

By: Martinez Fischer

H.B. No. 4467

A BILL TO BE ENTITLED

AN ACT

relating to imposing a tax on certain revenue derived from digital advertising services.

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

SECTION 1. Subtitle G, Title 2, Tax Code, is amended by adding Chapter 184 to read as follows:

CHAPTER 184. DIGITAL ADVERTISING TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 184.0001. DEFINITIONS. In this chapter:

(1) "Assessable base" means the portion of gross revenue derived from digital advertising services in this state.

(2) "Digital advertising services" means advertisement services on a digital interface. The term includes advertisements in the form of banner advertising, search engine advertising, interstitial advertising, and other comparable advertising services.

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

(4) "Gross revenue" means income or revenue from all sources located anywhere in the world, before any expenses or taxes, computed according to generally accepted accounting principles.

(5) "Person" does not include an individual.

1 (6) "Reporting period" means the calendar year on
2 which a report is based.

3 (7) "User" means a person or individual who accesses a
4 digital interface with a device.

5 Sec. 184.0002. RULES. (a) The comptroller shall adopt
6 rules necessary to implement, administer, and enforce this chapter.

7 (b) The rules must include a method for determining the
8 portion of a person's gross revenue that is derived from digital
9 advertising services in this state. The method may include formulas
10 for apportioning any part of a person's gross revenue to this state
11 based on any person or individual's nexus with this state for the
12 purpose of taxation.

13 (c) The rules may include a requirement that a person make
14 periodic reports during a reporting period and pay estimated tax
15 amounts for each report.

16 SUBCHAPTER B. TAX

17 Sec. 184.0051. TAX IMPOSED. A tax is imposed on a person
18 whose:

19 (1) assessable base for the reporting period is at
20 least \$1 million; and

21 (2) gross revenue for the reporting period is at least
22 \$100 million.

23 Sec. 184.0052. TAX RATES. The rate of the tax imposed under
24 this chapter is:

25 (1) 2.5 percent of a person's assessable base for the
26 reporting period if the person's gross revenue for the reporting
27 period is at least \$100 million but not more than \$1 billion;

1 (2) five percent of a person's assessable base for the
2 reporting period if the person's gross revenue for the reporting
3 period is more than \$1 billion but not more than \$5 billion;

4 (3) 7.5 percent of a person's assessable base for the
5 reporting period if the person's gross revenue for the reporting
6 period is more than \$5 billion but not more than \$15 billion; and

7 (4) 10 percent of a person's assessable base for the
8 reporting period if the person's gross revenue for the reporting
9 period is more than \$15 billion.

10 Sec. 184.0053. BUSINESS ON WHICH TAX IS BASED. (a) The tax
11 is based on gross revenue from business done during the reporting
12 period.

13 (b) The comptroller shall adopt rules for determining when
14 business is done. To the extent practicable, the comptroller shall
15 consider business to be done when revenue derived from that
16 business is recognized by a person according to generally accepted
17 accounting principles.

18 SUBCHAPTER C. RECORDS, REPORTS, AND PAYMENTS

19 Sec. 184.0101. RECORDS. (a) A person on whom the tax is or
20 may be imposed shall keep records as required by comptroller rule.

21 (b) The comptroller may investigate or examine any records
22 of a person to determine the person's liability for the tax.

23 Sec. 184.0102. REPORT AND PAYMENT. (a) A person on whom the
24 tax is imposed shall file a report with the comptroller on or before
25 April 15 following the end of a reporting period. The report must be
26 on a form and contain the information required by the comptroller.

27 (b) Payment of the tax for a reporting period is due when the

1 report is due. The person shall pay the tax to the comptroller.

2 SUBCHAPTER D. DISPOSITION OF TAX PROCEEDS

3 Sec. 184.0151. ALLOCATION AND DEPOSIT OF PROCEEDS. The
4 comptroller shall deposit:

5 (1) one-fourth of the proceeds from the collection of
6 the tax to the credit of the foundation school fund; and

7 (2) three-fourths of the proceeds from the collection
8 of the tax to the credit of the general revenue fund.

9 SECTION 2. (a) Chapter 184, Tax Code, as added by this Act,
10 applies only to revenue derived from business done on or after
11 January 1, 2022.

12 (b) A person is required to file the first report and make
13 the first payment under Section 184.0102, Tax Code, as added by this
14 Act, on or before April 15, 2023.

15 SECTION 3. (a) Except as provided by Subsection (b) of this
16 section, this Act takes effect January 1, 2022.

17 (b) Section 184.0002, Tax Code, as added by this Act, takes
18 effect September 1, 2021.