

# Texas Tax in 2025: The Comptroller, Legislature and Judiciary



**SPEAKER**

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# 2025 Legislative Developments

# Property Tax Bills

## SB 4 (Bettencourt, et al) and Senate Bill 23 (Bettencourt):

- Increases the homestead exemption to \$140,000.00. For persons who are disabled or 65 years or older, the exemption is increased by an additional \$60,000.00 (up from \$10,000.00).
  - ❖ Effective Date: Becomes effective immediately on date corresponding constitutional amendments are approved by voters.
  - ❖ Passed by both Houses. Signed by Governor on June 16, 2025.
  - ❖ Constitutional amendments SJR 2 and SJR 85 were approved by voters on November 4, 2025.

# Property Tax Bills

## HB 9 (Meyer):

- Would generally exempt from taxation \$125,000.00 of the total appraised value of all the tangible personal property held or used for the production of income, subject to various limitations and special provisions.
  - ❖ Effective Date: Applies to ad valorem taxes imposed for a tax year that begins on or after January 1, 2026, if the constitutional amendment is approved.
  - ❖ Passed by both Houses. Signed by Governor on June 12, 2025.
  - ❖ Constitutional amendment HJR 1 was approved by voters on November 4, 2025.

# Tax Procedure Bill

## SB 266 (Perry):

- Amends the Texas Tax Code as follows:
  - ❖ Documentation Requirements: Amends various sections of the Tax Code to require “sufficient” records to substantiate the amount of tax, penalty or interest to be assessed, collected, or refunded in an administrative or judicial proceeding, rather than “contemporaneous” records as the Tax Code currently states.
  - ❖ Abatement of Penalty for Pending Lawsuits: Amends Section 111.0081(d) of the Tax Code to state that the additional 10% penalty that applies to an unpaid assessment 20 days after it becomes final would be abated if a lawsuit challenging the assessment is timely filed in district court until 20 days after a judgment in the lawsuit becomes final.

# Tax Procedure Bill

## SB 266 (Perry):

- Amends the Texas Tax Code as follows:
  - ❖ Security in Lieu of Liens for Pending Lawsuits: As an alternative to issuing liens while a lawsuit is pending, amends the Tax Code to permit the Texas Comptroller to require a security from the taxpayer sufficient to secure payment of the entire disputed amount.
  - ❖ Managed Audit Lawsuits: Amends the Tax Code to permit taxpayers who underwent a managed audit and who dispute an assessment to file a lawsuit without paying the disputed amount by first filing a notice of intent to bypass the redetermination process. Several deadlines would apply and procedures similar to those that apply to notices of intent to bypass the administrative hearings process for refund claim denials would apply.
  - ❖ Effective Date: Effective immediately.
- Status: Signed by Governor on May 24, 2025.

# Tax Procedure Bill

**Query:** Should the Texas Legislature amend the Tex. Tax Code to make notices of intent to bypass the redetermination hearings process available for all assessments?

# Franchise Tax Bills

## SB 2774 (Campbell): Rental of Industrial Uniforms, Garments and Linen

- Would amend Tex. Tax Code §171.0001(12) to state that “retail trade” for purposes of the reduced Texas franchise tax available to certain “retailers” and “wholesalers” includes the following:

*“activities involving the rental of industrial uniforms, industrial garments, and industrial linen supplies that are classified as Industry 7213 or 7218 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.”*
- The Bill analysis explains, “Many companies engaged in the business of renting work uniforms are not properly classified for franchise tax purposes because the industry groups under which they operate are not expressly listed in the definition of “retail trade” in the Tax Code. This has resulted in an inequity, where businesses that functionally operate like retailers are excluded from the lower retail franchise tax rate simply because they rent, rather than sell, their goods.”
- Effective Date: Applies to reports originally due on or after January 1, 2027.
- Status: Signed by Governor on May 24, 2025.

# Franchise Tax Bills

## SB 1058 (Parker): Texas Stock Exchange?

- Allows a registered securities market operator to exclude from total revenue “transaction rebate payments”, which is defined as “amount[s] paid to incentivize a broker or dealer to provide liquidity to the market.”
  - ❖ Bill analysis: “[F]or entities engaged in securities markets, revenue often includes pass-through payments that do not reflect true income, particularly transaction rebate payments made to brokers or dealers as part of securities trades. S.B. 1058 seeks to address this issue and secure accurate tax treatment for entities operating in the securities market by excluding from an entity's total revenue, for purposes of the franchise tax, rebate payments made to brokers or dealers that do not represent retained income.”
  - ❖ Effective Date: Applies to reports originally due on or after January 1, 2026.
- Status: Signed by Governor on May 13, 2025.

# Franchise Tax Bills

## SB 263 (Perry): Television and Radio Broadcasting COGS Deduction

- Would amend Section 171.1012(o) to permit a cost of goods sold deduction to entities whose principal business activity is television or radio broadcasting under a license issued by the FCC.
  - ❖ States that this amendment would be “a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act.”
  - ❖ Effective Date: Effective immediately.
- Status: Signed by Governor on June 20, 2025.

# Franchise Tax Bills

## SB 2206 (Bettencourt/Huffman): R&D Franchise Tax Credit/Exemption

- Would tie the Qualified Research Expense amount to QRE amounts reported on IRS Form 6765.
- Would allow statistical sampling for determining QRE amounts.
- Would allow use of QRE amounts reported on financial statements in some instances.
- Would increase the general credit from 5% to 8.722%. For QREs incurred under a contract with institutions of higher education, the rate would increase from 6.25% to 10.903%.
- Would make the R&D Credit refundable for years for which no franchise tax is owed.
- Would eliminate the alternate sales tax R&D exemption.
- Unused R&D credits could continue to be used as provided for under existing law.
- Effective: Applies to reports originally due on or after January 1, 2026.
- Status: Signed by Governor on June 22, 2025.

# Franchise Tax Bills

## SB 2018 (Paxton): R&D Franchise Tax Credit for Contributions to At-Risk Families Organizations

- Adds the following provisions to the Tax Code:
  - ❖ Sec. 171.802: “A taxable entity that makes a designated contribution that meets the requirements of this subchapter is eligible to apply for a strong families credit in the amount and under the conditions provided by this subchapter against the tax imposed under this chapter.”
  - ❖ Sec. 171.805: “(a) Subject to Subsection (b), the amount of a taxable entity’s credit for a report is equal to the lesser of: (1) the amount of credit awarded to the entity under Section 171.807; or (2) the amount of franchise tax due for the report after applying all other applicable credits. (b) The total amount of strong families credits awarded may not exceed \$5 million each year.”
- Effective Date: Applies to a report originally due on or after June 1, 2026.
- Status: Signed by Governor on June 20, 2025.

