

## California SB 1327

# Tax on Digital Advertising Revenue to Fund Journalism

On May 16, 2024, Sen. Steven Glazer and 7 co-authors in the California Senate amended [SB 1327](#), a bill that imposes a “data mitigation extraction fee” on digital services and funnels collected taxes to qualifying publications or broadcasts in the state. A non-comprehensive summary of significant elements of the proposed legislation and the digital ad tax follows:

### Covered Entities: Who is subject to requirements in this proposal?

- The proposal excludes news media entities and includes taxpayers or users with more than “\$2,500,000,000 in gross receipts derived from data extraction taxes in this state in the taxable year.”

### Eligible Entities: What news organizations qualify for payments?

- “Qualified taxpayer”: an eligible local news organization or a qualified broadcast station which is defined as:
  - “Eligible local news organization”: any person or entity with primary circulation or distribution in the state who:
    - Publishes 24 or more qualifying publications distributed in the state during a taxable year
    - Is not a “disqualified organization”
    - Does not derive more than 50% of its gross receipts, less returns and allowances, from disqualified organizations in the taxable year
  - “Qualified broadcast station”: an employer who meets all of the following requirements:
    - Owns or operates a broadcast station, as defined in Section 3 of the Federal Communications Act of 1934, in the state
    - Is not a “disqualified organization”
    - Derives no more than 50% of its gross receipts, less returns and allowances, from disqualified organizations in the taxable year in which the credit is claimed
- “Disqualified organization”: means any of the following:
  - Any organization exempt from tax under Chapter 4 (commencing with Section 23701) of Part 11, except for an organization exempt under Section 23701d
  - Any organization described in Section 527 of the Internal Revenue Code
  - Any organization that is owned or controlled, directly or indirectly, by one or more organizations described above

### Key Definitions: What kind of tax would the bill implement?

- “Data extraction transaction”: a transaction where a taxpayer sells user information or access to users to advertisers and the taxpayer engages in a barter by providing services to a user in full or partial exchange for the ability to display advertisements to the user or collect data about the user, except as provided.
  - Imposes a tax upon gross receipts derived from data extraction transactions at a rate of 7.25% of those receipts.

- The bill would appropriate \$15,000,000 for journalism fellowships and would require the remaining money in the fund to be used for grants to eligible nonprofit local news organizations administered by the Franchise Tax Board.

### **Implementation: Who is responsible for the collection and distribution of this tax?**

This proposal would establish the Data Extraction Mitigation Fee Fund in the State Treasury and direct all tax revenues to be deposited into the fund. The Franchise Tax Board is responsible for prescribing rules, guidelines, or procedures necessary to carry out the proposal, allocate the credit, and prevent improper claims from being filed.

Additionally, the Board is responsible for approving credit reservations for eligible individuals, allocating the amount of credits, and the carryover of unallocated credits from the prior year. The bill also gives the Board the power to adopt “necessary and appropriate” regulations that apply other presumptions, default rules, and formulas in order to ensure that the apportionment results fairly reflect the supposed “data extraction activity” in this state. The Franchise Tax Board is also responsible for analyzing performance indicators for each year and reporting its findings.

### **Impact: What will the internet look like if this proposal goes into effect and the tax is collected from digital services?**

There are many different concerns with SB 1327, especially as they relate to targeting certain technology companies, the impact on small businesses, and possible litigation. First and foremost, this bill seeks to punish digital services solely because they use data. Currently, only three companies fall within the thresholds of the bills — Amazon, Google, and Meta — as they are the only ones that meet the monetary and service thresholds. In a [press conference](#), Glazer noted his hope to combat “data mining” conducted by so-called “tech giants” rather than focusing on problematic approaches to data collection including data brokers and other third-party relationships where Californians have no individual control over the data being collected.

If implemented, this tax would have long-lasting implications for local California businesses that rely on these digital services to improve productivity and competitiveness. This is done through the use of data for advertising to ensure the intended audience is seeing them. In addition, these advertising revenues are key to subsidizing important parts of the internet utilized by users and organizations alike at no or little cost. Sending this revenue to publishers of news and broadcasts stands to disrupt the internet ecosystem, especially search engines and social media.

Past state bills have taken similar approaches in utilizing a digital ad tax to fund different industries or initiatives, and many of those find themselves tied up in litigation. As Glazer says at the end of the bill, this legislation would need to “take immediate effect” to prevent the imminent closures of vital newspapers and local news organizations. Because SB 1327 shares similar provisions to Maryland’s [HB 732](#), it may be subject to legal challenges. In 2021, CCIA, along with NetChoice, the Internet Association, and the Chamber of Commerce, filed a [complaint](#) against HB 732 on the unlawfulness of the Act because it targets only three



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companies, is preempted by the Internet Tax Freedom Act (ITFA) and only imposes a tax on sellers of digital advertising services.

### **Additional Resources:**

- CCIA [blog post](#) on SB 1327
- CCIA [explainer](#) on past link tax failures
- CCIA [two-pager](#) on harms of forced online news payments
- CCIA [white paper](#) on harms of forced online news payments