

## Multistate tax controversy services

### Texas controversy



#### The Texas landscape

- The State of Texas has touted its rapid recovery from the recession, including sustained job growth and a budgetary surplus in an aggressive campaign to attract new business to the state.
- Political pressures and legislative changes have led to increased enforcement efforts by state tax authorities.
- Texas' Tax Policy division has increased the level of scrutiny in its review of Private Letter Ruling (PLR) requests due to projected revenue implications; recent reorganization within the Tax Policy division has also significantly delayed administrative proceedings and produced changes in the PLR process.



#### Navigating the complexities of Texas tax controversy

Several options exist for contesting audit adjustments or jeopardy determinations:

- Prior to audit finalization, taxpayers may voice disagreements regarding audit findings by requesting a Reconciliation Conference and/or an Independent Audit Review Conference (IARC).
- In an IARC, an Independent Audit Reviewer, who is an impartial Comptroller employee with tax and audit expertise, will attempt to resolve any disagreements before the audit enters the hearings process.
- Upon completion of a tax audit, the taxpayer may request a Redetermination, in which a taxpayer who disagrees with the results of an audit may request a Refund or Redetermination Hearing with the Tax Administration or request that the case be heard in District Court by an Administrative Law Judge or request the case be heard in District Court.



#### The Texas Franchise ("Margin") Tax and common issues

Adding to the complexities of the Texas Franchise Tax on Margin:

- The tax is relatively new and there is a limited body of judicial or other interpretive guidance; the information that is available is generally provided by the Texas Comptroller's Office.
- The Comptroller, Auditors, and Tax Policy have interpreted the Franchise Tax statutes narrowly, forcing taxpayers to challenge the state's position.

The most common contentious issues remain those related to: the COGS and compensation deductions (particularly for businesses that are not manufacturers), revenue exclusions, apportionment of receipts, and eligibility to use the .375 percent tax rate applicable to wholesalers and retailers.



#### Why Deloitte?

Deloitte's Texas tax controversy team can help you explore potential opportunities with:

- Audits and appeals
- Refund requests
- PLRs
- Penalty and interest abatements
- Voluntary disclosure agreements
- Meeting with Tax Policy Division

Our proactive approach is based upon:

- Years of experience working with the Comptroller's Office
- In-depth knowledge of the state's procedure and informal policies
- History of remediation uncertain tax positions, assisting in or with the audit process, and expediting refund requests

## Contacts



#### Robert Topp

Managing Director  
+1 713 982 3185  
rtopp@deloitte.com

#### Russell Brown

Partner, Dallas  
+1 214 840 7533  
rubrown@deloitte.com

#### About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the "Deloitte" name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more about our global network of member firms.