Rise of the Robot Tax? New California Law Puts San Francisco on the Path to Taxing Autonomous Vehicles

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As we discussed previously on this blog, in recent years public policy officials and others have floated proposals to deal with automation via taxation – either a tax directly on "robots" themselves or a tax on capital gains that companies achieve through the use of automated technology.

In California, the proposed "robot tax" has taken one step closer to reality with Governor Jerry Brown's recent signing of Assembly Bill 1184 (Ting). Among other things, AB 1184 authorizes the City and County of San Francisco to impose a tax on each ride originating in San Francisco provided by an automated vehicle, whether facilitated by a transportation network company (ridesharing app) or another person.

Under the new bill, the automated vehicle tax would be capped at 1.5% of net rider fares when a passenger shares a ride, and 3.25% of net rider fees when the passenger does not share the ride.

AB 1184 requires San Francisco to use the revenues from this tax to fund "transportation operations and infrastructure" within the city.

You may be asking yourself, what's the rush? Why are we pushing to tax autonomous vehicles when the technology is still under development? A committee analysis of AB 1184 raised similar questions, stating:

"Considerable debate exists regarding whether and when autonomous vehicles will displace the current model of private car ownership, especially in a state with a car culture as strong as California. Individuals only operate their vehicles 94% of the time they own them, so tremendous economic gains await whichever firm or firms can first deploy autonomous vehicle fleets at scale. If and when such a transition occurs, the state and local agencies will have to comprehensively reassess the way it pays for transportation infrastructure if no one needs to pay vehicle license or registration fees because they no longer own cars, or vehicles become so fuel efficient that gasoline excise taxes cease to produce sufficient revenue. However, this concern is currently only speculative: autonomous vehicles do not yet currently transport people in exchange for consideration in California, as the technology is not yet fully developed and deployed. AB 1184 states that the City and County of San Francisco could tax rides provided by autonomous vehicles before this technology has reached market scale. The Committee may wish to consider the effects of taxing a business model that does not yet exist."

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Despite these concerns, the legislation was passed and signed into law by Governor Brown on September 21, 2018.

This is likely the first of many pieces of similar legislation across the nation, as elected officials and public policymakers struggle with how to respond to both perceived and actual challenges posed by autonomous vehicles. And this development represents a cautionary tale for employers. Going forward, employers that intend to take advantage of emerging technology such as autonomous vehicles (in order to save labor costs) will need to take into consideration potential tax policies such as AB 1184 that may make automation less favorable economically. Employers and other stakeholders should also consider directly engaging in advocacy on efforts such of this if they are concerned about the potential outcome of similar proposals.

If you have questions or concerns regarding tax policies aimed at emerging technology and how they may impact your decision to adopt such technologies, contact Benjamin Ebbink or any member of our Autonomous Vehicles Practice Group.

Related People

Benjamin M. Ebbink
Partner
916.210.0400
Email

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