



**Date:** February 10, 2021

**To:** Members of the Maryland General Assembly

**From:** National Taxpayers Union

**Re:** Sustaining Governor Hogan's Veto - Digital Advertising Gross Revenues Tax

I am writing to you in my capacity as Vice President of State Affairs for National Taxpayers Union – the oldest taxpayer advocacy organization in the country. I hope you will reconsider your plan to override Governor Hogan's veto of HB 732 - Digital Advertising Gross Revenues Tax. As a former state senator from Wisconsin, I understand the fiscal problems facing state legislators across the country, especially during this global COVID-19 pandemic. While the ad tax may seem like a simple way to generate revenue, it is not without risk to your constituents and to small businesses owners. The unintended consequences of this legislation could be far worse than any purported revenue gains.

Contrary to popular belief, taxing digital ad services does not primarily affect large out-of-state tech companies. In actuality, a significant burden of this tax will fall on small businesses and, ultimately, Maryland consumers. To cover the cost of the tax increase, many advertisers will merely raise their prices. This will mean many businesses will be forced to curtail or discontinue advertising and risk losing new customers. If, instead, they pay the higher costs, it could force employers to recoup the expense by cutting staff positions, or limiting employee hours, 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 internet companies targeted.”

If this proposal becomes 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. PITFA prohibits “discriminatory taxes on electronic commerce.” The bill would tax digital advertising but leave traditional print or media advertising untouched. Also, the law faces a serious First Amendment challenge because it punitively treats digital commercial speech over other forms of speech.

The proposal will hurt Maryland's small businesses and consumers at a time when they are already grappling with the economic downturn created by the pandemic. Additionally, if enacted, you may find yourself in a position of scrambling for other revenue sources to cover the legal costs that are bound to be incurred when this bill is challenged in the courts. As such, I respectfully ask you to sustain the governor's veto to avoid passing a regressive tax on to the hard-working taxpayers in your state.

Leah Vukmir  
Vice President of State Affairs