

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1200
Ways and Means

(Delegate Luedtke)

Digital Advertising Gross Revenues Tax - Exemption and Restriction

This bill exempts a broadcast entity and news media entity from the digital advertising gross revenues tax. In addition, the bill prohibits a person from directly passing on the cost of the digital advertising gross revenues tax to a customer through a separate fee, surcharge, or line-item. **The bill takes effect July 1, 2021, and applies to taxable years beginning after December 31, 2020.**

Fiscal Summary

State Effect: Special fund revenues may decrease beginning in FY 2022 as a result of the exemption proposed by the bill. State expenditures are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill exempts a broadcast entity and news media entity from the digital advertising gross revenues tax by establishing that digital advertising services do not include advertisement services on digital interfaces owned or operated by or operated on behalf of a broadcast entity or news media entity.

A broadcast entity is an entity that is primarily engaged in the business of operating a broadcast television or radio station. A news media entity is an entity engaged primarily in the business of newsgathering, reporting, or publishing articles or commentary about news, current events, culture, or other matters of public interest. A news media entity does not include an entity that is primarily an aggregator or republisher of third-party content.

The bill also prohibits a person who derives gross revenues from digital advertising services in the State from directly passing on the cost of the tax imposed to a customer who purchases the digital advertising services by means of a separate fee, surcharge, or line-item.

Current Law: House Bill 732 of 2020 imposed a tax on the annual gross revenues of a person derived from digital advertising services in the State. The bill provided for the filing of the tax returns and making tax payments.

The part of the annual gross revenues of a person derived from digital advertising services in the State are to be determined using an apportionment fraction based on the annual gross revenues of a person derived from digital advertising services in the State and the annual gross revenues of a person derived from digital advertising services in the United States. The Comptroller is required to adopt regulations that determine the state from which revenues from digital advertising services are derived.

The digital advertising gross revenues tax is imposed at the following rates:

- 2.5% of the assessable base for a person with global annual gross revenues of \$100.0 million through \$1.0 billion;
- 5% of the assessable base for a person with global annual gross revenues of \$1.0 billion through \$5.0 billion;
- 7.5% of the assessable base for a person with global annual gross revenues of \$5.0 billion through \$15.0 billion; and
- 10% of the assessable base for a person with global annual gross revenues exceeding \$15.0 billion.

Revenues from the digital advertising gross revenues tax are distributed to the Blueprint for Maryland's Future Fund, after the Comptroller's costs to administer the tax are deducted.

House Bill 732 passed the General Assembly but was vetoed by the Governor on May 7, 2020, for policy reasons. This veto was subsequently overridden by the General Assembly at the 2021 session.

State Revenues: The fiscal and policy note for House Bill 732 of 2020 estimated that annual revenues for the Blueprint for Maryland's Future Fund from the digital advertising gross revenues tax may increase by as much as \$250 million under one set of assumptions. The exemption proposed by the bill may reduce the overall revenue impact of the digital advertising tax provisions of House Bill 732; however, the amount of the revenue decrease

cannot be reliably estimated due to a lack of data regarding the amount of digital advertising revenues generated by broadcast and news media entities.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 787 (Senator Ferguson) - Budget and Taxation.

Information Source(s): Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2021
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