



MULTISTATE TAX

Texas Comptroller adopts amended regulations for R&D activities

Tax Alert

Overview

The Texas Comptroller of Public Accounts (“Comptroller”) recently filed adopted rule amendments with the Office of the Secretary of State to incorporate numerous changes to the franchise tax research and development (“R&D”) activities credit and the sales and use tax R&D exemption (collectively referred to as “Adopted Rules”). The Adopted Rules were published in the October 15, 2021 issue of the *Texas Register*. A copy of the Texas Register issue is available [here](#) (franchise tax) and [here](#) (limited sales, excise, and use tax).

The preamble of the Adopted Rules indicates the amendments reflect the Comptroller’s existing policy. As such, the Comptroller may apply the Adopted Rules retroactively, as well as prospectively.

The Adopted Rules include but are not limited to the following:

- The burden of proof for establishing entitlement to the R&D credit is set at a “clear and convincing” standard.
- All qualified research expenses must be supported by contemporaneous business records.
- Texas law conforms to the Internal Revenue Code in effect on December 31, 2011. Federal R&D regulations adopted after December 31, 2011 are applicable to the Texas R&D credit or exemption only to the extent such federal R&D regulations expressly apply to the 2011 federal tax year.

Get in touch

[Robert Topp](#)

[Jerry Lo](#)

[Grace Taylor](#)

[Lauren Rothman](#)

[Scott Bedunah](#)



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30 Rockefeller Plaza
New York, NY 10112-0015
United States

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