

SENATE BILL NO. 192

INTRODUCED BY J. TREBAS, D. EMRICH, G. NIKOLAKAKOS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A TAX ON DIGITAL ADVERTISING SERVICES; PROVIDING THAT THE TAX IS LEVIED ON DIGITAL ADVERTISING SERVICES WITH WORLDWIDE ANNUAL GROSS REVENUE OF \$25 MILLION OR MORE; PROVIDING THAT THE TAX IS ASSESSED ON ANNUAL GROSS REVENUE DERIVED FROM DIGITAL ADVERTISING SERVICES IN THE STATE; PROVIDING FOR DISTRIBUTION OF THE TAX REVENUE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Digital advertising tax -- definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) "Annual gross revenue" means income or revenue from all sources, before any expenses or taxes, computed according to generally accepted accounting principles.

(2) "Assessable base" means the annual gross revenue derived from digital advertising services in the state.

(3) "Digital advertising service" means an advertisement service on a digital interface, including advertisements in the form of banner advertising, search engine advertising, interstitial advertising, and other comparable advertising services.

(4) "Digital interface" means any type of software, including a website, part of a website, or application, that a user is able to access.

(5) (a) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability company, limited liability partnership, or any other legal entity.

(b) Unless expressly provided otherwise, the term does not include a government entity or a unit or instrumentality of a government entity.

(6) "User" means an individual or any other person who accesses a digital interface with a device.

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2 **NEW SECTION. Section 2. Digital advertising tax -- rulemaking.** (1) There is a digital advertising
3 gross revenue tax imposed on each person with worldwide annual gross revenue from digital advertising
4 services of \$25 million or more and with annual gross revenue derived from digital advertising services in the
5 state. A tax rate of 10% is imposed on the assessable base.

6 (2) (a) The assessable base must be determined using an apportionment fraction:

7 (i) the numerator of which is the annual gross revenue of a person derived from digital advertising
8 services in the state; and

9 (ii) the denominator of which is the annual gross revenue of a person derived from digital
10 advertising services in the United States.

11 (b) The department shall adopt administrative rules to implement the provisions of [sections 1
12 through 7], including determination of the state from which revenues from digital advertising services are
13 derived.

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15 **NEW SECTION. Section 3. Digital advertising tax return.** (1) Each person with worldwide annual
16 gross revenue from digital advertising services of \$25 million or more and with annual gross revenue derived
17 from digital advertising services in the state shall complete and file with the department a return on or before
18 April 15 of the following year.

19 (2) (a) Each person subject to the digital advertising gross revenue tax that reasonably expects the
20 person's annual gross revenue derived from digital advertising services in the state to exceed \$1 million in the
21 tax year shall complete and file with the department a declaration of estimated tax on or before April 15 of the
22 tax year.

23 (b) A person required to file a declaration of estimated tax for a tax year shall file a quarterly
24 estimated tax return on or before June 15, September 15, and December 15 of the tax year.

25 (3) A return filed under this section must include information required by the department.

26 (4) A person required to file a return under this section shall maintain records of digital advertising
27 services provided in the state and the basis for the calculation of the digital advertising gross revenue tax owed.

28 (5) A return or declaration filed under this section is subject to the false swearing penalties

1 provided for in 45-7-202.

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3 NEW SECTION. Section 4. Digital advertising tax payment. (1) Except as provided in subsection
4 (2), each person required to file a return pursuant to [section 3] shall pay the tax due with the return that covers
5 the period for which the tax is due.

6 (2) A person required to file an estimated digital advertising gross revenue tax return under
7 [section 3(2)] shall pay:

8 (a) at least 25% of the estimated digital advertising gross revenue tax shown on the declaration or
9 amended declaration for a tax year with the declaration or amended declaration that covers the year and with
10 each quarterly return for the tax year; and

11 (b) any unpaid digital advertising gross revenue tax for the year shown on the person's return that
12 covers the year of the return.

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14 NEW SECTION. Section 5. Digital advertising tax audits -- records. (1) The department may audit
15 the books and records of any digital advertising service to ensure that the proper amount of tax imposed by
16 [section 2] has been collected. An audit may be done on the premises of the digital advertising service or at any
17 other convenient location.

18 (2) The department may request the digital advertising service to provide the department with
19 books, ledgers, registers, or other documents necessary to verify the correct amount of tax.

20 (3) The digital advertising service shall maintain and have available for inspection by the
21 department books, ledgers, registers, or other documents showing the collection of digital advertising tax for the
22 preceding 5 years.

23 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a
24 false or fraudulent return violating the provisions of this part, the amount of tax due under any return must be
25 determined by the department within 5 years after the return is made, and the department is subsequently
26 barred from revising the return or recomputing the tax due on it, and no proceeding in court for the collection of
27 the tax may be instituted unless notice of any additional tax is provided within the period.

28 (5) An application for revision may be filed with the department by a digital service provider within

1 5 years from the original due date of the return.

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3 NEW SECTION. **Section 6. Digital advertising tax -- failure to pay or file -- penalty and interest --**

4 **review.** (1) A digital service provider who fails to file the return required by [section 3] must be assessed a
5 penalty as provided in 15-1-216. The department may waive any penalty as provided in 15-1-206.

6 (2) A digital service provider who fails to make a payment required by [section 4] must be
7 assessed a penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to
8 15-1-206.

9 (3) (a) If a digital service provider fails to file the return required by [section 3] or if the department
10 determines that the return understates the amount of tax due, the department may determine the amount of the
11 tax due and assess that amount against the digital service provider. The provisions of 15-1-211 apply to any
12 assessment by the department. The taxpayer may seek review of the assessment pursuant to 15-1-211.

13 (b) When a deficiency is determined and the tax becomes final, the department shall mail a notice
14 and demand for payment to the digital service provider. Penalty and interest must be added to any deficiency
15 assessment as provided in 15-1-216.

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17 NEW SECTION. **Section 7. Digital advertising tax distribution.** All money collected under [sections
18 1 through 7] must, in accordance with the provisions of 17-2-124, be deposited by the department in the
19 general fund.

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21 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 7] are intended to be
22 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

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24 NEW SECTION. **Section 9. Effective date.** [This act] is effective January 1, 2026.

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