



TAXPAYERS'
FEDERATION
— OF ILLINOIS —

Social Media Fees & Digital Asset Taxes

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Chicago Social Media Amusement Tax - Overview

- Beginning January 1, 2026, the tax is imposed on social media businesses that collect consumer data from more than 100,000 Chicago consumers in a calendar year, based on the number of Chicago consumers from whom a social media platform business collects consumer data within a calendar month.
- The rate of the tax is \$0.50 per the number of Chicago consumers per calendar month in excess of 100,000.
- Monthly payments due on or before the fifteenth day following the end of the monthly tax period with an annual return due on or before August 15th.



Chicago Social Media Amusement Tax - Definitions

- “Chicago consumer”
 - a Chicago resident who uses social media in the City accessed through an account registered with a social media business and whose consumer data is collected by the social media business
 - Chicago home address
 - Chicago mailing address
 - or an internet protocol address or other consumer data on primary usage location connected with a Chicago location
- “Social media business”
 - a for-profit entity that: (a) provides individuals with access to social media for the activity of social media amusement; and (b) collects, maintains, uses, processes, sells, or shares consumer data, other than consumer contact information, in support of the entity’s business activities



Chicago Social Media Amusement Tax - Definitions

- “Social media business” does not include:
 - an Internet search provider;
 - an Internet service provider;
 - an email service;
 - a communication service, including text, audio, or video communication technology, provided by a business to the business’s employees and clients for use in the course of business activities and not for public distribution, except that a social media business’s media access includes a communication service provided to consumers by a social media business;
 - an advertising network with the sole function of delivering commercial content;
 - a telecommunications carrier;
 - a broadband service;
 - teleconferencing or video-conferencing services that allow reception and transmission of audio and video signals for real-time communication, except that a social media business’s media access includes teleconferencing or video-conferencing services provided to consumers by a social media business;
 - cloud computing services or other non-possessory computer leasing services, which may include cloud storage and shared document collaboration; or
 - providing or obtaining technical support for a platform, product, or service



Chicago Social Media Amusement Tax - Enforcement

- Violations are subject to a fine of not less than \$2,500.00 or more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.
- The Chicago tax and the Illinois fee apply to the same electronic commerce, causing multiple taxation of Chicago-sourced services.
- No mention of credit for taxes paid to other jurisdictions



Illinois Social Media Platform Fee - Overview

- Beginning January 1, 2027, certain social media platforms will be required to pay a monthly fee based on the number of Illinois users from whom they collect data.
- Within 14 days of the start of each month, each social media platform shall submit to the Secretary of State a report of the average number of monthly users of the platform located in the State of Illinois.
- The tiered fees must be paid to the Secretary of State no later than the 14th day of the first succeeding calendar month.



Illinois Social Media Platform Fee - Rates

- Social media platforms with over 100,000 Illinois users but not more than 500,000 Illinois users shall pay \$0.10 per month on the number of Illinois users over 100,000 but not more than 500,000;
- Social media platforms with over 500,000 Illinois users but not more than 1,000,000 Illinois users shall pay \$40,000, plus \$0.25 per month multiplied by the number of Illinois users over 500,000 but not more than 1,000,000;
- Social media platforms with over 1,000,000 Illinois users shall pay \$165,000, plus \$0.50 per month multiplied by the number of Illinois users over 1,000,000



Illinois Social Media Platform Fee - Enforcement

- If a social media platform fails or refuses to pay the monthly fee to the Secretary of State, there is an added fee in the amount equal to 100% of the unpaid fee and any penalties each month until the fee is paid.
- On January 1, 2028 and on each January 1 thereafter, the fees charged increase by an amount equal to the annual unadjusted percentage increase in the Consumer Price Index for the 12-month period ending with the March preceding each July 1, including all previous adjustments, rounded down to the nearest whole number.



Illinois Social Media Platform Fee – Issues and Questions

- Fee can't be passed on
- “Social media platform” – a website or internet medium that:
 - permits a person to become a registered user, establish an account, or create a profile for the purpose of allowing users to create, share, and view user-generated content through that account or profile;
 - enables one or more users to generate content that can be viewed by other users of the medium; and
 - primarily serves as a medium for users to interact with content generated by other users of the medium.
 - “Social media platform” does not include a not-for-profit organization, as defined in the General Not For Profit Corporation Act of 1986.
- What's a user? - provides no guidance as to how to determine whether a user of the social media website is “located” in Illinois.



