

October 18, 2023



Members of the DC Tax Revision Committee,

On behalf of our member organizations, we are writing to you to express our strong opposition to your consideration of SE1, the proposal of digital advertising and consumer data excise taxes.

Simply put, these taxes are misguided. While some argue these taxes would only affect “big tech” companies, the truth is much different and much closer to home. They would negatively impact just about every small business and “mom and pop” shop that operates in Washington, DC.

As you recall, in 2020 the Council of the District of Columbia proposed an advertising tax that would have adversely impacted local media outlets and journalists; it failed to become law as a result. What the DC Tax Revision Committee is currently considering would have the same catastrophic impacts on that industry.

Over the last decade, the American economy has been transformed by digital advertising. Small businesses are now able to compete and even grow into worldwide brands as a direct result of the reach the Internet affords them. There is hardly a business in existence today that does not use some kind of digital advertising. As reported in the [Washington Post](#), it is estimated that by the end of this year, digital will account for more than two-thirds of all advertising spending in the United States.

Taxing digital advertising is not a new idea, and the consequences are well known. A 2019 [study](#) of France’s digital advertising tax produced by Deloitte, found that 55 percent of the total tax burden was borne by consumers. Further, only five percent of the burden of that tax was expected to be shouldered by the large companies the tax was intended to target.

In the U.S, these taxes face significant [legal hurdles](#) and are very likely unconstitutional. Maryland, the first state to enact a law taxing digital advertising, was immediately sued, and the tax’s legality and constitutionality remain in serious question.

While still in active litigation based on procedural grounds, a Maryland court did [rule](#) on the merits of the tax and found that it “violated the U.S. Constitution’s prohibition on state interference with interstate commerce and violated the federal Internet Tax Freedom Act, which prohibits discrimination against electronic commerce.”

Small businesses and entrepreneurs in Washington, DC are still recovering from the global pandemic and are facing staggering inflation. The last thing that they need during this difficult time is to be burdened with new taxes. Attempting to pass a digital advertising tax is a bad idea.

The legal uncertainty of a digital advertising tax adds additional confusion. Relying on a digital advertising tax as a revenue source to address a budget shortfall is unwise. If passed and then struck down, the District would be forced to pay back every single penny that was illegally collected.

For these reasons, our organizations strongly oppose digital advertising taxes. We encourage the DC Tax Revision Commission to reject these proposals for further consideration.

Washington, DC is one of our nation’s most attractive options for ambitious students, entrepreneurs, and aspiring small business owners. Tax policy discussions should center around ways to build a more competitive business environment which would encourage innovation and grow the overall tax base.

Sincerely,

Association of National Advertisers (ANA)
Americans for Digital Opportunity (ADO)
American Association of Advertising Agencies (4As)
American Advertising Federation (AAF)
American Advertising Federation - DC
Connecticut Broadcasters Association
COST – Council on State Taxation
Exhibitors and Conference Alliance
Internet Coalition
Minnesota Broadcasters Association
Maryland DC Press Association
Maryland DC Delaware Broadcasters Association
MPA – Motion Picture Association
National Taxpayers Union (NTU)
Salem Media Group
Travel Tech