



Officers, 2025-2026

Mollie L. Miller
Chair
Fresenius Medical Care
North America

Jamie S. Laiewski
Vice Chair
Charter Communications

Karen DiNuzzo-Wright
Secretary & Treasurer
Walmart Inc.

Michael F. Carchia
Immediate Past Chair
Capital One Services, LLC

Robert J. Tuinstra, Jr.
Past Chair
Corteva Agriscience

Arthur J. Parham, Jr.
Past Chair
Entergy Services, LLC

Amy Thomas Laub
Past Chair
Nationwide Insurance Company

Patrick J. Reynolds
President
Council On State Taxation

Directors

Madison J. Barnett
The Coca-Cola Company

C. Benjamin Bright
HCA Healthcare, Inc.

Lani J. Canniff
Ameriprise Financial, Inc.

Kathryn S. Friel
Entergy Services, LLC

Damian B. Hunt
Amazon

Laura James
Kimberly-Clark Corporation

Erica S. Kenney
NextEra Energy Resources

Jeffrey A. Langer
The Home Depot

Stephen J. LaRosa
AstraZeneca

Jonathan M. Mieritz
Corteva Agriscience

Toni Mincic
Lumen Technologies

John H. Paraskevas
Exxon Mobil Corporation

Michael R. Raley
VF Corporation

Frances B. Sewell
Pfizer Inc.

Patrick A. Shrake
Cargill, Incorporated

Andrew H. Solomon
Stagwell, Inc.

Beth L. Sosidka
AT&T Services, Inc.

Archana Warner
Constellation Energy
Corporation

Mark B. Holmes
Tax Counsel
(202) 484-5228
mholmes@cost.org

March 4, 2026

Via Email

Senator Dawn White, Chair
Senate Education Committee
Tennessee General Assembly

Re: COST Opposes Data Transaction Privilege Tax in S.B. 2512

Dear Chair White and Members of the Committee:

On behalf of the Council On State Taxation (COST), I am writing in opposition to S.B. 2512, which would establish a privilege tax on gross revenues derived from digital advertising in the State. This proposed Data Transaction Privilege Tax is a new, controversial, untested tax and will likely face protracted litigation like Maryland’s gross receipts tax on digital advertising and Washington’s new sales tax on advertising services. The proposed tax violates fundamental principles of sound tax policy, which would in turn discourage businesses seeking to maintain or expand their operations in the State because the tax is ultimately a gross receipts tax on business inputs.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of approximately 500 major corporations engaged in interstate and international business. COST’s objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members have operations in Tennessee that would be negatively impacted by this proposal.

COST Opposes Gross Receipts Taxes

The COST Board of Directors adopted a formal policy statement opposing gross receipts taxes.¹ The COST policy states:

Gross receipts taxes are widely acknowledged to violate the tax policy principles of transparency, fairness, economic neutrality and competitiveness; generally, such taxes should not be imposed on business.

¹ The policy statement is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/grossreceiptstaxes.pdf>.

The Proposal Creates a New and Unworkable Tax Base

S.B. 2512 imposes a 9.5% tax on a business’s “assessable base,” defined as annual gross revenues derived from data transactions from digital advertising services in Tennessee. The bill defines a “data transaction” as the sale between a user and a person who targeted that user in a digital advertisement. This structure is unprecedented in Tennessee law and unprecedented nationally. The ad-tech industry does not track revenue at the individual “user transaction” level in the manner required by this bill. Consequently, the tax base is not objectively measurable. Companies could not comply without making expensive changes to their delivery systems. Furthermore, audits would inevitably rely on estimates and assumptions, generating prolonged controversy. COST believes S.B. 2512 creates a non-administrable tax.

Sourcing Ambiguity Will Create Complexity and Double Taxation

S.B. 2512 requires taxpayers to determine what portion of digital-ad-data revenues are “derived from this state,” but the bill does not establish a statutory sourcing method. Instead, it instructs the Department of Revenue to create those rules later. This is particularly concerning because states considering digital-ad taxes have adopted different sourcing theories—user location, device IP, advertiser location, or impression location. Furthermore, without uniformity, a single digital-ad transaction could be subject to tax in multiple states. Such uncertainty undermines Tennessee’s reputation for clear and predictable tax administration and it’s inappropriate to delegate such sourcing authority to a revenue agency.

Businesses Subject to the Data Transaction Privilege Tax Are Already Subject to the Corporate Income Tax

Because the definition of digital advertising-related data transactions in the bill requires an ability to interface with the advertisement, this tax is essentially limited to digital advertising. In Tennessee, digital platform companies that do business in the State are already subject to the corporate income tax, and there is no rational basis for imposing an additional tax solely on digital businesses. Tennessee’s corporate income tax regime sufficiently taxes the same activities that would be subject to this proposed Data Transaction Privilege Tax.

Data Transaction Privilege Tax Potentially Violates Federal Law and the Constitution

Finally, if enacted, a Data Transaction Privilege Tax would be immediately embroiled in protracted litigation. Since the new tax would apply to digital advertising but effectively exclude non-digital advertising, the law would likely violate the federal Permanent Internet Tax Freedom Act (ITFA). The Data Transaction Privilege Tax also raises several constitutional issues, including whether the tax would violate the First Amendment and the Commerce Clause.

Conclusion

COST opposes all proposals seeking to establish gross receipts taxes, including the Data Transaction Privilege Tax provisions in S.B. 2512.

Respectfully,

Mark B Holmes

Mark B. Holmes

cc: COST Board of Directors

Patrick J. Reynolds, COST President & Executive Director