# Sales and Use Tax Bills

## SB 1405 (Nichols, Hagenbuch): Internet Access Service

- Internet Access Service: Amends Tex. Tax Code §151.0101(a) to remove “Internet access service” from the list of taxable services for Texas sales and use tax purposes.
  - ❖ *Note:* SB does not delete the language in Tex. Tax Code §151.00394(c) which excludes Internet access service from data processing.
  - ❖ Effective Date: July 1, 2025.
- Status: Signed by Governor on June 20, 2025.

# Sales and Use Tax Bills

## HB 135 (Campbell)

- Exempts exotic animals and game animals as defined from tax.
- Effective Date: Effective immediately.
- Status: Signed by Governor on May 13, 2025.

# Sales and Use Tax Bills

## HB 3486 (Hunter, et al.)

- Permits “food service establishments” (as defined) to deduct from taxable sales an amount equal to \$5 for every 100 Texas farm-raised oysters purchased for preparation and service at the food service establishment. The deduction appears to be determined for each reporting period, although not specifically stated.
  - ❖ Bill Analysis: “Texas oyster farmers are facing challenges in competing with oysters imported from other states or regions, partially due to the higher costs associated with regulatory compliance and sustainable aquaculture practices. Industry stakeholders and local restaurant owners are concerned about sustaining the state's cultivated oyster mariculture industry because of the financial burden. H.B. 3486 supports Texas oyster farmers and encourages local sourcing by restaurants by establishing a tax incentive for food service establishments that purchase Texas farm-raised oysters by allowing them to deduct a portion of their sales and use tax.”
- Effective Date: October 1, 2025.
- Status: Signed by Governor on June 20, 2025.

# Sales and Use Tax Bills

## HB 3487 (Hunter, et al.)

- Permits “food service establishments” (as defined) to deduct from taxable sales an amount equal to \$2 for 50 pounds of oyster shells collected at the food service establishment and provided by the taxpayer to a project that recycles oyster shells as a result of the taxpayer’s participation in a qualified oyster shell recycling program.
  - ❖ Bill Analysis: “Oyster shell recycling plays a vital role in maintaining the marine ecosystems, since recycled oyster shells create reef habitats that improve water quality and promote oyster growth. However, participating in these programs imposes additional costs on food service establishments. H.B. 3487 incentivizes restaurant participation in oyster shell recycling by providing a tax incentive to restaurants that participate by reducing the sales and use tax liability for these establishments. Effective Date: This act takes effect October 1, 2025.
  - ❖ Effective Date: October 1, 2025.
- Status: Signed by Governor on June 20, 2025.

# 2025 Constitutional Amendments

## HJR 2 (Geren):

- Prohibits a state tax imposed on the property of a deceased individual's estate because of the death of the individual, including an estate, inheritance or death tax;
- Prohibits a state tax on the transfer of an estate, inheritance, legacy, succession, or gift from an individual, family, estate or trust to another individual, family, estate, or trust, including a tax on a generation-skipping transfer, if the tax was not in effect on 1/1/2025;
- For any tax described above that was in effect on 1/1/2025, prohibits the state from increasing the tax rate or expanding its applicability beyond what was in effect on that date.
- Does not apply to tax on transfer of motor vehicles by gift or property tax.
- Status: Approved by voters on November 4, 2025.

# 2025 Constitutional Amendments

## HJR 4 (Meyer):

- Subject to various exceptions, prohibits the State from imposing an occupation tax on a registered securities market operator, as defined or a tax on a securities transaction conducted by a securities operator.
- Approved by voters on November 4, 2025.

# 2025 Constitutional Amendments

## SJR 18 (Perry):

- Prohibits the State from imposing a tax on the capital gains of an individual, family, estate, or trust, including a tax on the sale or transfer of a capital asset that is payable by the individual, family, estate or trust selling or transferring the asset.
- Does not apply to ad valorem tax or to sales or use tax.
- Approved by voters on November 4, 2025.

# Sales and Use Tax Judicial and Administrative Developments

# Burden of Proof for Exemptions

## What is the Burden of Proof for Proving Exemptions?

- Tex. Comptroller Rule 1.26(c): “The taxpayer has the burden to prove by clear and convincing evidence that the taxpayer or a transaction qualifies for an exemption or a deduction tantamount to an exemption.

# Burden of Proof for Exemptions

*GEO Grp., Inc. v. Hegar*, No. 23-0149, 2025 WL 852414 (Tex. Mar. 14, 2025): Evidentiary Standard in Court

- **Facts:** The taxpayer (“GEO Group”) owns and operates correctional facilities throughout the United States for detaining federal and state inmates. It argued that it could purchase various supplies deemed necessary to operate those facilities tax free because it qualified as an “agent” or “instrumentality” of the government under Texas Tax Code §151.309 and Texas Comptroller Rule 3.322(c). It also argued that the Texas Comptroller had erroneously denied its exemption by applying the heightened “clear and convincing evidence” standard rather than applying a “preponderance of the evidence” standard.
- **Holding Re Standard of Proof:** The Court agreed with GEO Group that it was only required to prove by a preponderance of the evidence its eligibility for exemption, noting that the Texas Comptroller’s authority “does not extend to dictating the standard of proof to be applied in court.” The Court noted that the Comptroller’s own rules support this conclusion because Comptroller 3.322 stated that it is to be *administered* using this standard and Rule 1.1(a) limits the matters subject to the Comptroller rules to contested matters that may be referred to the State Office of Administrative Hearings, which was not the case where those administrative remedies had already been exhausted as in this case. The Court also stated that it recognized the “oddity” created by the Texas Comptroller’s Rule which applies a heightened “clear and convincing evidence” standard to administrative matters.

# Burden of Proof for Exemptions

*GEO Grp., Inc. v. Hegar*, 2025 WL 852414 (Tex. Mar. 14, 2025): Evidentiary Standard in Court

- **Holding Re Exemption**: The Court ruled that GEO Group did not qualify for exemption as an agent or instrumentality of the federal or state government. Citing the rule of statutory construction *noscitur a sociis*, the Court held that the Comptroller’s rule referencing agencies or instrumentalities of a government intends to cover entities “that have either been ‘explicitly and unequivocally’ declared to be a qualifying agency or instrumentality by the government (whether by statute or by contract) or those that could reasonably be viewed as an arm of the government as opposed to merely performing a governmental function.” The Court noted that GEO Group’s contracts with its government clients included language specifically stating that it acted as an independent contractor and that no principal-agent relationship was created. It also noted that those same contracts stated that GEO Group would be responsible for any taxes imposed on the facilities and related property.
- **Query**: What relevance might this case have on other exemptions, including the manufacturing exemption?

