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AB-796 Social media platforms: advertising: tax. (2025-2026)

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AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 796

Introduced by Assembly Member Lowenthal

February 18, 2025

~~An act to amend Section 105 of the Revenue and Taxation Code, relating to taxation.~~ *An act to add and repeal Division 11 (commencing with Section 29000) of the Business and Professions Code, and to add and repeal Part 27 (commencing with Section 51000) of Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Lowenthal. ~~Property tax: improvements.~~ *Social media platforms: advertising: tax.*

Existing law imposes various taxes, including a tax on income, the gross receipts from the sale of tangible personal property, and real property.

This bill would, for taxable years beginning on or after January 1, 2026, and before January 1, 2031, impose a tax on a social media platform provider, as defined, equal to an unspecified percentage of the annual gross receipts derived from the purchase of advertisements for distribution on the provider's social media platform, as provided.

This bill would create the Social Media Safety Trust Fund within the State Treasury and would require all moneys raised pursuant to these taxes be deposited into the fund. The bill would establish various accounts within the fund and would allocate moneys into those accounts for expenditure according to specified purposes, including an Education Account, Mental Health Care Account, Research and Development Account, and Social Services Account. The bill would continuously appropriate the moneys in the fund to administer those provisions. The bill would repeal these provisions on January 1, 2031.

~~Existing property tax law defines improvements for the purposes of property taxation.~~

~~This bill makes nonsubstantive changes to that provision.~~

Vote: ~~majority~~2/3 Appropriation: ~~no~~yes Fiscal Committee: ~~no~~yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *The Legislature finds and declares all of the following:*

(a) *The Tenth Amendment to the United States Constitution reserves to the states all powers not delegated to the federal government, including the authority to regulate taxation and commerce within their borders.*

(b) *A social media platform subject to taxation under this act directly contributes to economic, social, and regulatory burdens on the state, including, but not limited to, all of the following:*

(1) Public health and safety concerns, including increased costs related to law enforcement, mental health interventions, educational services, and consumer protection.

(2) Regulatory compliance burdens, including the need for additional oversight and enforcement to mitigate harms caused by the social media platform.

(3) Economic and infrastructure costs, including increased reliance on publicly funded resources to counteract adverse effects generated by the social media platform.

(c) *The United States Supreme Court has upheld state taxation authority on commerce that has a substantial nexus to the state and recognized that states have the power to impose taxation on out-of-state businesses if there is sufficient connection to the state's economy, regulatory framework, or public interest.*

(d) *Social media advertising constitutes a distinct service that is exclusive to digital platforms and cannot be replicated by traditional media, as it relies on proprietary algorithmic targeting and ongoing user data aggregation, which make it fundamentally different from any other advertising medium, including traditional print, television, radio, and outdoor advertising. Because the tax applies broadly to in-state social media advertising transactions, it is not a discriminatory tax on internet-based commerce, but rather a neutral, service-specific sales tax that ensures fair contribution to the regulatory and economic costs imposed on the state.*

(e) *Accordingly, the state retains its sovereign authority to impose a sales tax on the specified internet-based social media platform, as this taxation is a lawful exercise of the state's taxation power to mitigate the financial and social costs imposed on the people of California through a unique, distinct service.*

(f) *Dangers including cyberbullying, human trafficking, fraud, illegal drug distribution, sexual harassment, sexual assault, self-harm, anxiety, depression, and violence that are caused, perpetrated, facilitated, or exacerbated through the use of social media platforms have caused significant and pervasive harm to California residents under 18 years of age. California taxpayers have incurred substantial costs in attempts to address these harms through numerous responses, including social work, mental health support, health care, and law enforcement.*

(g) *It is the intent of the Legislature to establish a program for the purposes of promoting, supporting, and improving the protection, resilience, and recovery from the harms caused, facilitated, or exacerbated by adolescent social media use. It is the intent of the Legislature that these purposes be accomplished through the support of existing and new resources and programs emphasizing awareness, education, social services, health care, and research.*

SEC. 2. *Division 11 (commencing with Section 29000) is added to the Business and Professions Code, to read:*

DIVISION 11. Social Media Platform Advertising

CHAPTER 1. General Provisions and Definitions

29000. *This division shall be known as the California Social Media Accountability Act.*

29010. *For purposes of this division:*

(a) *"Social media platform" means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:*

(1) (A) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application.

(B) A service or application that provides email or direct messaging services shall not be considered to meet this criterion on the basis of that function alone.

(2) The service or application allows users to do all of the following:

(A) Construct a public or semipublic profile for purposes of signing into and using the service or application.

(B) Populate a list of other users with whom an individual shares a social connection within the system.

(C) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

(b) "Fund" means the Social Media Safety Trust Fund established pursuant to Section 29100.

CHAPTER 2. Social Media Safety Accountability Program

29100. The Social Media Safety Trust Fund is hereby created within the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated without regard to fiscal year to administer this division. All costs to implement this division shall be paid from moneys deposited into the fund.

29110. (a) The fund shall consist of moneys collected pursuant to the taxes imposed by Part 27 (commencing with Section 51000) of Division 2 of the Revenue and Taxation Code.

(b) All grants, gifts, or bequests of money made to or for the benefit of the fund from public or private sources to be used for social media safety programs shall be deposited in the fund and expended for the specific purpose for which the grant, gift, or bequest was made in compliance with this division.

