

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1354

Introduced by Albrecht, 17.

Read first time January 17, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to adopt the
- 2 Advertising Services Tax Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Advertising Services Tax Act.

3 Sec. 2. For purposes of the Advertising Services Tax Act:

4 (1) Any term shall have the same meaning as used in Chapter 77,
5 article 27, except as otherwise defined in the Advertising Services Tax
6 Act;

7 (2) Advertising services means all services, including digital
8 advertising services, directly related to the creation, preparation,
9 production, or dissemination of advertisements. The term includes, but is
10 not limited to, layout, art direction, graphic design, mechanical
11 preparation, production supervision, placement, and rendering advice to a
12 client concerning the best methods of advertising that client's products
13 or services. The term also includes online referrals, search engine
14 marketing and lead generation optimization, web campaign planning, the
15 acquisition of advertising space in the Internet media, and the
16 monitoring and evaluation of website traffic for purposes of determining
17 the effectiveness of an advertising campaign. The term does not include
18 web hosting services and domain name registration or the services of a
19 news media entity;

20 (3) Assessable base means the portion of gross advertising revenue
21 that is derived from sales to customers where services are delivered
22 within Nebraska according to the sourcing rules in this subdivision.
23 Gross advertising revenue is within this state if the audience of the
24 advertising is within this state according to the IP address of the
25 device where advertising is being viewed or, if the IP address location
26 is unavailable, the use of another reasonable method to source the
27 advertising revenue to this state based on the location of the viewer. If
28 the audience is based both within and without this state based on the
29 sourcing rules described in this subdivision, the gross advertising
30 revenue is apportioned between this state and other states in proportion
31 to the location of the viewers within this state as compared to the other

1 states. The Tax Commissioner may adopt and promulgate rules and
2 regulations determining the state from which gross advertising revenue is
3 derived;

4 (4) Digital advertising services means advertising services on a
5 digital interface. The term includes advertisements in the form of banner
6 advertising, search engine advertising, interstitial advertising, and
7 other comparable advertising services;

8 (5) Digital interface means any type of software, including any part
9 of an Internet website or application that a user is able to access;

10 (6) Gross advertising revenue means income or revenue from
11 advertising services sourced to the United States using the sourcing
12 rules described in subdivision (3) of this section before any expenses or
13 taxes, computed according to generally accepted accounting principles;

14 (7) IP address means a unique string of characters or other
15 identifier assigned to each device connected to a network for
16 communication;

17 (8) News media entity means an entity engaged primarily in the
18 business of news gathering, reporting, or publishing articles or
19 commentary about news, current events, culture, or other matters of
20 public interest. The term does not include an entity that is primarily an
21 aggregator or republisher of third-party content;

22 (9) Person has the same meaning as in section 77-2701.25;

23 (10) Reporting period means the calendar year on which a report is
24 based; and

25 (11) User means a person or individual who accesses a digital
26 interface with a device.

27 Sec. 3. (1) A tax is imposed on a person that is subject to the
28 Internal Revenue Code or a group of persons subject to the Internal
29 Revenue Code that are part of the same unitary group or would otherwise
30 be members of the same unitary group, if incorporated, that are doing
31 business in Nebraska and whose combined gross advertising revenue exceeds

1 one billion dollars.

2 (2) The amount of the tax imposed under this section is seven and
3 one-half percent of a person's assessable base for the reporting period.

4 Sec. 4. The provisions of sections 77-2714 to 77-27,135 relating to
5 deficiencies, penalties, interest, the collection of delinquent amounts,
6 confidentiality, refunds, and appeal procedures for the tax imposed by
7 section 77-2734.02 shall also apply to the tax imposed by section 3 of
8 this act.

9 Sec. 5. The Tax Commissioner may adopt and promulgate rules and
10 regulations necessary to implement, administer, and enforce the
11 Advertising Services Tax Act.