# Manufacturing Exemption

*Hegar v. Texas Westmoreland Coal Co.*, 636 S.W.3d 61 (Tex. App. — Austin 2021, pet. denied):  
Equipment Used to Extract Lignite Coal Held Exempt

- **Facts**: Taxpayer extracts and processes lignite coal for sale. It uses large equipment that cracks, breaks or rips apart exposed lignite formations in real property. Taxpayer then sold the coal to a third party.
- **Issue**: Taxpayer filed a refund claim for tax paid on the equipment claiming it qualifies for the manufacturing exemption. The Comptroller denied the exemption claiming that, because the formation constituted real property when the equipment first dug into it, the equipment was processing real property, not processing tangible personal property for sale. The District Court ruled in favor of the taxpayer. The Comptroller appealed.

# Manufacturing Exemption

*Hegar v. Texas Westmoreland Coal Co.*, 636 S.W.3d 61 (Tex. App. — Austin 2021, pet. denied):  
Equipment Used to Extract Lignite Coal Held Exempt

- **Held**: The statutory language in the manufacturing exemption expressly applies to the manufacturing of, the processing of, or the fabrication of a particular product for ultimate sale, and the essence of those three related processes is that the output at the end of the process be different from the inputs along the way. Accordingly, the Court overruled the Comptroller's issue on appeal.

# Manufacturing Exemption

## Following *Texas Westmoreland Coal Co.*:

- Internal Memorandum on June 13, 2025 (Tex. Comptroller STAR Access No. 202506001M) re Sand, Dirt Gravel, Rock and Other Solid Materials Following *Texas Westmoreland* Decision.
  - ❖ Background: “Sand, dirt, gravel and other similar natural materials are tangible personal property. However, a 1988 administrative decision made unprocessed types of these materials nontaxable. ... Processed materials were still considered taxable.”
  - ❖ Impact of *Texas Westmoreland*: “The effect of [*Texas Westmoreland*] is that processing can be performed on real property. As a result, activities that were previously considered to be in preparation of production may now be considered processing allowing exemptions on previously taxed equipment. ... Under [*Texas Westmoreland*], the following are examples of equipment that qualify for the manufacturing exemption:
    - Excavators used to sever or break materials from the earth;
    - Cutting equipment used to extract stone at a quarry; and
    - Dynamite used to blast material from the earth.”
  - ❖ Extraction: “Sand, gravel and other solid materials are now considered processed materials when extracted from the earth in a way that causes a chemical or physical change to those materials (i.e., processing). The sale of these materials will be subject to sales tax.”

# Manufacturing Exemption

## Following *Texas Westmoreland Coal Co.*:

- Internal Memorandum on June 13, 2025 (Tex. Comptroller STAR Access No. 202506001M) re Sand, Dirt Gravel, Rock and Other Solid Materials Following *Texas Westmoreland* Decision.
  - ❖ Washing/Separating/etc.: “[A]ctivities such as washing, drying, and separating materials are processing when the activities cause a chemical or physical change. For example, washing sand to remove impurities such as clay and silt or using high-powered streams of water to separate or resize individual sand grains is processing. These activities are like the activities of a separator that removes solid impurities or separates oil, gas, and water.”
  - ❖ Gathering: “The manufacturing exemption does not apply to equipment that does not cause a chemical or physical change to the materials .... Equipment used in activities such as gathering loose materials would not be exempt. Loose sand and other materials gathered in this manner, and which do not require processing will remain nontaxable under the 1988 administrative decision.”

# Manufacturing Exemption

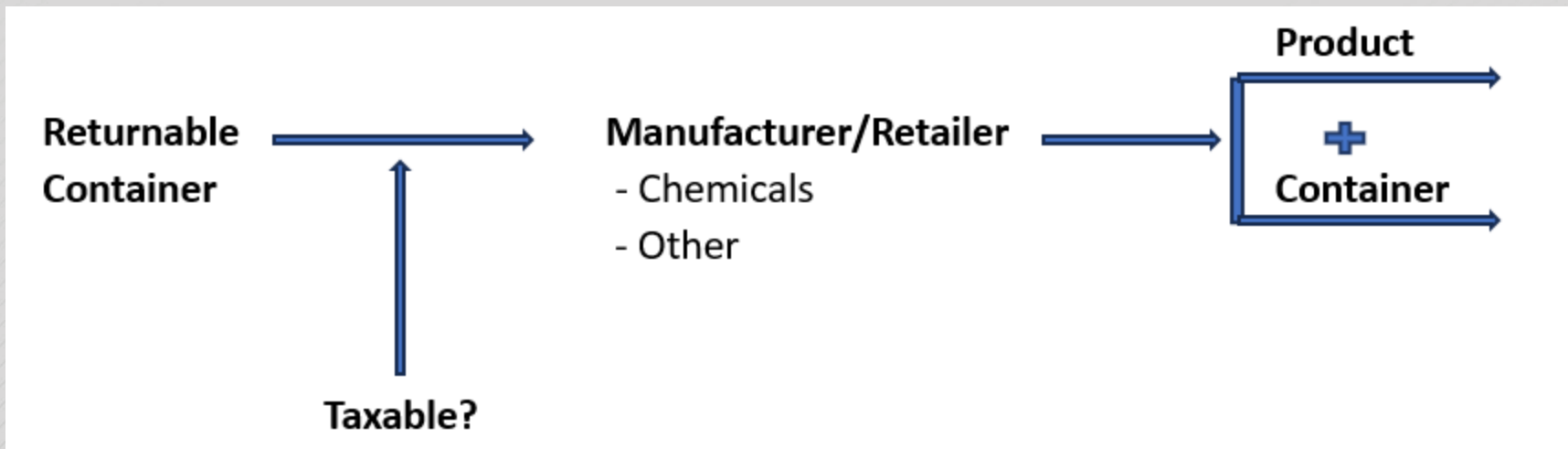
## Following *Texas Westmoreland Coal Co.*:

- Internal Memorandum on June 13, 2025 (Tex. Comptroller STAR Access No. 202506001M) re Sand, Dirt Gravel, Rock and Other Solid Materials Following *Texas Westmoreland* Decision.
  - ❖ Implementation: “The taxability determinations ... in this memo will be applied prospectively beginning October 1, 2025c.”
  - ❖ The above memorandum provides for transitional treatment of transactions for periods before October 1, 2025.
  - ❖ **Note**: On August 6, 2025, the Texas Comptroller’s office announced it would place the above memorandum on an indefinite hold to further review the policies in this memorandum.

