



**TO:** Members of the House Ways and Means Committee  
**FROM:** Daniel Navin – Assistant Vice President, Tax & Economic Policy  
**DATE:** Tuesday – May 3, 2016  
**RE:** Letter in Support of House Bill 466

**Chairman Schaffer and Members of the Committee,**

I am writing this letter to indicate the Ohio Chamber's support for House Bill 466, legislation that would specifically exempt "digital advertising services" from sales and use tax. We believe passage of this legislation is necessary because of a recent interpretation by the Department of Taxation (DOT) of a 1999 information release concerning on-line services and internet access.

Unfortunately, the practical impact of this recent DOT information release is to classify a digital advertising service accessed through the internet as a taxable "electronic information service"; in other words, it converts advertising on the internet, which has been utilized for more than a decade and heretofore not deemed by the General Assembly as a taxable service, as in fact a taxable service. We believe the recent information release impermissibly empowers the DOT to tax an activity – advertising – that is the true object of a transaction in the context of an auto dealer posting ads on cars.com or traders.com. Therefore, since advertising is not an enumerated service taxable under the Ohio Revised Code, it should not be converted to a taxable service pursuant to the information release. Consequently, we support HB 466 as far as it currently goes.

I would add that there are potentially broader ramifications that could affect businesses operating in Ohio stemming from the statutory definition of "electronic information services" that need to be addressed. The fact is that the definition of electronic information services has not been significantly amended in at least the last 10-15 years. With the advance of communications technology, some difficult legal questions are being raised in this realm of tax law that are being shunted to the judicial branch. Although any legislative effort to resolve all those questions is not possible in this bill, it is incumbent for the legislature, DOT and the business community to engage in serious dialogue soon to remove the uncertainty facing many business taxpayers in this regard.