

Insights: Publications

Illinois Tax Grab Update: Digital Economy, Sports Contests, and NOL Carryover Limitations to Name a Few

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Written by **David A. Hughes** and **Lauren A. Ferrante**

On June 1, the Illinois legislature passed a budget bill ([S.B. 3019](#)) (“Bill”) that includes a variety of new taxes along with a number of other important tax changes. Governor Pritzker came out in favor of the budget and is expected to sign it. Below, we explore some of the material developments:

Digital Economy

In the digital space, the General Assembly approved three new taxes: (1) digital advertising; (2) social media; and (3) digital assets. These taxes would be effective January 1, 2027.

Digital Advertising: The “Targeted Advertising Services Tax” (Bill, pages 1-22) would broadly impose a 10% tax on placing advertisements “conveyed through a digital interface or any other method of delivery ... that use personal information about the people to whom the ads are being served.” This tax appears to be a “hybrid” of the Maryland Digital Advertising Gross Revenues Tax and Utah Targeted Advertising Tax and suffers from similar legal and constitutional flaws related to the Internet Tax Freedom Act (“ITFA”), uniformity, and the Commerce and Due Process Clauses. (For additional detail about the Maryland, Utah and other digital services taxes and legal challenges, please see our prior [post](#).).

The tax excludes news media companies as well as companies (including members of a federal “controlled group”) with less than \$1 million of annual cumulative gross receipts from targeted advertising services provided in Illinois.

Like Maryland's digital ad tax, this tax is limited to “programmatic” advertisements, which the Bill defines as “capable of automating advertising services.” The tax would also prohibit localities (i.e., Chicago and Cook County) from implementing ad services taxes.

Digital Assets: The “Digital Asset Tax” (Bill, pages 22-37), a novel, first-of-its kind tax, targets cryptocurrency. The Bill would impose tax on the exchange, transfer and storage of “a digital asset as part of a business or on behalf of a customer who has entered into an agreement with a business for the provision of those services.” The tax rate is 0.2% of the value of the digital asset. A “digital asset broker,” including exchanges, brokerages, and transmission facilities, would be required to collect the tax and remit their collections to the Department of Revenue. The definition of “digital asset” incorporates the definition found in the state Digital Assets and

Consumer Protection Act and generally is defined as “a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not fiat currency, whether or not denominated in fiat currency” with number of carve-outs (see 205 ILCS 731/1-5(a)).

Unlike the digital advertising and social media proposals, the digital assets proposal had no such “forewarning” or “forerunner.” See our prior [post](#) discussing Illinois' proposed advertising tax bills and Governor's Pritzker proposed budget plan including a “Social Media Platform Fee.”

Social Media: The Bill proposes a relatively novel fee on a “social media platform.” The “Social Media Platform Fee” (Bill, pages 37-41) would impose graduated fees on social media platforms tied to their in-state users. The fee would be triggered when a platform has more than 100,000 Illinois users and is based on the number of Illinois users per month. The Bill generally defines “social media platform” as a website or internet medium that permits a user to register and share and interact with content that can be viewed by other users.

The Bill also precludes platforms from passing on the fee to users. For other enacted digital services taxes, the platforms/distributors paying the tax generally can pass on the cost of the tax or collect it from consumers, and a court recently held the Maryland digital advertising tax pass-through prohibition unconstitutional. Please see our prior [post](#) for additional detail.

Unlike the digital advertising and digital assets proposals, this fee would be administrated by the Secretary of State (rather than the Department of Revenue), the same agency that administers Illinois' “notorious” franchise tax (our four-part series of articles on the franchise tax is linked [here](#)). The Bill explicitly gives the Secretary of State audit authority over the proposed fee. Additionally, we understand that the legislature styled this proposal as a “fee” in hopes of making it more defensible and less susceptible to legal challenges, such as those raised against digital service taxes in litigation across the country and referenced in this article.

Earlier this year, Chicago enacted a first-of-its kind (at the time) Social Media Amusement Tax that is similar, but not identical to, the Illinois social media fee proposal. There are some key differences, including Chicago's broad definition of “social media business” and its several carve-outs, including those for “bona fide news website, application, or platform”; Internet search and service providers; and certain streaming services and gaming, among others. Litigation challenging Chicago's tax is pending, and it raises similar arguments (including ITFA and constitutional) as those raised in litigation challenging the Maryland and Washington digital advertising taxes. *NetChoice v. City of Chicago*, case no. 2026CH02417 (filed in Cook County Circuit Court, Mar. 13, 2026).

Sports Contests

Prediction Markets: The Bill expands the Sports Wagering Act to cover prediction markets with respect to sports wagering (Bill, pages 1281-1290). Specifically, the Bill proposes a two-tiered system of a 1.75% tax on each wager up to 5 million wagers and then a 3.5% tax on additional wagers. Notably, this proposal is limited to sporting events and if it becomes law, would join only [Kentucky](#) in taxing prediction markets. The Commodity Futures Trading Commission has [lawsuits](#) pending across the country challenging states' authority to regulate prediction markets.

Fantasy Sports: The Bill would create a tax on fantasy sports and impose a 15% on gross receipts that operators receive from fantasy sports (Bill, pages 1350-1362). That tax would be effective July 1.

NOL Carryover Limitations

The Bill would restrict net operating loss (“NOL”) carryover deductions to \$500,000 or 15% of net income, whichever is greater, for any taxable year ending on or after December 31, 2027, and before December 31, 2028 (Bill, pages 45-46). The allowed percentage is scheduled to increase annually until it reaches 80% in 2031.

Additional Noteworthy (Un)Mentions

A plan to eliminate the Illinois Independent Tax Tribunal by defunding it was removed from the Bill. The Tribunal is fully funded (see the appropriations bill, [H.B. 111](#) at page 627).

Other notable items not in the Bill are the Governor's proposed pause on tax credits related to data centers and mandatory worldwide combined reporting. In response to the legislature's failure to act on the data center proposals, Governor Pritzker issued an [order](#) calling for a halt to data center tax incentives as well as outlining a framework to address related externalities such as increased electricity/water usage and costs. Illinois now joins other jurisdictions in calling for a “pause” and further study on data center incentives.

While the Governor is expected to sign the Bill into law, we will keep you updated on any developments.

For additional information about the Bill or any other matter, please feel free to reach out to the article's authors or your Kilpatrick attorney contact.

Related People



Lauren A. Ferrante

t 312.224.1039

lferrante@ktslaw.com



David A. Hughes

t 312.606.3212

dhughes@ktslaw.com