



# This Week in State Tax (TWIST)

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## Maryland: Comptroller updates guidance on digital advertising tax

The Maryland Comptroller recently issued additional guidance regarding the Digital Advertising Gross Revenue Tax (DAGR). The tax has been in place since tax year 2022 and is applicable to taxpayers with at least \$1,000,000 in annual gross revenue from digital advertising in Maryland. The rate of tax ranges from 2.5 percent to 10 percent of digital advertising revenues in Maryland, based on the annual global revenues of the taxpayer.

[Technical Bulletin No. 59](#) was developed by the Comptroller after studying digital advertising industry practices and is intended to provide additional direction to taxpayers in defining what constitutes digital advertising. The bulletin includes several definitions and administrative processes related to the DAGR tax, but the core substance of the bulletin focuses on defining the characteristics that must be present for digital advertising services to be subject to the tax. Specifically, the Comptroller guidance states that digital advertising services must be both “programmatic” and “conveyed visually.”

Programmatic digital advertising is advertising that is automated with limited intervention from a human in the performance of service. Such automation uses various technologies including computer or software-driven workflows and machine learning algorithms to provide targeted advertising services based on the characteristics of the audience. Targeted advertising decisions occur near instantaneously, allowing advertisers to be more direct and collect more accurate information from the advertising users. If an advertising service is not automated, it is considered non-programmatic and is therefore not subject to the tax.

The second trait shared by digital advertising services is that they are all conveyed visually. To be subject to the tax there must be a visual component of the programmatic advertisement. An advertisement that is programmatic and visually conveyed can also include an audio component, without disqualifying it from being subject to the DAGR tax. However, if an advertisement is conveyed in an entirely audio format, it is not subject to the tax. The bulletin also provides several examples of advertising services that meet the programmatic and visual requirements. They include advertisements seen on social media, internet video advertising, advertisements broadcast over cable or satellite television, and programmatic native advertisements designed to “blend in” with regular editorial content, such as while scrolling through a news website.

As an update, hearings are scheduled to begin this week in the Maryland tax court on a challenge to the constitutionality of the digital advertising tax brought by three major taxpayers. For questions regarding the digital advertising tax or the technical bulletin, please contact [Jeremy Jester](#).

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