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DIGITAL OPPORTUNITY

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*for* TAX REFORM

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Michigan Association of Broadcasters

June 24, 2025

The Honorable Winnie Brinks  
Senate Majority Leader  
Michigan State Capitol  
Lansing, MI 48909

The Honorable Matt Hall  
Speaker of the Michigan House  
Michigan State Capitol  
Lansing, MI 48909

Dear Majority Leader Brinks and Speaker Hall:

On behalf of our members and the undersigned organizations, we write to express our strong opposition to a legislative proposal that would impose a new sliding scale tax on revenue derived from digital advertising.

Advertising is a major driver of economic activity in Michigan. Hundreds of thousands of Michigan workers and businesses benefit from digital advertising and would be harmed by a digital advertising tax. Advertising is a critical industry for the Great Lakes State, and elected officials should be doing everything possible to protect it – not considering legislation that would endanger it.

Taxing digital advertising is an extremely misguided idea that would have far-reaching negative consequences for businesses, consumers, and the state's economy.

Over the last decade, America's economy has been transformed by advances in technology, and nowhere has this transformation been more evident than with digital advertising. The ability of businesses of all sizes to access online platforms and reach countless potential customers has leveled the playing field, allowing start-ups, local newspapers, and Michigan's more than 900,000 small businesses to grow and find success.

Proponents of these taxes argue that they would only affect a handful of multi-billion-dollar companies, but the truth is that consumers and small businesses will bear the greatest impact of taxes imposed on digital advertising revenues.

Michigan businesses and consumers would be disproportionately burdened by a digital advertising tax. Research has found that advertising taxes harm local businesses and consumers more than the corporations they seek to impact. A study commissioned by Deloitte found that France's digital advertising tax impacted consumers the most, with 55 percent of the total tax burden passed on. For small businesses, these taxes lead to more challenging choices – either significantly raising consumer prices, reducing services, laying off staff, or worse.

Michiganders, like most Americans, are already navigating significant economic pressures, including the lingering effects of runaway inflation. Additional taxes would only compound these challenges, driving people and investments out of the state. Michigan business owners and entrepreneurs already face extreme headwinds – the last thing they need is a tax on their efforts to tell consumers about the important goods and services they offer.

Furthermore, a digital advertising tax will invite legal challenges, as seen in Maryland, and expose Michigan to potential financial liabilities when deemed unconstitutional. Maryland's defense of its digital advertising tax in court has already cost taxpayers a significant amount of money, with no clear end in sight. If the law is deemed unconstitutional for one of a multitude of reasons, which include First Amendment and Commerce Clause violations, then the state would be forced to pay back every single cent, plus interest, collected from this unconstitutional tax.

This should serve as a cautionary tale for Michigan legislators. Should a digital advertising tax pass in Michigan and subsequently be overturned by the courts, then an already challenging fiscal situation in the state would become even more daunting.

One Michigan bill introduced on the topic, HB 4142, contains a provision that invites a federal constitutional challenge. It sets the rate not based on the apportionable share into Michigan, but rather based on global annual gross revenues of the advertising platform. The amount of tax liability is substantially determined by activity *not* apportionable to Michigan. The Michigan tax bill goes up when gross revenues go up – including (indeed, mostly) revenues out of state or even out of country – because the progressive rate structure is based on global annual gross revenues. This violates the *Complete Auto* test, as there is a lack of "external consistency" and reasonable relatedness. States have significant tax authority, but there must be a reasonable relation to in-state activity, and this fails the relevant tests.

This legislative session provides you and your colleagues with an opportunity to deliver results for the people of Michigan. Legislative discussions should center around ways to harness the state's positive attributes to build a more competitive business environment, which would encourage innovation and grow the overall tax base.

As you consider options to increase road funding, we urge you to reject taxes on digital advertising.

Sincerely,

Americans for Digital Opportunity  
Americans for Prosperity-Michigan  
Americans for Tax Reform  
Association of National Advertisers  
Council on State Taxation  
Grand Rapids Chamber  
Mackinac Center for Public Policy  
Michigan Association of Broadcasters

Michigan Chamber of Commerce  
Michigan Freedom Fund  
National Federation for Independent Business-  
Michigan  
National Taxpayers Union  
NetChoice  
Small Business Association of Michigan

Cc: The Honorable Garlin Gilchrist II, Lt. Governor of Michigan  
JoAnne Huls, Chief of Staff for the Governor of Michigan  
The Honorable Aric Nesbitt, Senate Republican Leader  
The Honorable Ranjeev Puri, House Democratic Leader