

Should digital advertisers be taxed on the data they collect from us?

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Is it legal—or even appropriate—for governments to tax digital advertisers on the user data collected from consumers? That's one of the many questions public policy makers must grapple with as they look for new ways to collect taxes from the digital economy, according to a new [policy brief](#) from Rice University's Baker Institute for Public Policy.

Digital advertisers can acquire [user data](#) and monetize it through so called "barter" transactions. Consumers allow [tech companies](#) to collect

their data and target ads in exchange for services provided by search engines or [social media companies](#).

A number of states are now tapping into the [digital economy](#) by taxing [digital advertising](#). Maryland's digital [advertising](#) tax (DAT), for example, is a levy on "advertisement services on a digital interface, including advertisements in the form of banner advertising, search engine advertising, interstitial advertising and other comparable advertising services," explains author Joyce Beebe, a fellow in public finance at the Baker Institute. She is available to discuss the digital tax economy with the news [media](#).

"Although the transactions between digital advertising platforms and advertisers have been taxed, the second side, the transactions between digital advertising platforms and users, have not," Beebe writes.

"However, the two sides are intertwined; the success of the former is highly dependent on the latter. Because the DAT aims to tax barter transactions, which do not have a parallel in the non-digital world, there is no double taxation or multiple tax."

A [friend of the court brief](#) cited these arguments in defense of Maryland's DAT.

Texas, Massachusetts, New York, West Virginia, Connecticut, Indiana and Montana have also introduced digital advertising taxes. New York, Indiana, Oregon and Washington have proposed taxing sales associated with personal data and social media accounts.

"Consumer data is a valuable asset for digital companies, which typically make sales with little or no physical presence," Beebe writes. Instead, she explains, these companies rely heavily on user-generated input.

"(Proponents) argue that traditional advertising cannot target the

preferences of an individual viewer, cannot verify whether the ad has an impact on the consumer, and cannot control where the ad is specifically placed beyond a price paid for the time it is aired or appears and its general location," she wrote. "In contrast, digital advertising platforms feature two-way communications that take viewer feedback into consideration. These dynamic interactions cannot only be constant, but also real-time."

Opponents of the DAT object mainly on legal, economic and structural grounds, but many of them "also believe the DAT violates the First Amendment because it creates burdens for speech made in digital forms," Beebe writes.

"Some believe the infringement of First Amendment rights is fatal to the DAT, as the U.S. Supreme Court has ruled twice that industry-specific taxes on the news media violate the amendment's protection," she writes. "Others believe this is a faulty argument, because Google and Facebook have taken the position that they are not the press or news publishers—and they therefore should not be held accountable for certain content on their websites. But, since these companies do not consider themselves members of the media, they cannot claim First Amendment protections—or, like genuine media companies, avoid the digital taxes."

Beebe believes both sides of the argument should be explored.

"Consumer data inputs have indeed contributed to value creation for digital companies," she writes. "However, whether or not the DAT is good policy should be debated from all angles, including the legal, economic and implemental perspectives."

Provided by Rice University

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