

This Week in State Tax (TWIST)

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Texas: “Printing as a Service” not Eligible for COGS Deduction or Retailer/Wholesaler Rate

The Comptroller of Public Accounts recently considered whether the provision of various types of printing equipment and services as part of a “printing as a service” business line qualified as the sale or lease of tangible personal property for certain Texas Franchise Tax deductions and eligibility for the reduced tax rate for retailers and wholesalers. The taxpayer sold, leased, and maintained printers and related equipment. The taxpayer’s revenue came from three lines of business: the direct sale or lease of printing equipment to customers; the sale of maintenance and support services for printing equipment owned by third parties; and a program the taxpayer described as “printing as a service” (PaaS), which covered all aspects of a customer’s printing needs, including repairing, installing, moving, and supplying printing equipment as well as ensuring operation of the equipment. The taxpayer charged its PaaS customers a fee per page printed. On its Texas franchise tax returns, the taxpayer included a cost of goods sold (COGS) deduction for both its sales and leasing business line and its PaaS business line, and it aggregated these two business lines when determining that it was eligible for the reduced tax rate for retailers and wholesalers. An auditor disallowed the COGS deduction to the extent that it related to the PaaS business line and determined that the PaaS business line should not have been included when determining eligibility for the retailer/wholesaler tax rate.

On appeal, the Comptroller determined that at least a portion of the PaaS business line was properly classified as sales of a service, meaning that the taxpayer could not include the service-related PaaS expenses in its COGS deduction or its PaaS receipts in the rate determination. On the COGS deduction, the Comptroller noted that service providers are generally precluded from claiming the deduction. (The Texas Franchise Tax is imposed on total revenue minus specified deductions. A taxpayer that cannot or does not take the COGS deduction can choose from deductions equal to 30 percent of its total revenue or \$1 million.) Even assuming that some activities in the PaaS business line could be properly characterized as the sale of tangible personal property, the Comptroller concluded that the taxpayer had not provided sufficient documentation to calculate a COGS deduction for that portion of the business line. Similarly, the Comptroller concluded that the taxpayer had failed to demonstrate what portion of revenue from its PaaS business line should be allocated to sales of tangible personal property (as opposed to services) when determining if it was eligible for the reduced retailer/wholesaler rate. Accordingly, the taxpayer was required to use the 30 percent of total revenue deduction (the most favorable deduction after removing PaaS expenses from COGS) and the standard tax rate when computing franchise tax due. Contact [Jeffrey Benson](#) with questions about [Comptroller Decision No. 119,652](#).

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