

# This Week in State Tax (TWIST)

January 13, 2025



## Texas: Purchase of Cloud Services Does Not Qualify for Resale Exemption

The Texas Comptroller of Public Accounts recently issued a private letter ruling clarifying that a taxpayer's purchase of cloud computing services to host and operate its online transportation logistics system did not qualify for a resale exemption. The taxpayer provided a web-based software system with several modules offering transportation logistics solutions to its customers. Each customer had a database of its activities and data on the system that populated the various modules to meet their logistics needs, such as individual shipping, shipment tracking, freight payment, fleet accounting, and supply chain management. The taxpayer charged its customers a single monthly fee. To provide its service, the taxpayer purchased certain cloud services (e.g., access to virtual servers, data base software, data storage, and security) from a cloud service provider that invoiced the taxpayer monthly for each service. The taxpayer paid sales and use tax on the services as data processing services. The taxpayer claimed the itemized charges from its cloud provider were based on the use of the services by its customers, and the taxpayer requested guidance from the Comptroller on whether its purchase of cloud computing services qualified for the resale exemption.

In Texas, data processing services are included in the list of taxable services. Taxable items purchased for resale are exempt from sales and use tax if purchased for the purpose of reselling to a customer and not to perform a contract. The Comptroller determined that the taxpayer's purchase of cloud services did not qualify for a resale exemption because the taxpayer purchased the cloud services for its own use to provide its logistics services. The Comptroller emphasized that merely purchasing a taxable item to perform a contract with a customer does qualify as being purchased for purposes of reselling. Further, the taxpayer failed to provide sufficient information from the cloud service provider to establish that its customers' use was the basis of the charges for the cloud services. Consequently, the taxpayer's purchase for the cloud service did not qualify for the resale exemption. For more information on [Private Letter Ruling No. 20210226061035](#), contact [Carolyn Owens](#).

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