law prohibits states and localities from assessing taxes on internet access and prohibits "discriminatory taxes on electronic commerce." Maryland's proposal appears to be an obvious violation of this component of PITFA and may also be unconstitutional.

Based on these concerns, we hope you reject SB 2 and HB 0695 and remove the bill from further consideration. We appreciate your consideration of these views and look forward to working with you in other ways to improve Maryland's economic and fiscal prospects.

Sincerely,

Thomas Aiello  
Policy and Government Affairs Associate