Overview: A First-of-Its-Kind Tax

- Enacted in the FY2027 budget bill (SB 3019); effective January 1, 2027 (for now)
- Imposes a tax “upon the privilege of receiving any digital asset business activity by a customer in this State”
- Rate is 0.2% of the value of the digital asset to which the activity relates — not on the broker’s fee
- Collected and remitted by the digital asset broker; the customer must self-pay if no tax is charged
- Functions like a transaction-based excise tax rather than a retail sales tax (pyramiding)
- Bills introduced to repeal the Act



How the Tax Operates in Practice

- Each “single occurrence” of exchanging, transferring, or storing a digital asset is a separate taxable event
- Tax can pyramid across a single customer workflow:
 - Buy BTC with USD → taxable
 - Convert BTC to ETH on the same platform → taxable
 - Transfer ETH to another account or wallet → taxable
- Because the base is full asset value, repeated cycles can erode values



Who Is Subject to the Tax

- Legal incidence: the Illinois customer receiving the digital asset business activity
- Collection duty: any digital asset broker “maintaining a place of business” in Illinois
- The broker is liable for the tax whether or not it was actually collected from the customer
- All digital asset business activities subject to the Act are presumed subject to tax collection — the broker bears the burden to rebut
- Customer direct-pay liability applies where no tax was charged
 - “Use-tax” like: uncollected tax is due directly from the customer by the 20th of the following month
- Registration with the Department is required to engage in business as a broker in Illinois



Maintaining a Place of Business in Illinois

- Physical presence: any office, facility, or agent in the State or through a subsidiary or representative
 - Applies whether the place of business is maintained permanently or temporarily
- Economic connections: \$100,000 or more in gross receipts from Illinois digital asset business activity
 - Measured on a rolling 12-month basis and tested quarterly
 - Meeting the threshold locks in collection obligations for the following year as well
- Section 3-35 (collection) and Section 3-30 (registration) use different terminology, leaving the standards unlinked



Sourcing: Is the Customer in Illinois?

- In-person transactions are sourced to the customer's physical location — rare in this industry
- Remote transactions carry a rebuttable presumption of Illinois situs based on:
 - Illinois home or mailing address on record
 - Illinois IP address or other data showing “place of primary use”
- The Act borrows “place of primary use” from the Mobile Telecommunications Sourcing Conformity Act
- The statute sets no evidentiary standard for rebutting the presumption, and reasonable methodologies do not relieve the broker's burden



The Tax Base and Valuation

- The base is “the value of the digital asset to which the digital asset business activity relates”
- Not on the service fee
- The Act does not prescribe a valuation standard, valuation time, or methodology
- Open treatment for volatile assets, corrections, cancellations, forks, burns, redemptions, and airdrops
- Tax must be added to the “purchase price” and separately stated where possible — unclear where there is no purchase price
- The tax can exceed the fee charged or the customer’s economic gain, including in zero-gain scenarios



Key Definitions Under the Act

- Digital asset — DACPA definition: a digital representation of value used as a medium of exchange, unit of account, or store of value, and that is not fiat currency
 - Excludes loyalty points, in-game assets, prepaid value, and digital goods with independent utility;
 - stablecoins appear to be captured
 - Tokenized assets captured as well
- Digital asset business activity — any single occurrence of exchanging, transferring, or storing a digital asset for a customer under an agreement
 - “Exchange” excludes principal-capacity trading; DACPA’s peer-to-peer, DeFi, NFT, and validation exclusions are omitted
- Digital asset broker — IRC § 6045(c)(1)(D): any person who, for consideration, regularly provides services effectuating transfers of digital assets
 - Whether Illinois will follow the federal Treasury regulations remains unresolved
- Customer and sale — both turn on “valuable consideration,” which the Act leaves undefined; each service in a bundle is a separate sale



Enforcement and Compliance Burden

- Failure to file, keep records, or comply with Department rules can be a Class 3 felony
- Fraudulent returns can reach officers, managers, members, agents, and accountants who knowingly enter false information
- Five-year limitations period for criminal prosecution
- Deficiency penalties under the Uniform Penalty and Interest Act can reach 50%, with personal officer exposure
- Industry estimates 12–18 months to build compliance systems; taxpayers had under seven months from enactment