# Manufacturing Exemption

## Returnable Containers

**Query: Do Returnable Containers Qualify for the Resale or Manufacturing Exemption When Purchased to be Sold With Product?**



# Manufacturing Exemption

## Returnable Containers

- Sale for Resale Exemption:
  - ❖ Tex. Tax Code §151.006(a)(1): "Sale for resale" means a sale of .... tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it as a taxable item as defined by Section 151.010 (Taxable Item) in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service ...."
- Manufacturing Exemption:
  - ❖ Tex. Tax Code §151.318(a)(1): "The following items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer: (1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale ...."
  - ❖ Tex. Tax Code §151.318(d): "In this section, 'manufacturing' includes each operation beginning with the first stage in the production of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) that it has when transferred by the manufacturer to another. "

# Manufacturing Exemption

## Returnable Containers

*East Texas Oxygen, Co. v. State of Texas*, 681 S.W.2d 741 (Tex. App.– Austin, 1984, no writ)

- Facts: Taxpayer sold oxygen in returnable cylinder tanks to customers. It charged separately for the tanks as “lease” charges to its customers and collected tax on those charges. It purchased the tanks tax free as exempt sales for resale. The Comptroller assessed tax on the purchase of the tanks claiming they did not qualify for the resale exemption.

# Manufacturing Exemption

## Returnable Containers

*East Texas Oxygen, Co. v. State of Texas*, 681 S.W.2d 741 (Tex. App.– Austin, 1984, no writ)

- Issue: At issue was Tex. Tax Code §151.322 which reads as follows:
  - “(a) The following are exempted from the taxes imposed by this chapter:
    - (1) a container sold with its contents if the sales price of the contents is not taxed under this chapter;
    - (2) a nonreturnable container sold without contents to a person who fills the container and sells the contents and the container together; and
    - (3) a returnable container sold with its contents or resold for refilling.”

# Manufacturing Exemption

## Returnable Containers

*East Texas Oxygen, Co. v. State of Texas*, 681 S.W.2d 741 (Tex. App.– Austin, 1984, no writ)

- **Held**: Although Taxpayer’s purchase of returnable containers is a “sale for resale’ under the literal statutory definition of that term”, it could not claim the exemption because doing so would (1) mean that no one would tax on the containers; and (2) would render the language in Section 151.322, which exempts the sale of nonreturnable containers to one who sells goods in the container and the resale of returnable containers for refilling meaningless because these would already be exempt.

# Manufacturing Exemption

## Returnable Containers

*Championx, LLC v. Hegar*, Cause No. D-1-GN-20-000139 (Travis Co. Dist. Ct.); *Championx, LLC v. Hegar*, Cause No. D-1-GN-21-000699 (Travis Co. Dist. Ct.); and *ChampionX, LLC v. Hegar*, Cause No. D-1-GN-22-003715 (consolidated)

- **Facts:** Taxpayer manufactures various types of chemicals for the energy and water industries. Taxpayer packaged the chemicals it sells into returnable containers. After a customer finishes using the product, Taxpayer retrieves the container, reconditions and cleans them. Damaged containers are repaired or discarded. The average life span of a container is 20 to 30 years. Taxpayer sought a refund of sales tax paid on the purchases of:
  - ❖ the returnable containers, and
  - ❖ related cleaning services claiming the manufacturing exemption.
- **Status:** On March 20, 2024, the District Court judge issued an order granting Plaintiff's motion for summary judgment and denying Defendants' MSJ. Notice of Appeal filed on October 10, 2024. Briefing is currently underway at the 15<sup>th</sup> Court of Appeals.

# Manufacturing Exemption

- Compressors Used In Oil and Gas Operations: Are they exempt?
  - ❖ On December 20, 2024, the Texas Comptroller issued a letter to the Texas Oil and Gas Association addressing the exemption addressing the situation where compressors are used for both exempt and non-exempt purposes which reads in part:

*“When used for an exempt purpose, such as supplying manufacturing equipment, compressors create differences in pressure which cause gas to move. The differences in pressure are also necessary for taxable transportation purposes such as moving gas into a pipeline or on to the next processing facility. This dual-purpose nature of compressors creates a tension in the manufacturing exemption/exclusion statutes and a challenge for taxpayers and the agency in determining the taxability of compressors because they are often used in both a taxable and nontaxable manner at the same time.”*

# Manufacturing Exemption

The Texas Comptroller December 20, 2024 letter regarding compressors continues as follows:

*“The agency proposes to allow the following safe harbor percentages:*

- 1. Compressors at a wellhead or prior to a compressor station will be treated as 100 percent taxable.*
- 2. Compressors at compressor stations that process gas and cause it to move on to a natural gas processing facility will be allowed a 70 percent exemption. This percentage will apply to all compressors located along a pipeline between an initial compressor station and a natural gas processing facility.*
- 3. Other than the final or outlet compressor at a natural gas processing facility, all compressors in the natural gas processing facility will be allowed a 100 percent exemption.*
- 4. Beginning with the final or outlet compressor at a natural gas processing facility, all compressors distributing natural gas will be treated as 100 percent taxable. ....”*

# Manufacturing Exemption

The Texas Comptroller December 20, 2024 letter regarding compressors continues as follows:

*“Taxpayers may [alternatively] choose to calculate divergent use of compressors based on pressure or another appropriate measure of output. ... However, taxpayers must choose to either calculate divergent use or to apply the safe harbor percentages for all compressors before the outlet compressor at a natural gas processing facility. This safe harbor may be added as an alternative way of applying divergent use in future proposed”*

- **Note:** The Texas Comptroller requested feedback about this proposed administrative solution for a safe harbor by January 31, 2025 before moving forward. As a result, this safe-harbor has not been adopted yet.

# Manufacturing/Resale Exemption

*Shop LC Global, Inc. v. Hegar*, Cause No. D-1-GN-25-000424 (Travis County D. Ct., pending): Packaging for Jewelry

- ❖ **Facts**: Taxpayer purchases, assembles and sells jewelry and related products among other things via cable, satellite and streaming TV platforms, telephone and internet. It sells its jewelry in jewelry pouches and jewelry boxes.
- ❖ **Issue**: Included in the issues presented by this case is whether the jewelry pouches and jewelry boxes may be purchased tax free under either the sale for resale or manufacturing exemption.

# Resale Exemption

*Houston Astros, LLC v. Hegar*, Cause No. D-1-GN-25-001524 (Travis County D. Ct., pending): Promotional Items

- ❖ **Facts**: Taxpayer is an MLB professional baseball team. Taxpayer notes that its ticket sales are taxable amusement services. It also transfers promotional giveaway items and souvenirs to its customers. Its charges for tickets to games includes a charge for these promotional items and souvenirs, which are transferred to fans.
- ❖ **Issue**: Included in the issues is whether the promotional items and souvenirs can be purchased tax free under the sale for resale exemption given that care custody and control of those items is transferred to ticket purchasers. Taxpayer also challenges the validity of the Comptroller's Rule, specifically noting Comptroller Rule 3.285 (Resale Certificates; Sales for Resale), 3.298(Amusement Services) and 3.301(Promotional Plans, Coupons, Retail Reimbursements).

