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Big Tech Groups Expand Challenge To Md. Digital Ad Tax

Quote by Jennifer Karpchuk on Big Tech Groups Expand Challenge To Md. Digital Ad Tax

Law360 Tax Authority

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In an article published on April 30, 2021 in Law360 Tax Authority, Chamberlain Philadelphia-based Shareholder Jennifer Karpchuk discusses how trade associations representing large technology companies broadened their challenge to Marylands first-in-the-nation digital advertising tax on April 30, arguing that a pending bills attempt to block businesses from passing the tax onto consumers is unconstitutional and violates First Amendment rights.

First Amendment arguments against state taxes have been largely unsuccessful in state courts of late, but we'll see if federal court is any different, explains Karpchuk.

An example discussed in the article is that Maryland's highest state court, the Court of Appeals, held in March that Baltimore's excise tax on billboards doesn't impinge on free speech.

Karpchuk further explains that she believes the preemption claims under the ITFA are the strongest arguments against the validity of the digital ad tax. But in the event that the litigation fails, lawmakers are mistaken if they believe that S.B. 787 would actually bar companies from forcing consumers to pick up the cost of the tax.

"Even if the tax and the bill survive the legal challenges, from a practical standpoint the state cannot stop a company from raising the prices it charges its customers to account for the tax," said Karpchuk.

To read the full article, subscribers may click here.