

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.

Authors



Daniel J. Connelly, Senior Vice President and Compliance Officer

Dan represents trade associations and businesses across industries with interests before the executive, legislative, regulatory, and municipal areas of government throughout New England.



Steven A. Baddour, Executive Vice President & Director of Operations

Steve's government relations practice focuses on advising clients ranging from start-ups to Fortune 100 companies on a wide range of issues at the state and federal levels. As part of Mintz's Litigation Practice, Steve represents public and private sector clients in complex civil litigation matters.

Caitlin Beresin

Kaitlyn Sprague



Taylor C. Shepherd, Vice President of Government Relations

As Vice President of Government Relations, Taylor C. Shepherd has extensive experience developing and organizing service teams and strategic plans to help clients achieve their legislative and regulatory goals.