MDCEP
MARYLAND CENTER ON ECONOMIC POLICY

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Maryland Needs an Effective, 21st Century Tax Code

Position Statement in Support of House Bill 695 with Amendment

Given before the House Ways and Means Committee

Maryland's economy has changed in important ways during the last half century, but our revenue system has not always kept up. Operating a 20th century tax code in a 21st century economy has caused Maryland's revenue growth to stagnate, falling further behind on meeting Marylanders' needs. We should comprehensively reform our tax code to close corporate loopholes, end ineffective tax breaks, and modernize outdated policies. As one part of that effort, taxing advertising revenues of the largest corporations—across all platforms—is an important step in the right direction. For these reasons, the Maryland Center on Economic Policy supports House Bill 695 with amendment to apply to all types of advertising activity.

Maryland has been underinvesting in the foundations of our communities ever since the Great Recession. We chipped away at public school funding, allowing the number of school districts that were close to full funding under the Thornton formula to fall from 23 out of 24 in fiscal year 2008 to only six by 2017—with more than half of the state's Black students going to school in a district that was underfunded by 15 percent or more. At the same time, we have allowed our investments in other essential services to erode, from public health to reliable transit. Marylanders now face a choice: We can stay the course, skimp on the basics, and watch our economy weaken over time, or we can fix our revenue system to build a thriving future.

Building a truly effective revenue system will require multiple steps, such as closing corporate loopholes, ending ineffective business tax breaks, and fixing a system that currently allows the wealthiest 1 percent of Maryland households to pay a smaller share of their income in state and local taxes than the rest of us do. As an important part of this process, House Bill 695 can end the counterproductive carve-out for advertising sales, provided that it is designed effectively.

Digital advertising has become a pervasive part of modern life. Many essential activities—checking your email, applying for a job, or shopping online for necessities, to name a few—are close to impossible without consenting to opaque terms of service agreements, generating mounds of data to be mined by parties unknown for purposes unknown, and of course, viewing ads. The drive for advertising revenue has contributed to rising anxiety, the spread of false news stories, and even potential threats to democracy. By bringing this industry into our tax system—on an equal basis with print, television, and other forms of advertising—and investing the revenue in world-class schools, we can begin to mitigate these harms.

It is essential that an advertising tax be designed thoughtfully. Whenever possible, tax policy should seek to apply similar standards to similar activities. In line with this principle, a general advertising tax is preferable to one focused only on digital advertising. This is especially important to avoid conflict with federal law that restricts states' ability to create tailored policies for the online economy. Amending House Bill 695 to cover all types of advertising, while continuing to exempt smaller businesses, would mean a better-designed bill and a lower risk of costly litigation.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Ways and Means Committee make a favorable report on House Bill 695 with amendment.

Equity Impact Analysis: House Bill 695

Bill summary

House Bill 695 applies a graduated tax rate to any gross revenue related to digital advertising of business entities that have at least $100 million in annual sales. The proposed amendment expands this tax to cover advertising on all platforms, such as print, television, and radio.

Background

Targeted advertising is an increasingly pervasive part of the digital economy that exploits user-generated data—anything from voluntarily submitted personal information to tracked, unrelated web browsing—to draw inferences about what ads may lead a user to make a purchase. This practice has raised significant privacy concerns because of its unavoidable reliance on capturing voluminous personal information.

The federal Internet Tax Freedom Act, enacted in 1998, prohibits states from taxing online activities differently from otherwise-similar activities conducted offline. Amending House Bill 695 to apply to advertising activity more broadly would reduce the risk that the tax generates costly litigation.

Equity Implications

Our growing underinvestment in essential services like education, health care, and transportation harms all Marylanders, and at the same time has outsized impacts on people who face economic roadblocks because of low income or the ongoing legacy of racist policy. Reforming Maryland's tax code to raise adequate revenue would strengthen our ability to invest in the foundations of our economy and reduce barriers that hold back too many Marylanders.

Impact

If amended to cover all advertising regardless of platform, House Bill 695 would likely **improve racial and economic equity** in Maryland.