

Sales/Use/Indirect:

Maryland: Industry Groups File Complaint Challenging Validity of New Digital Advertising Tax

Case 1:21-cv-00410-DKC, D. Md. (complaint filed 2/18/21). Following Maryland's recent enactment of a new and novel digital advertising revenues tax – which imposes a tax on annual gross revenue from digital advertising services in Maryland based on a tiered tax rate schedule [see recently issued Multistate Tax Alert for more details on this new tax] – various trade and industry groups have filed a lawsuit in Maryland federal court challenging the tax's validity and seeking a declaration and injunction against its enforcement. Among their assertions that Maryland's new digital advertising revenues tax is "unlawful" are claims that the tax: [URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-maryland-enacts-tax-on-digital-advertising-services.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-maryland-enacts-tax-on-digital-advertising-services.pdf)

- Is preempted by the federal Internet Tax Freedom Act (ITFA), which prohibits states from imposing "multiple and discriminatory taxes on electronic commerce;" and
- Violates the Due Process and Commerce Clauses of the US Constitution by burdening and penalizing purely out-of-state conduct and interfering with foreign affairs.

Please contact us with any questions.

— Joe Carr (McLean)
Managing Director
Deloitte Tax LLP
josecarr@deloitte.com

Inna Volfson (Boston)
Senior Manager
Deloitte Tax LLP
ivolfson@deloitte.com

Ryan Trent (Charlotte)
Senior Manager
Deloitte Tax LLP
rtrent@deloitte.com

Michael Spencer (Washington, DC)
Manager
Deloitte Tax LLP
mispencer@deloitte.com

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the “Deloitte” name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.