Key Issues and Open Questions for the Department

- **Guidance and timeline —**
 - When will bulletins, forms, FAQs, and rulemaking arrive, and will the January 1, 2027 date be postponed?
 - Will there be transition relief, safe harbors, or penalty relief for good-faith compliance?
- **Scope and definitions**
 - Does “digital asset” reach tokenized securities, deposits, debt, and payment stablecoins?
 - Who is a “broker” — DeFi platforms, stablecoin issuers, custodians, wallet providers, banks, payment processors?
 - How are staking, validation, mining, lending, self-custody transfers, and ongoing custody treated?
- **Tax base and pyramiding**
 - What measure of value applies, at what moment, and under what prescribed methodology?
 - Will safe harbors prevent repeated taxation of the same asset across a transaction chain, and who collects when several intermediaries participate?
- **Sourcing, collection, and registration**
 - What happens if the customer location is unknown? Primary use location?
 - What standard of proof rebuts the Illinois-customer presumption, and what data may brokers rely on?
 - How is tax collected with no cash proceeds, and how will rolling nexus testing and the lock-in be administered?



Chicago Social Media Amusement Tax - Litigation

NetChoice v. Chicago

- Filed March 13, 2026
- Alleges that the Social Media Amusement Tax is unconstitutional
 - Similar to *Minneapolis Star Tribune v. Minnesota* from 1983
 - Tax on newspapers that exceeded a \$100,000 threshold
 - Singled out media companies based on audience size
- Violates Permanent Internet Tax Freedom Act (PITFA)
 - Cannot have “discriminatory taxes on electronic commerce”
 - Social Media Amusement Tax exclusively targets online services but does not tax similar in-person networking services
- Violates the Illinois Constitution because it is imposed upon an occupation but is not authorized by the General Assembly
- Violates the Commerce Clause of the U.S. Constitution because the Tax is not fairly apportioned.
- Discriminatory tax on the press burdens rights protected by the First Amendment
- Harmful to people of Chicago and small businesses
 - Increases costs for services
 - Reduces access to digital services if providers exit the market.
 - Could limit access to marketing and communication tools



Illinois Social Media Platform Fee - Litigation

NetChoice v. Illinois

- Filed September 11, 2026
- Tax was rushed through the legislative process with little debate or public notice
- Argues that the Social Media Platform Fee follows the same blueprint as Chicago's Social Media Amusement Tax
- Violates Permanent Internet Tax Freedom Act (PITFA)
 - Cannot have “discriminatory taxes on electronic commerce”
 - Social Media Amusement Tax exclusively targets online services but does not tax similar in-person networking services
- Violates the Commerce Clause of the U.S. Constitution because it is not fairly apportioned
- Violates the Commerce Clause of the U.S. Constitution because it discriminates against interstate commerce.
- Violates the Due Process Clause of the U.S. Constitution because it taxes extraterritorial values.
- Discriminatory tax on the press burdens rights protected by the First Amendment.
- Mentions similarities to recent Maryland ruling
 - Discriminates among online speakers and publishers
 - Violates ITFA because the tax is imposed on online advertising services but not offline advertising services.



Digital Asset Tax - Litigation

- The Digital Chamber of Commerce filed suit on July 21, 2026 in the Circuit Court of Sangamon County
- The Blockchain Association and the Crypto Council for Innovation filed on August 21, 2026
- Both are facial, pre-enforcement challenges seeking declaratory relief and preliminary and permanent injunctions
- A memorandum supporting a preliminary injunction was filed September 8, 2026 in Case No. 2026 MR 000312
 - Irreparable harm — ongoing constitutional violation, non-recoverable compliance costs in the millions, and customers shifting to untaxed assets



Illinois Digital Asset Tax – Plaintiffs' Arguments Against the Tax

- **Federal grounds**
 - Internet Tax Freedom Act
 - Dormant Commerce Clause
 - Federal due process
- **Illinois constitutional grounds**
 - Uniformity Clause
 - Vagueness
 - Proportionate Penalties Clause
 - Nondelegation
- **Procedural grounds**
 - Three-readings rule
 - Single-subject rule



Illinois Digital Asset Tax – What to Watch

- The ruling on the injunction and whether the January 1, 2027 effective date holds
- Whether HB 5798 advances and repeals the Act before implementation
- Department guidance, rulemaking, registration mechanics, and any transition relief
- Whether other states follow Illinois in taxing activity by technology — and, in the meantime, scope your exposure and begin systems design