# Temporary Employees

## Private Letter Ruling 20241122161856 (June 12, 2025)

- Facts: “Taxpayer offers temporary employment services across various hospitality industries in Texas, including hotels, timeshares, and luxury resorts (Clients). Taxpayer’s employees (Staff) perform services including housekeeping and other services tailored to Client needs. Taxpayer’s Temporary Labor Services Agreement (the Agreement) with its Clients does *not* specify fixed timeframes or set staffing levels, but is priced hourly based on defined skill categories. Staffing levels and skill types are adjusted on a weekly or monthly basis.”
- Question: Is Taxpayer providing a temporary employment service under Tex Tax Code §151.3503 which exempts services performed by an employee of a temporary employment service for a host employer to supplement its workforce on a temporary basis, if certain conditions are met.

# Temporary Employees

## Private Letter Ruling 20241122161856 (June 12, 2025)

- Ruling:

“Neither the Labor Code nor the Tax Code define the word “temporary” as it relates to services by employees. Merriam-Webster defines the word “temporary” as, “lasting for a limited time.” This coincides with the terms that are used in the Labor Code such as “special” and “seasonal”.

Taxpayer acknowledges that the Agreement between Taxpayer and Client does not specify an end date for the services performed by Staff and continues in perpetuity. Individual staff members can work for the duration of the Agreement or be rotated out, when necessary. Because Staff is required to perform the services stated within the Agreement at Client establishments on a perpetual basis, Client does not maintain an adequate workforce. Therefore, Taxpayer is not supplementing Client’s workforce on a temporary basis due to an employee absence, a seasonal workload, or for a special work situation. See Comptroller’s Decision No. 108,766 (2019).

Based on this information, Taxpayer is not providing an exempt temporary employment service. Taxpayer, instead, provides a real property service. Real property services are specifically enumerated as taxable services. See Section 151.0101(a)(11). Taxpayer should not accept an exemption certificate from Client for the services provided and must collect tax on these taxable real property services.”

# Real Property Services

- Tex. Tax Code §151.0101 makes several services taxable, including “real property services.”
- Tex. Tax Code §151.0048 defines taxable real property services to include, in part, “building or grounds cleaning, janitorial, or custodial services.”
- Several recent and pending cases challenge its applicability in different contexts.

# Real Property Services

- *Columbia Medical Center of Plano Subsidiary, LP v. Hegar*, Cause No. D-1-GN-24-005471 (Travis County D. Ct., filed April 27, 2024): Hospital Sanitizing Services
  - ❖ **Facts:** Plaintiff is a hospital which, as a certified Medicare and Medicaid provider, must meet certain federally mandated requirements for program participation. This includes complying with certain infection, prevention and control and antibiotic stewardship programs. It purchased “Terminal Cleaning Services” (“TCS”) for which it paid tax and sought a refund that was denied.
  - ❖ **Issue:** Plaintiff argues that the TCS are environmental services that fall outside the definition of “real property services” under both the Texas Tax Code and Comptroller Rules because the purpose for those services is to eliminate infectious agents to protect the health and safety of staff, patients, and visitors in a hospital setting, which it argues is fundamentally distinct from “building or grounds cleaning” or “janitorial” services.
- **Note:** Another pending lawsuit filed this year involves largely the same issue. See *Tenet Hospital Limited v. Hancock*, D-1-GN-25-009490 (Travis County D. Ct., filed Oct. 24, 2025).

# Real Property Services

- *Newrest IAH, LLC v. Hegar*, Cause No. D-1-GN-25-001632(Travis County D. Ct., filed March 6, 2025): Cleaning Required for Food Safety
  - ❖ **Facts**: Plaintiff prepares and packages food and drinks for in-flight services. During the periods at issue it purchased “chemistry and specialty sanitation services” to sanitize food processing equipment, surfaces and utensils in compliance with state and federal regulations. It sought a refund of tax paid on these services.
  - ❖ **Issue**: Plaintiff argues that the specialty services do not meet the definition of real property services in Section 151.0048 because the primary purpose of those services is not to provide building or grounds cleaning, janitorial, or custodial service, but rather to comply with state and federal government regulations and ensure safety of food products provided during air travel.

# Real Property Services

- *KEC Pro, LLC v. Hegar*, Cause No. D-1-GN-25-003686 (Travis County D. Ct., filed May 22, 2025): Cleaning of Kitchen Exhaust Systems
  - ❖ **Facts**: Plaintiff is primarily engaged in the business of maintaining kitchen exhaust systems for customers which are required by various health and fire codes to keep their exhaust systems operational and to meet certain standards. Following an audit, the Texas Comptroller assessed tax on its services, which Plaintiff disputes.
  - ❖ **Issue**: Plaintiff argues that its services do not constitute taxable real property services because they are not janitorial or custodial services in nature and do not involve the cleaning of the “building or grounds.”

# Real Property Services

- *Hearing No. 118,343* (March 14, 2024): Final Construction Cleaning
  - ❖ **Facts:** Taxpayer provides “final” cleaning following construction work in preparation for inspection to obtain a certificate of occupancy, a fire marshal inspection, or the turnover of property to the tenant. The Texas Comptroller assessed tax on its services as taxable real property services.
  - ❖ **Ruling:** “Petitioner’s specialty cleaning, stripping, waxing, concrete sealing, and acid washing services fall squarely within the definition of taxable real property services in Texas Tax Code § 151.0048(a)(4) and 34 Texas Administrative Code § 3.356(a)(7). Petitioner seeks to distinguish its services from taxable real property services because of the expertise needed to carry out the services on a one-time basis. However, neither the statute nor the rule provides exclusions based on the degree or specialization of the services performed or the number of visits required to perform them. Petitioner also argues that there is no building for Petitioner to clean because the projects are not complete. However, cleaning services performed on commercial properties are taxable regardless of whether the project is unfinished new construction or an existing building.”
  - ❖ **Query:** Should the final cleaning of a newly constructed building before delivery of the property be viewed as a taxable real property service?

# Data Processing

- Data Processing is considered taxable in Texas. However...,
  - ❖ What constitutes taxable data processing has become highly controversial with many key issues arising.
  - ❖ The Texas Comptroller has taken aggressive positions recently in classifying transactions as taxable data processing.
  - ❖ Several cases are pending in court challenging Texas Comptroller assessments.
  - ❖ As a result, there is considerable uncertainty as to what should be classified as taxable data processing.

