



# This Week in State Tax (TWIST)

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## Texas: Credit Card Processing Fees Passed on to Customers are Taxable

The Texas Comptroller's Office recently issued a memorandum discussing the sales tax treatment of separately stated credit card processing fees. When a retailer passes on credit card processing fees, even if separately stated from the underlying taxable item, such fees are included in the "sale price" and subject to Texas sales and When the retailer passes on the processing fee, it is passing on the cost of an expense incurred in connection with the sale of a taxable item which is prohibited by Texas law. To the extent the item is not taxable, tax does not apply to the passed-on credit card processing fee.

There are a number of exclusions from the definition of sales price in Texas. One such exclusion applies to "finance, carrying and service charges, or interest from extending credit to a creditor." The Comptroller clarified that a retailer in this situation is not engaging in business as a credit card payment processor or financial institution. Rather, the retailers are merely passing on the expense of such services; therefore, the referenced exclusion does not apply. The memorandum also clarifies that electronic payment processing is not data processing due to a specific exclusion for such charges. Please contact Karey Barton with questions on [Memorandum 202406004M](#).

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