

Other/Miscellaneous:

Maryland Supreme Court Issues Formal Opinion Vacating Decision that Invalidated Gross Receipts Tax on Digital Ad Services

Case No. SCM-REG-0032-2022, Md. (7/12/23). As a follow-up to its unsigned order from earlier this year that vacated the Anne Arundel County Circuit Court's ("Circuit Court") 2022 decision that Maryland's novel tax on digital advertising services violates the US Constitution and federal Internet Tax Freedom Act [see previously issued Multistate Tax Alert for more details on this earlier unsigned order], the Maryland Supreme Court (Court) issued a formal opinion reiterating that the Circuit Court lacked jurisdiction over the action because those challenging the tax failed to exhaust their administrative remedies. In doing so, the Court explains that:

[URL: https://www.courts.state.md.us/data/opinions/coa/2023/32a22.pdf](https://www.courts.state.md.us/data/opinions/coa/2023/32a22.pdf)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-maryland-supreme-court-vacates-lower-court-rulings-on-digital-advertising-services-tax.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-maryland-supreme-court-vacates-lower-court-rulings-on-digital-advertising-services-tax.pdf)

1. With respect to the companies' challenge to Maryland's Digital Advertising Gross Revenues Tax Act, the administrative remedies in the Maryland Tax-General Article are exclusive;
2. The challenging companies were required to exhaust their remedies; and
3. Their failure to do so deprived the Circuit Court of jurisdiction to entertain this declaratory judgment action.

Please contact us with any questions.

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