



This Week in State Tax (TWIST)

September 15, 2024



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Navigating the new Texas franchise tax statute of limitations guidance

Harley Duncan: Welcome, and thank you for joining us on This Week in State Tax, also known as TWIST.

My name is Harley Duncan, and I'm with the KPMG Washington National Tax State and Local Tax practice.

Many of you know TWIST is our weekly summary of written developments covering recent happenings across the states. It hits your inbox every Monday morning. We have recently revamped the weekly podcast summary that accompanies the email version of TWIST, shifting our podcast to focus periodically on noteworthy developments that have broad applicability to taxpayers across the country.

The podcast will complement the weekly series, and we plan to host them on a monthly basis.

Today's podcast we're going to explore some recent guidance issued by the Texas Comptroller of Public Accounts, regarding the date on which the statute of limitations begins to run for Texas taxpayers that have requested an extension of time to file their annual franchise tax report.

To discuss that guidance, we have with us Karey Barton. Karey is a managing director with KPMG Washington National Tax SALT and he's based in Austin, Texas. Prior to joining KPMG in November 2021, Karey capped off a career with the Texas Comptroller's Office in various tax policy and administrative positions, ending as the associate deputy comptroller for tax.

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Harley Duncan: With his public and private experience in Texas, he has an unparalleled base of knowledge to help us understand the importance of this guidance. Welcome to TWIST, Karey. Let's just go right at it. We're dealing with guidance that changes the rules for when the SOL begins to run for taxpayers filing a request to extend their annual franchise tax report. So to start, Karey, how about we take a moment to level set and have you outline the landscape in the Lone Star State for taxpayers that do file an extension request for their franchise tax report?

Karey Barton: Good morning, Harley. Thank you for having me on this morning. In Texas, there's a complicated aspect to the filing of the request for an extension to file your report. There are actually two methods, depending on what size of taxpayer you are in the state of Texas. The one we're going to talk about this morning is the impact on franchise taxpayers who are required to pay their franchise tax by electronic funds transfer. And, you know, basically that is going to apply to the vast majority of our clients, the larger taxpayers. Because any taxpayer who paid more than \$10,000 in the previous year in franchise tax to the state of Texas, is required to file and pay their franchise tax by electronic funds transfer (EFT). Texas has a May 15th due date for filing their return and making a payment of their tax. Texas provides those taxpayers who pay by EFT the opportunity to extend that date. They can do that by filing two separate extensions to get all the way to November 15th to file their report.

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Karey Barton: The first extension is due on or before May 15th. They have to make an estimated payment with that extension request. And there's two options that the taxpayer has. They can choose a safe harbor of paying the same amount of franchise tax with the estimated payment as they have paid in the previous year. Or they can make an estimated payment of 90% of the tax they expect to report on their return, when they file it.

That will extend the reporting due date to August 15th. And then on or before August 15th, the EFT taxpayer, will have to make a payment of 100% of the tax that they expect to be due on the report when they file their return for that report year.

And that will extend their ability to file their report out to November 15th.

Harley Duncan: It seems like a bit of a complicated decision tree. What changes in the new guidance?

Karey Barton: It is a complicated decision tree.

What changes in the new guidance is the controller's office has changed basically their interpretation of when that statute of limitations will begin to run for taxpayers who are making payments by electronic funds transfer.

And they look at this now and say, the payment date now is August 15th and that means that August 16th will begin the date for running your statute of limitations determination date going forward.

And they're going to apply this on a prospective basis from this point. It's going to apply to franchise tax reports that are due on or after January 1 of 2021. The statute of limitation beginning date will be August 16th.

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Karey Barton: For the reports that are due before January 1 of 2021, the statute of limitations beginning date will be November 16th.

As it stands now, for reports that were filed prior to January 1 of 2021, nothing changes. The beginning date for determining the statute of limitations remains at November 16th. Beginning for those reports that are due on or after January 1 of 2021, that beginning date is going to fall back to August 16th rather than November 16th.

Harley Duncan: All right. From the taxpayer's standpoint, what's exactly the takeaway for them?

Karey Barton: The primary takeaway for our taxpayers that are required to make payments by electronic funds transfer, starting with their franchise tax reports that were due on or after January 1 of 2021, if they want to amend those reports and be within the statute of limitations, they're going to have to look at the beginning date for determining that four years statute of limitations as being August 16th rather than November 16th.

Harley Duncan: Got it. So August 16th is the magic day now. And one request, two requests, doesn't matter?

Karey Barton: That's correct.

Harley Duncan: Well, thank you Karey. I think that's all the time we have for today. We appreciate you joining us on TWIST, and we hope to have you again as future developments unfold in Texas.
To our listeners, please stay tuned for other developments and other speakers. And we hope you keep joining TWIST on a weekly basis. Thank you.

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