# Data Processing

- Section 151.0035:
  - ❖ (a) “Data Processing Services” includes:
    - (1) word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation;
    - (2) the performance of a totalisator service with the use of computational equipment required by Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); and
    - (3) the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service.
  - ❖ (d) “ ‘Data storage’ ... does not include a classified advertisement, banner advertisement, vertical advertisement, or link when the item is displayed on an Internet website owned by another person.”

# Data Processing

- Section 151.00394(a),(c):
  - ❖ “Data Processing Services” does not include “Internet access service.”
  - ❖ “ ‘Internet access service’ means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. The term does not include telecommunications services.”

# Internet Access Service

- Should “Internet Access Service” apply to all services provided over the Internet?
  - ❖ **Query:** Is the exclusion for “Internet Access Service” limited to services for accessing the Internet (*i.e.*, connectivity) or does it include access to all services offered over the Internet?
  - ❖ In a recent pleading, and in the context of a federal statute, the Texas Comptroller argues that the above language, which is included in the term “Internet Access” under the U.S. Internet Tax Freedom Act (“ITFA”), refers to “access to other services offered over the Internet as well as access to the Internet itself.”
  - ❖ Does this mean that all services offered over the Internet should be excluded from “data processing”?

# Data Processing

- Texas Comptroller Rule 3.330 (before April 2, 2025)
  - ❖ (a)(1) “Data processing services - *the processing of information* for the purpose of compiling and producing records of transactions, maintaining information, and entering and retrieving information. It specifically includes word processing, payroll and business accounting, and computerized data and information storage or manipulation. The charge for data processing services is taxable regardless of the ownership of the computer. Examples of data processing services include entering inventory control data for a company, maintaining records of employee work time, filing payroll tax returns, preparing W-2 forms, and computing and preparing payroll checks. *Data processing does not include the use of a computer by a provider of other services when the computer is used to facilitate the performance of the service or the application of the knowledge of the physical sciences, accounting principles, and tax laws, e.g., the use of a computer to provide interpretive or enhancement geophysical services or the use of a computer by a CPA firm, enrolled agent, or bookkeeping firm to produce a financial report, prepare federal income tax, state franchise or sales tax returns, or charges for temporary secretarial personnel who as part of their function use word processing equipment. Data processing services does not include Internet access services or data processing services provided in conjunction with and incidental to the provision of Internet access service when billed as a single charge.*” (emphasis added)

# Key Issues Re Data Processing

- What Constitutes Data Processing?
  - ❖ Can online services be taxed as data processing?
  - ❖ When a nontaxable service becomes fully or partially automated, does it become a taxable data processing service?
  - ❖ Should nontaxable services that include and/or require some level of data processing be treated as taxable data processing?
  - ❖ Should website development or HTML coding be considered taxable data processing?
  - ❖ Should all data storage be viewed as taxable data processing?
  - ❖ Should marketplace provider services be taxed as data processing?

# Pending Litigation Re Data Processing

## Currently Pending Court Cases Re Data Processing:

- *Apple, Inc. v. Hegar*, D-1-GN-20-004108: Whether personal electronic storage is taxable as data processing.
- *Scorpion Design, LLC v. Hegar*, D-1-GN-24-003011: Whether internet marketing and digital advertising is taxable as data processing.
- *West Publishing Corporation v. Hegar*, D-1-GN-25-00594: Whether internet marketing is taxable as data processing.
- *Katalyst Data Management, LLC v. Hegar*, D-1-GN-20-001539: Whether certain services related to the management, interpretation, enhancement and transformation of geological and geophysical data are taxable data processing.
- *Domino's Pizza Distribution LLC v. Hancock*, D-1-GN-25-004940: Whether application of Rule 3.330 to online ordering fees violates the federal law (the Internet Tax Freedom Act)?

# Data Processing versus Nontaxable Services

*Hegar v. CheckFree Services v. Corp.*, 2016 Tex. App. LEXIS 4039 (Tex. Civ. App.—Houston, April 19, 2016, no pet.) Online Bill Pay Services

- Facts: Taxpayer contracted with several banks to provide bill pay services through the banks' online banking services to bank customers. The Comptroller claimed that these services were taxable data processing services. The trial court held that the services at issue were "bill pay services" and not data processing services and therefore not taxable. Specifically, the trial court held, "CheckFree has thousands of skilled and/or certified professionals who collaborate in the performance of these professional services centered around bill payment."
- Held: The Houston Court of Appeals agreed with the Trial Court that the services were not taxable. "[T]o the extent that CheckFree provided [data processing services], they were ancillary to the professional bill pay services provided by CheckFree for the bank's customers-the electronic commerce services that the bank purchased from CheckFree."

# Recent Revisions to Rule 3.330

## Rule 3.330, Data Processing Revisions:

- On Sept 13, 2024, the Texas Comptroller's office published proposed revisions to its Data Processing Rule in the Texas Register.
- Comments were received by the October 13, 2024 deadline.
- On December 6, 2024, the Comptroller held a hearing on the proposed revisions to Rule 3.330.
- The proposed amendments were adopted on April 2, 2025.

# Revisions to Rule 3.330

## Amendment to Rule 3.330 Revises Definition of Data Processing

- Subject to several specific inclusions and exclusions, subsection (a)(1) defines “data processing” as follows:

*“Data processing service--the computerized entry, retrieval, search, compilation, manipulation, or storage of data or information.”*

# Revisions to Rule 3.330

## Recent Amendment to Rule 3.330 Rejects Essence of Transaction:

- *Preamble*: “The test for determining whether a data processing service is ‘ancillary’ to a nontaxable service is not an essence of the transaction test. The essence of the transaction test attempts to determine what the buyer ultimately wants. *Combs v. Chevron, Inc.*, 319 S.W.3d 836, 843 (Tex. App.--Austin 2010, pet. denied) (“underlying goal”). *The buyer will never want the manipulation of data for its own sake. The buyer will always want the manipulation of data as the means to achieve an end. Therefore, the identification of the ‘underlying goal’ of the buyer, or the essence of the transaction, is not the appropriate test for data processing services. See also, Hellerstein & Hellerstein, State Taxation §12.08 (3rd ed. 2020) (the primary purpose test is ‘folly’).* [emphasis added]
- “In determining whether a data processing service is “ancillary” to a nontaxable service, the comptroller will focus on what the seller is doing, and not what the buyer wants. The repetitive or routine manipulation of data by the seller is a factor suggesting that the activity is not ancillary and should be taxable as a data processing service, while the manipulation of data that depends on the external knowledge and discretionary judgment of the service provider suggests that the activity is ancillary and should not be taxable as a data processing service.”
- **Query**: Can the Texas Comptroller overrule the judicially created “essence of the transaction” test?

