



Date: February 9th, 2021

To: Members of Indiana Legislature

From: National Taxpayers Union

Re: Oppose HB 1312

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we are here to express our strong opposition to HB 1312, an act which establishes a surcharge tax on social media providers. While we can certainly understand the fiscal pressures facing your state, Indiana taxpayers and small businesses who utilize social media platforms for advertising purposes will not be well-served should the provisions of this bill become law.

Imposing a surcharge tax may seem like a simple way to generate additional revenue, however, it is not without risk to your constituents and to small businesses owners who will ultimately foot the bill. The unintended consequences of this legislation could be far worse than any purported revenue gains.

Contrary to popular belief, taxing revenues derived from advertisements on social media platforms will not primarily impact large social media providers. In actuality, a significant burden of this tax will fall on small businesses and, ultimately, Indiana taxpayers. Similar to other forms of sales taxes, in order to cover the cost of the increase, platform providers and advertisers will ultimately raise their prices. Unfortunately, many small businesses will be forced to reduce or discontinue advertising, a severe detriment when attempting to increase their customer base. When the cost of doing business increases, employers will recoup the expense by cutting staff positions, limiting employee hours, and reducing benefits and/or wages. A 2019 Deloitte Taj study of a similarly structured digital ad tax in France found that "approximately 55 percent of the total tax burden will be borne by consumers, 40 percent by businesses that use digital platforms, and only 5 percent by the large companies targeted."

Should HB 1312 become law, it will likely be challenged in the courts resulting in costly, time-consuming litigation, and ultimately less revenue for your state. This legislation violates the federal Permanent Internet Tax Freedom Act (PITFA) signed into law by President Obama in 2016 in addition to the dormant Commerce Clause. PITFA prohibits "discriminatory taxes on electronic commerce." The bill would tax digital advertising but leave traditional print or media advertising untouched while blatantly violating federal statutory and constitutional law.

The proposal will hurt Indiana's small businesses and consumers at a time when they are already grappling with the economic downturn created by the COVID-19 pandemic. We respectfully ask that you will stand with the taxpayers and small business owners of Indiana and oppose this

legislation. Thank you for your time and consideration of NTU's comments, please reach out should you have any questions.

Sincerely,

Jessica Ward
Director of State Affairs

Leah Vukmir
Vice President of State Affairs