

Is Massachusetts Poised to Pass a Tax on Digital Advertising?

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Only a handful of states have sought to tax digital advertising, and the path forward is murky at best due to practical considerations, federal preemption and constitutional questions. However, there are at least 4 bills filed for the 2021-2022 legislative session in Massachusetts that would implement a tax on a company that advertises on a digital platform. A fifth bill would create a special commission to study this issue and the commission's charge would be, in part, to examine the totality of taxes levied on companies in Massachusetts in order to determine a fair tax rate for digital advertising.

The Maryland experience should be illustrative to the Massachusetts Legislature that the path towards levying taxes on digital advertising is fraught with issues that need to be carefully considered before passing similar legislation. As many states look to new revenue streams due to the devastating financial impacts of the COVID-19 pandemic, Maryland passed (over a gubernatorial veto) the first in the nation law to implement a tax on digital advertising. The U.S. Chamber of Commerce and other organizations quickly filed a lawsuit challenging Maryland's new law.

Massachusetts's new Speaker of the House, Ronald Mariano (D-Quincy) has indicated that the House may not have an appetite to consider increases taxes this year. However, Massachusetts leaders have cautioned that the state's revenue receipts may soon begin a downward trend and that all options would be on the table to address revenue shortfalls. Also, the Senate has established the Senate Revenue Working Group that could recommend any number of tax increases or modernizations in the coming months. As a result, the number and frequency of conversations on taxes in Massachusetts is increasing and a tax on digital advertising may be part of the legislative agenda as the year progresses.

The team at ML Strategies is ready to answer any questions you may have.

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