# Revisions to Rule 3.330

## Amendment to Rule 3.330 Focuses on Whether Data Processing Has “Separate Value”:

- ***If Data Processing has No “Separate Value” and is “Ancillary” to a Nontaxable Service, it is Not Taxable:***  
(a)(1)(C): “Under its exclusive jurisdiction to interpret taxable services, the comptroller excludes from the definition of ‘data processing service’ data processing that is sold for a single charge with another service if the data processing service *does not have a separate value, and the data processing service is ancillary to the other service*. The burden is on the taxpayer to demonstrate that the data processing service does not have a separate value and is ancillary to the other service. [emphasis added]”
  - ❖ ***Meaning of “Separate Value”:*** (a)(1)(C)(iii): “In determining whether the data processing service and the other service have separate values, the comptroller will consider *whether the services are distinct and identifiable and whether each service is of a type that is commonly provided on a stand-alone basis or commonly provided as an additional service for a greater single charge*. [emphasis added]”
  - ❖ ***Meaning of “Ancillary” :*** (a)(1)(C)(iv): “In determining whether the data processing service is ancillary to another service, or conversely, whether the other service is ancillary to the data processing service, the comptroller may consider the extent to which the service provider exercises discretion or judgment in individual applications of the processed data based on knowledge of the physical sciences, accounting principles, law, or other fields of study. The repetitive or routine manipulation of data by the seller is a factor suggesting that the data processing activity is not ancillary to another service and should be taxable as a data processing service. The manipulation of data that depends on the external knowledge and discretionary judgment of the service provider in individual applications suggests that the data processing activity is ancillary to another service and should not be taxable as a data processing service. The provider's skill, experience, or expertise, in processing data or information is not a factor. Other factors may be considered, and the weight of the factors may vary from case to case. The evaluation is based on what the service provider is doing, not on what the customer wants.”

# Revisions to Rule 3.330

## Amendment to Rule 3.330 Relies on 5% Rule for DP Services Having Separate Value:

- ***If separate value exists, 5% rule applies:*** (e)(2):“Where nontaxable related [unrelated] services and taxable services are sold or purchased for a single charge and the portion relating to taxable services represents more than 5.0% of the total charge, the total charge is presumed to be taxable. The presumption may be overcome by the data processing service provider at the time the transaction occurs by separately stating to the customer a reasonable charge for the taxable services. However, if the charge for the taxable portion of the services is not separately stated at the time of the transaction, the service provider or the purchaser may later establish for the comptroller, through documentary evidence, the percentage of the total charge that relates to nontaxable related [unrelated] services. The service provider's books must support the apportionment between exempt and nonexempt activities based on the cost of providing the service or on a comparison to the normal charge for each service when [if] provided alone. If the charge for exempt services is unreasonable when the overall transaction is reviewed considering the cost of providing the service or a comparable charge made in the industry for each service, the comptroller will adjust the charges and assess additional tax, penalty, and interest on the taxable services.”
- ***Query:*** Does the Texas Comptroller have the authority to overrule the “essence of the transaction” standard created by the judiciary?

# ITFA/Data Storage

*Apple, Inc. v. Hegar*, Cause No's D-1-GN-20-004108 and D-1-GN-21-001707 (Travis County D.Ct., pending): Information Storage

- **Facts**: Taxpayer provides iCloud capability which enables users to store digital files and makes them available on demand from a customer's various devices. Taxpayer also provides iTunes Match services to its customers which enables customers to access all of their music on more than one device, including songs purchased from other sellers or copied from physical media sources.
- **Issue**: The Texas Comptroller claims that amounts charged to customers for iCloud and iTunes Match services are taxable data processing services. In its trial brief, Taxpayer claims the services (i) do not constitute taxable data processing services; and (ii) are exempt from Texas sales tax under the Internet Tax Freedom Act's (ITFA), which prohibits state taxes on internet access and taxes that discriminate against electronic commerce. The Comptroller responds in part that ITFA violates the "anticommandeering doctrine" as stated in *Murphy Nat'l Collegiate Athletic Ass'n*, 584 U.S. 453 (2018).

# Rule 3.330 & ITFA

*Domino's Pizza Distribution LLC v. Hegar*, D-1-GN-25-004940 (Travis Co. Dist. Ct.) (filed 7/11/2025)

- Key Facts:
  - ❖ Domino's locations are primarily owned & operated by independent franchisees.
  - ❖ Dominos has a web-based ordering service, through which customers can place orders via Domino's website or a mobile application, which Domino's system direct to the appropriate franchisee customer for fulfillment.
  - ❖ Franchisees pay Domino's a transaction fee per online order received.
  - ❖ The Texas Comptroller contends these transactions fees are taxable as a "data processing service."

# Rule 3.330 & ITFA

## Taxpayer argues:

1. Application of Rule 3.330 to the online ordering transaction fees violates IFTA
2. Rule 3.330 is invalid
  - a) contravenes specific statutory language;
  - b) runs counter to the general objectives of the statute; or
  - c) imposes additional burdens, conditions, or restrictions in excess of or inconsistent with the relevant statutory provisions.”

# Franchise Tax: Administrative and Judicial Developments

# Sourcing of TPP

*Nustar Energy, L.P. v Hegar*, 683 S.W.3d 831, 838 (Tex. App. – Austin 2023, pet filed Apr. 5, 2024): How should sale of TPP be Sourced?

- **Facts:** Nustar Energy, LP sells certain types of fuel transported to oceangoing foreign vessels. Although the vessels receive the fuel at a Texas port, the fuel cannot be used, sold, or otherwise disposed of within Texas. As such, vessels receive the bunker fuels at a Texas port, and the fuel is then transported outside of Texas waters before it can be used for oceangoing travel.
- **Issue:** At issue is whether proceeds from the sale of bunker fuel must be sourced to Texas for franchise tax. The Texas Comptroller argues it should be sourced to Texas because delivery occurred at a Texas port. Nustar counters that because the buyers of the fuel are not located in Texas, its sale of bunker fuel cannot be sourced to Texas. Central to this issue is Tex. Tax Code §171.103, which states,

“(a) Subject to Section 171.1055, in apportioning margin, the gross receipts of a taxable entity from its business done in this state is the sum of the taxable entity's receipts from ... each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale  
....”

# Sourcing of TPP

*Nustar Energy, L.P. v Hegar*, 683 S.W.3d 831, 838 (Tex. App. – Austin 2023, pet filed Apr. 5, 2024): How should sale of TPP be Sourced?

