HOUSE DOCKET, NO. 3144 FILED ON: 1/20/2023

HOUSE . . . . . No. 2966

The Commonwealth of Massachusetts

PRESENTED BY:

Erika Uyterhoeven

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a tax on local revenues from digital advertising.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Erika Uyterhoeven	*27th Middlesex*	*1/20/2023*

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HOUSE . . . . . No. 2966

By Representative Uyterhoeven of Somerville, a petition (accompanied by bill, House, No. 2966) of Erika Uyterhoeven for legislation to establish a tax on local revenues from digital advertising. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3081* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act establishing a tax on local revenues from digital advertising.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 64N the following chapter:

CHAPTER 64O

DIGITAL ADVERTISING LOCAL REVENUES TAX.

Section 1. As used in this chapter, terms shall have the following meanings:

(a) “annual revenues” means income or revenue from all sources, before any expenses or taxes, computed according to generally accepted accounting principles earned in the commonwealth.

(b) “assessable base” means the annual revenues derived from digital advertising services in the commonwealth.

(c) “commissioner” means the commissioner of revenue.

(d) “digital advertising services” includes advertisement services on a digital interface, including advertisements in the form of banner advertising, search engine advertising, interstitial advertising, promoted, boosted, or sponsored content, and other comparable advertising services.

(e) “digital interface” means any type of software, including a website, part of a website, application, or part of an application, that a user is able to access.

(f) “user” means an individual or any other person who accesses a digital interface with a device.

Section 2. The commissioner shall impose a tax on annual gross revenues of a person derived from digital advertising services in the commonwealth. For the purposes of this chapter, digital advertising services are provided in the commonwealth if the digital advertising services appear on the device of a user:

(a) with an Internet Protocol address that indicates the user’s devices is located in the commonwealth; OR

(b) who is known or reasonably presumed to be using the device in the commonwealth.

Section 3. The digital advertising gross revenues tax rate shall be:

(a) 5 per cent of the assessable base for a person with annual gross revenues of $50,000,000 through $100,000,000;

(b) 10 per cent of the assessable base for a person with annual gross revenues of $100,000,001 through $200,000,000; AND

(c) 15 per cent of the assessable base for a person with annual gross revenues exceeding $200,000,001.

Section 4. Each person that, in a calendar year, has annual gross revenues derived from digital advertising services in the commonwealth of at least $100,000 shall complete, under oath, and file with the commissioner a return, on or before April 15 the next year.

Each person that reasonably expects the person's annual gross revenues derived from digital advertising services in the commonwealth to exceed $100,000 shall complete, under oath, and file with the commissioner a declaration of estimated tax, on or before April 15 of that year. Such a person shall also complete and file with the commissioner a quarterly estimated tax return on or before June 15, September 15, and December 15 of that year.

A person required to file a return under this section shall file with the return an attachment that states any information that the commissioner requires to determine annual gross revenues derived from digital advertising services in the commonwealth.

A person required to file a return under this section shall maintain records of digital advertising services provided in the commonwealth and the basis for the calculation of the digital advertising gross revenues tax owed.

Section 5. (a) Except as required in subsection (b) of this section, each person required to file a return under this chapter shall pay the digital advertising gross revenues tax with the return that covers the period for which the tax is due.

(b) A person required to file estimated digital advertising gross revenues tax returns under this chapter shall pay:

(1) at least 25 per cent of the estimated digital advertising gross revenues tax shown on the declaration or amended declaration for a taxable year with the declaration or amended declaration that covers the year AND with each quarterly return for that year; AND

(2) any unpaid digital advertising gross revenues tax for the year shown on the person's return that covers that year with the return.

Section 6. If a notice of assessment and demand for a return is made by the commissioner under chapter 62C §31 and a return for the digital advertising gross revenues tax is not filed, the commissioner shall estimate gross revenues from the best information in possession of the commissioner and assess the tax due on the estimated assessable base.

Section 7. An assessment of digital advertising gross revenues tax may be made at any time if:

(a) a false return is filed with the intent to evade the tax;

(b) a willful attempt is made to evade the tax;

(c) a return is not filed as required under this law or subsequent regulation promulgated by the commissioner;

(d) an incomplete return is filed; OR

(e) a report of federal adjustment is not filed within the period required under chapter 62C §30 of the general laws. If a report of federal adjustment is filed within the time required

under this title, the tax collector shall assess the digital advertising gross revenues tax within 1 year after the date on which the tax collector receives the report.

Section 8. This act shall take effect for the tax year beginning on January 1, 2024.