29120. (a) Moneys in the fund shall be allocated to the following separate accounts, which are hereby established within the fund, for expenditure according to the following formula:

(1) ____ percent shall be deposited into the Education Account for expenditures to ensure the public is educated on how to mitigate the risks of adolescent social media platform use, including, but not limited to, the delivery of evidenced-based social media platform safety curriculum to children, caregivers, and educators. Upon appropriation by the Legislature, the Superintendent of Public Instruction may provide grants from the Education Account to school districts or elementary or secondary schools to support these purposes. Grant funds may be used by grantees to contract with entities specializing in the delivery of social media platform safety educational services.

(2) ____ percent shall be deposited into the Mental Health Care Account for expenditures to ensure that children and their caregivers receive appropriate mental health care services and support for mental health risks associated with adolescent social media platform use, including, but not limited to, anxiety, depression, eating disorders, and self-harm. Upon appropriation by the Legislature, the State Public Health Officer may provide grants from the Mental Health Care Account to any entity employing a duly licensed mental health care provider to support these purposes.

(3) ____ percent shall be deposited into a Research and Development Account for expenditures to ensure that research of best practices for all programs and services relating to adolescent social media safety and to advance the public's understanding of social media platform safety and expenditures to ensure development of technology to protect children from the dangers associated with social media platform use. Upon appropriation by the Legislature, the State Public Health Officer may provide grants to any entity conducting research or development of this type.

(4) ____ percent shall be deposited into a Social Services Account for expenditures to ensure that children harmed through using social media platforms, including, but not limited to, cyberbullying, sexual predation, and human trafficking, receive appropriate social services and at-risk youth, including, but not limited to, foster youth receive appropriate social services to prevent, mitigate, and respond to harms relating to adolescent social media platform use. Upon appropriation by the Legislature, the Director of Social Services may provide grants to any entity providing these services.

(b) Any moneys appropriated to any of these accounts that are not encumbered or expended within the period prescribed by Section 16304 of the Government Code shall, together with the accrued interest on the amount, revert to and remain in the same account for the next fiscal period.

29130. This division shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 3. Part 27 (commencing with Section 51000) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 27. Social Media Platform Advertising Tax Law

CHAPTER 1. General Provisions and Definitions

51000. For purposes of this part:

(a) "Advertisement" means a paid message or posting, including video, text, illustration, or audio, which is rendered in exchange for consideration and is disseminated by a social media platform provider by means of a social media platform in any manner, for

the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of a commercial product or service.

(b) "Social media platform" or "platform" means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

(1) (A) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application.

(B) A service or application that provides email or direct messaging services shall not be considered to meet this criterion on the basis of that function alone.

(2) The service or application allows users to do all of the following:

(A) Construct a public or semipublic profile for purposes of signing into and using the service or application.

(B) Populate a list of other users with whom an individual shares a social connection within the system.

(C) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

(c) "Social media platform provider" or "provider" means a person who, for commercial purposes in or affecting commerce, provides, manages, operates, or controls a social media platform.

51010. (a) All moneys raised pursuant to the taxes imposed by Section 51100 shall be deposited in the Social Media Safety Trust Fund, established pursuant to Division 11 (commencing with Section 29000) of the Business and Professions Code.

(b) All moneys raised pursuant to taxes imposed by Section 51100 shall be appropriated and expended only for the purposes expressed in the Social Media Safety Accountability Act (Division 11 (commencing with Section 29000) of the Business and Professions Code) and shall be used only for new services or to supplement existing levels of service and not to fund up to preexisting levels of service. No moneys in the Social Media Safety Trust Fund shall be used to supplant state General Fund money for any purpose.

CHAPTER 2. Imposition of Tax

51100. (a) For taxable years beginning on or after January 1, 2026, and before January 1, 2031, in addition to the taxes imposed under Part 11 (commencing with Section 23001), a tax is hereby imposed on a social media platform provider equal to ____ percent of the annual gross receipts derived from the purchase of advertisements for distribution on the provider's social media platform.

(b) The gross receipts used to calculate the amount of tax due under subdivision (a) shall include only purchases that originate in California or purchases for advertisements distributed to persons residing in California.

(c) The gross receipts used to calculate the amount of tax due under subdivision (a) shall not include the cost of advertising services that the social media platform provider refunds either in cash or credit.

(d) The gross receipts used to calculate the amount of tax due under subdivision (a) shall not include purchases that meet either of the following criteria:

(1) The purchaser is a nonprofit organization that qualifies for exempt status under Section 501(c)(3) of the United States Internal Revenue Code of 1986.

(2) The purchaser's aggregate gross payments to the social media platform provider for advertisements within the calendar year has not exceeded one hundred thousand dollars (\$100,000).

51110. This part shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 4. Nothing in this act is intended to infringe upon any right to exercise free expression protected under the First Amendment to the United States Constitution or under Section 2 of Article I of the California Constitution.

~~SECTION 1. Section 105 of the Revenue and Taxation Code, as amended by Section 3 of Chapter 58 of the Statutes of 2020, is amended to read:~~

~~105. (a) "Improvements" includes both of the following:~~

~~(1) Any building, structure, fixture, or fence erected on or affixed to the land.~~

~~(2) A fruit, nut-bearing, or ornamental tree and vine, not of natural growth, and not exempt from taxation, except a date palm under eight years of age.~~

~~(b) This section shall be in effect until the date Chapter 4.5 (commencing with Section 83) of Part 0.5 goes into effect pursuant to subdivision (a) of Section 88, and as of that date is repealed.~~