



US Multistate Tax Alert

Texas Comptroller adopts amendments to franchise tax apportionment rules

Overview

The Texas Comptroller of Public Accounts (Comptroller) recently filed adopted rule amendments with the Office of the Texas Secretary of State to incorporate numerous changes to apportionment rules surrounding the Texas franchise tax under title 34 of Texas Administrative Code (TAC) § 3.591 (amendments hereinafter collectively referred to as “Adopted Rule”).ⁱ The amendments pursuant to the Adopted Rule are to be published in the January 15, 2021 issue of the *Texas Register*.

Amendments to Texas Franchise Tax Apportionment Rules

In an effort to streamline and incorporate recent statutory amendments and current guidance, the Comptroller amended TAC § 3.591, altering previous sourcing methodologies for receipts from various goods and services, including, but not limited to, receipts derived from: advertising; computer hardware; software; digital property; internet hosting services; transportation services; securities; sale of membership interests in a single member limited liability company; and certain types of loans.ⁱⁱ The Adopted Rule also incorporates the use of the Texas census percentage (as increased from 7.9% to 8.7%) in multiple circumstances for sourcing purposes. Although the Adopted Rule’s effective date is January 24, 2021, numerous aspects of the Adopted Rule will be applied retroactively to franchise tax reports originally due on or after January 1, 2008.ⁱⁱⁱ

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ⁱ Franchise Tax Margin: Apportionment, to be published in Volume 46, Issue 3 of the *Texas Register* (Jan. 15, 2021) (as filed with the Office of the Secretary of State on January 4, 2021) (to be codified at 34 Tex. Admin. Code § 3.591) (Tex. Comptroller of Pub. Accounts). A copy of the Adopted Rule that will ultimately be published in the Texas Register is available [here](#); see also Deloitte Multistate Tax Alert, “Texas Comptroller proposes amendments to franchise tax apportionment rules,” (Nov. 11, 2020) (previous Deloitte Tax Alert on the amendments as proposed may be found [here](#)).

ⁱⁱ *Id.*

ⁱⁱⁱ *Id.* (“Effective date. The provisions of this section apply to franchise tax reports originally due on or after January 1, 2008, except as otherwise noted”) (to be codified at 34 Tex. Admin. Code § 3.591(a)).