

Other/Miscellaneous:

Maryland: Federal Judge Dismisses Lawsuit Challenging Digital Advertising Gross Revenues Tax

Case 1:21-cv-00410-LKG, D. Md. (7/3/24). In a federal case challenging the validity of Maryland’s novel tax on digital advertising services (*i.e.*, the “Digital Advertising Gross Revenues Tax” or “DAGRT”), the US District Court for the District of Maryland (Court) followed up its 2022 partial dismissal of the case [see *Case 1:21-cv-00410-LKG*, D. Md. (3/4/22), and *State Tax Matters*, Issue 2022-10, for more details on the Court’s 2022 ruling] to hold that while the DAGRT’s “pass-through prohibition” restricts protected speech to the extent it requires that a taxpayer not directly pass on the cost of the DAGRT “by means of a separate fee, surcharge, or line-item,” the challengers failed to show a First Amendment violation “when judged in relation to the statute’s plainly legitimate sweep.” Accordingly, the Court dismissed the federal case in its entirety.

URL: <https://www.mdd.uscourts.gov/recent-opinions>

URL: <https://www2.mdd.uscourts.gov/Opinions/Opinions/Chamber.FINAL.pdf>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220311_7.html

Note that in 2023, the Maryland Supreme Court vacated the Anne Arundel County Circuit Court’s 2022 decision that Maryland’s DAGRT violates the US Constitution and federal Internet Tax Freedom Act – holding that the Circuit Court lacked jurisdiction over the action because those challenging the tax failed to exhaust their administrative remedies [see previously issued Multistate Tax Alert for more details on the Maryland Supreme Court’s 2023 holding]. In this respect, the Maryland Comptroller continues to impose and implement the DAGRT [see the Comptroller’s website at Digital Advertising Gross Revenues Tax for more details on the DAGRT] while ongoing pending state litigation that challenges the tax’s validity continues. Please contact us with any questions.

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>

URL: <https://www.marylandtaxes.gov/business/digital-ad/>

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