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BRIEF LOOK

The Fiscal Significance of Data: a billion-dollar policy innovation

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DATA IS INCREASINGLY IN THE FOCUS OF POLICYMAKERS GLOBALLY. The Fiscal Policy Institute estimates that by introducing a small tax on data the state would boost its revenue by a billion dollars in the immediate future. The potential for further revenue is particularly important, as the tax is future proof and is well positioned to capture additional gains while the overall business environment transitions to elevated data intensity.

Data Tax Carries Substantial Revenue Potential

The revenue of the top internet companies attributable to the US varies widely and is on average anywhere between 45 and 65 percent. It can serve as a useful and conservative proxy for the attribution of the relative value of the US-based data subjects for whom it may be argued to be driving sales as a function of the size of the consumer market. The Fiscal Policy Institute estimates that this tax could generate anywhere between $700 million and $1 billion dollars, and potentially more, in new revenue for the state of New York from US-based data and Internet companies alone. As data and—increasingly more complex—data products continue permeating people's lives, the positive revenue potential of a data tax will grow. Additionally, the universe of data-driven enterprises is expanding fast as more companies embrace data as strategic resource and analytics as a powerful driver of growth and profitability. Therefore, the full long-term revenue potential of the tax measure is likely to encompass a wide variety of business operations, growing considerably in the process. If adopted as proposed by Senator Andrew Gounardes and Brooklyn Borough President Eric Adams in Senate Bill S6727[1], the measure would introduce a two-percent tax on annual gross receipts from all domestic and foreign sources attributable to New York data subjects on all data controllers or processors, except for those earning less than five million dollars a year or newly established withing the past three years. To obtain a conservative estimate, the FPI examined the revenues of the top 57 Internet and data companies in the US and allocated a portion of their US revenue to NYS as appropriate by the share of the state in national economy to represent the economic substance of the resident data subjects.

Focus on Data Sharpens Globally

With the rise of multinational companies whose business models rely on data, there is an ongoing discussion about how to capture the digitalization of the global economy. Questions about data and its status as a strategic resource and its role in the global economy are being asked and explored by governments and institutions around the world. The European Union has enacted privacy laws that are designed to give individuals more control over how their data is collected.[2] The Organization for

Economic Co-operation and Development (OECD) has been hosting negotiations with 137 countries to adapt an international tax system that would capture the digitalization of the global economy.[3] Amid these ongoing negotiations for new international tax rules, the European Union has proposed a digital levy which would serve as a source of tax revenue for the commission.[4]; and several European countries have already moved forward proposing and implementing their own Digital Services Taxes (DST). Austria, France, Great Britain, Hungry, Italy, Poland, Spain, and Turkey have all implemented their own taxes on digital services. Other countries like Belgium and Norway have proposed or shown intentions to do the same.

Closer to home, Maryland's legislature voted to override the governor's veto and passed House Bill 732, which imposes a new tax on digital advertising services. This measure passed in February 2021 and will be effective for tax years beginning after December 31, 2020.The tax will be imposed on all entities with global annual gross revenues of $100 million or more. Entities with revenues of $1 million or more who have derived profits from the state of Marly will also be subject to this tax. While this is the first tax to target the digitalization of the economy in the US, there are other methods that states are using to explore this new frontier. In 2019 California enacted the California Consumer Privacy Act which gives consumers more control over their personal information.[5] In 2020, the Attorney General in Vermont initiated its first enforcement action based on the state's new Data Broker law. This law requires entities collecting and selling data to register as "data brokers" and to pay an annual $100 registration fee. While this law also provides some privacy regulations to give consumers more control over their data, it also puts a spotlight on an unregulated industry that is hidden in plain sight.

Here in the state of New York, Senator Liz Kreuger introduced Senate Bill 4959, which would impose an excise tax on the collection of New Yorkers consumer data.[6] There is also the New York Privacy Act, a regulation which would place safeguards around data sharing and allow consumers to obtain all of the entities that their data is shared with. This legislation, sponsored by Senator Thomas, would establish an account to fund a new office of privacy and data protection.

Both internationally and domestically, governments are exploring how to capture revenue and protect its consumers from the companies that exploit their personal data. The digital economy is here to stay, and with it will come new rules and limit from governments. This proposal is one method of recapturing the value of the data that New Yorkers have shared freely which has helped to generate billions of dollars in revenue for companies.

Recommendations

- Adopt a 2-percent tax on entities that rely on leveraging consumer and/or user data of New York-based data subjects.
- Commit to expanding technology literacy education.

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[3] Tax Challenges Arising from Digitalization-Economic Impact Assessment: Inclusive Framework on BEPS, , 2020, OECD/G20 Base Erosion and Profit Shifting Project, https://doi.org/10.1787/0e3cc2d4-en
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