- **Holding**: “In context, Section 171.103(a)(1) yields a single reasonable construction: that sales of tangible personal property are apportioned based on where that property is delivered or shipped. ... If ‘in this state’ modifies only the word ‘buyer’ (thereby making only the location of the buyer relevant for apportioning under the franchise tax), then the phrase “if the property is delivered or shipped” becomes superfluous.”

**Note**: This case is pending at the Texas Supreme Court. Oral arguments were held on September 10, 2025.

# Federal Preemption

*American Airlines, Inc. v. Hegar*, Cause Nos. D-1-GN-15-003101 and D-1-GN-16-000621, (pending in Travis County D. Ct.)

- District Court's FOF and COL (Aug. 2, 2024): “The [federal Anti-Head Tax Act] preempts Texas’s franchise tax as applied to American’s baggage fees, passenger ticket sales, and freight transportation because it is an impermissible tax on ‘gross receipts’ from ‘air commerce or air transportation.’ ... American properly excluded passenger, freight, and baggage revenues, pursuant to the [Anti-Head Tax Act] , from its total revenue ....”
- Final Judgment (Aug. 7, 2024): The Court GRANTS [American] a refund of the amounts paid under protest of franchise taxes on gross receipts from baggage fees because such taxes are prohibited by the Anti-Head Tax Act.”
- Status: Oral arguments held on October 30, 2025. Submitted to the court of appeals for decision on the same day.

# Reduced Tax Rate

*TRG Holdings, LLP v. Hegar*, Cause No. D-1-GN-23-008122, (Pending in Travis County D. Ct)

- **Facts**: Petitioner is the reporting entity of an affiliated group that includes an entity in the business of providing flooring products to the multi-family housing industry, including carpet, ceramic tile and vinyl wood plank. Plaintiff offers optional installation of the flooring products it sells through the use of third-party, independent contractors who perform the installation.
- **Issue**: Petitioner argues that it qualifies for the half-percent tax rate as a retailer or wholesaler. It argues that its sales fall within the Wholesaler SIC Code 5023 (“Home Furnishings”) or the Retailer SIC Code 5713 (“Floor Covering Stores”). In *Hearing No. 117,167-117,174*, the Comptroller claimed that Petitioner’s sales fall under the Contractor SIC Code 1752 (“Floor Laying and Other Floor Work, Not Elsewhere Classified”).
- **Status**: Lawsuit and Answer filed.

**See also** *Texas/Southwest Floors, Inc. v. Hegar*, Cause No. D-1-GN-25-003436 (Travis County D. Ct., pending)

# Bitcoin

## *Private Letter Ruling 202506007L (June 3, 2025): Treatment of Bitcoin for Texas Franchise Tax*

- Question: “How is the sale of BTC treated for franchise tax purposes?”
- Ruling: “For franchise tax purposes, the sale of BTC is the sale of intangible property. Costs for acquiring BTC are ineligible for the cost of goods sold deduction (COGS) because BTC is intangible property. The sale of an intangible asset is sourced to the location of the payor under Rule 3.591(e)(21)(B) (Margin: Apportionment).”

# Sales-Type Leases

## *Internal Memorandum (July 31, 2025): Sales-Type Leases for Texas Franchise Tax*

- Issue: Provides guidance on the treatment of sales-type leases for purposes of determining the applicable franchise tax rate and eligible expenses for the cost of goods sold (COGS) deduction.
- Statement of Policy: “For purposes of determining qualification for the reduced franchise tax rate found in Section 171.002(b) ...(Rates; Computation of Tax), as well as calculating eligible expenses under Section 171.1012 (Determination of Cost of Goods Sold), the terms “sale,” “selling,” and “sold” include arrangements that qualify as sales-type leases under Financial Accounting Standard (FAS) 13.”

# Sales-Type Leases

*Stewart Organization, Inc. v. Hegar*, Cause No. D-1-GN-25-004134 (Travis County Dist. Ct, pending)

- **Facts:** Taxpayer “sells and services document equipment including printers, copiers and scanners. ... Under its PaaS agreements, Stewart sells printers, copiers, scanners, all necessary parts for repairs and all supplies with the exception of paper to commercial, industrial and professional business users. Stewart’s PaaS customers are mostly large nonprofit hospitals. Title to the merchandise transfers from Stewart to the customer at the time the equipment is delivered. The customer is free to use and/or dispose of the merchandise however the customer sees fit.”
- **Issues:** Whether Taxpayer qualifies for cost of goods sold deduction and whether it also qualifies for the reduced tax rate available to taxpayers primarily engaged in retail or wholesale activities for Texas franchise tax purposes.

# Questions?

# DISCLAIMER

The information included in these slides is for discussion purposes only, is not legal advice, and should not be relied on without seeking individual legal advice.



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Mr. Colmenero has experience in litigation and practices primarily in the State Tax Controversy and Litigation and State Tax Planning areas. He represents individuals, closely held businesses, and large corporations in all forums for Texas tax litigation, including the Texas State Office of Administrative Hearings, Texas District Court, the Texas Courts of Appeals, and the Texas Supreme Court. He has also represented clients in IRS audits, appeals, and litigation in the United States Tax Court, Federal District Courts and the United States Court of Federal Claims, U.S. Courts of Appeals, and the United States Supreme Court.

Mr. Colmenero was previously a sales tax auditor for the State of Texas and, as a lawyer, has successfully represented taxpayers in contested proceedings involving sales and use tax, franchise tax, motor fuels tax, motor vehicle tax, mixed beverage taxes, employment tax and others. Mr. Colmenero represents taxpayers through contested Texas tax proceedings including audits, Independent Audit Review Conferences, administrative proceedings before the Texas Comptroller, Texas State Office of Administrative Hearings, Texas Workforce Commission and in State court litigation.

Mr. Colmenero is a Certified Public Accountant and maintains active involvement in various professional legal and accounting organizations. He previously served as Chair of the Tax Section of the State Bar of Texas and was a member of the Board of Directors for the Texas Society of CPAs. He is the immediate past chair of the Federal Tax Policy Committee of the Texas Society of CPAs and is a member of the Texas Comptroller's Taxpayer Advisory Group. Mr. Colmenero received the TXCPA Outstanding Committee Chair Award for 2023-2024 in recognition for his outstanding leadership of the TXCPA Federal Tax Policy Committee. He is a member of the 2024-2025 Comments Subcommittee of the Federal Tax Policy Committee. He is a past chair of the Dallas CPA Society and past chair of both the State and Local Tax Committee and the Tax Controversy Committee of the Tax Section of the State Bar of Texas. He helped form the Leadership Academy for the Tax Section of the State Bar of Texas and served as its Program Director for several years. He frequently speaks on substantive and procedural tax issues involving both federal and state tax matters.

Mr. Colmenero was admitted to practice in Texas in 1997.