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Chicago's New Social Media Amusement Tax: Reed Smith

Key takeaway

- The City of Chicago's new Social Media Amusement Tax raises several questions regarding its implementation. Key uncertainties include how social media providers will distinguish "Chicago consumers" from temporary visitors, the definition of "amusement," and the scope of the exemption for a "bona fide news website." The SMAT also is subject to challenge as a discriminatory tax on electronic commerce that violates the Internet Tax Freedom Act. These and other ambiguities suggest the SMAT is likely to face legal challenges.

The City of Chicago has enacted a new Social Media Amusement Tax (SMAT), codified in Chapter 4-156, Article VIII of the Municipal Code of Chicago. This client alert outlines the key provisions and definitions of this new tax.

Key Provisions

- **Effective dates and scope**: Applies beginning January 1, 2026 to for profit "social media businesses" that collect consumer data from more than 100,000 Chicago consumers in a calendar year.
- **Tax rate and computation**: $0.50 for each Chicago consumer above 100,000, calculated monthly; each month is a separate reporting period.
- **Filing and payment**: Monthly payments are due by the 15th of the following month, with an annual return due each August. The first payments, covering the month of January 2026, will be due February 16, 2026, because February 15 falls on a Sunday. The first return, covering January 1–June 30, 2026, is due August 17, 2026, because August 15 falls on a Saturday.

Key Definitions

- "Amusement" means engagement with media content delivered through the use of social media for the substantial purpose of entertainment and enjoyment.
- "Social media" broadly covers websites/apps/platforms enabling users to view/share/engage with images, video, and audio (including AI and live streams). "Social media" does not include any bona fide news website, application, or platform.
- "Consumer data" includes any information that can identify or be linked to a consumer (beyond basic contact details).
- "Chicago consumer" focuses on Chicago residents using social media in the City via an account whose data is collected. There is a rebuttable presumption that a consumer with a Chicago home or mailing address or with an internet protocol (IP) address is a Chicago consumer.

Exclusions and Grouping

- For purposes of the SMAT, a social media business does not include an internet search provider, internet service provider, email service, certain streaming service where the content is not user-generated, ad network solely delivering commercial content, telecommunication carrier, cloud computing service, and or news gathering organization. Controlled groups under IRC §1563(a) are treated as a single entity.

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