



# This Week in State Tax (TWIST)

April 7, 2025



## Texas: Comptroller Adopts Revised Data Processing Rule

The Texas Comptroller of Public Accounts (Comptroller) amended its rule on data processing services, with the most significant changes revolving around bundled transactions. The Texas rule now provides that if a data processing service is sold for a single charge with another service that does not have a separate value, and the other service is ancillary to the data processing service, the entire charge will be taxable as a data processing service. Conversely, if a data processing service is sold for a single charge with another service, and the data processing does not have a separate value, the data processing service is ancillary to the other service. The Comptroller will consider whether the services are distinct and identifiable and whether each service is of the type that is commonly provided on a stand-alone basis or commonly provided as an additional service for a greater single value to determine if the data processing service and other service have separate value.

The new rule abandons the “essence of the transaction” evaluation (i.e., what the buyer ultimately wants) and focuses on what the service provider is doing. The rule clarifies that routine or repetitive manipulation of data by the seller of data processing is a factor that suggests its data processing service is not ancillary and, therefore, is taxable. For example, per the rule, the insertion of data into form title or loan documents for a client would ordinarily be a taxable data processing service. The primary service is the compilation, retrieval, and accurate manipulation of the data into the forms, even though there may be an element of independent judgment in correctly entering the data. On the other hand, manipulation of data that depends on the external knowledge and discretionary judgment of the service provider is a factor that suggests the data processing activity is ancillary to another service and should not be taxable. For example, the preparation of a title opinion would not ordinarily be a taxable data processing service. The primary service is the application of legal knowledge and judgment to a set of facts, even though there may be elements of data processing. These examples are illustrated in the recent opinion in *Hegar v. Black, Mann, & Graham, L.L.P.* The rule provides several other examples of services that are and are not taxable data processing services based on the routine and repetitive manipulation test or the use of external knowledge and discretionary judgment test.

A significant modification from the proposed rule to the adopted rule was applying an effective date of October 1, 2025, for marketplace provider services. The rule states marketplace provider services may be providing taxable data processing services when they perform the computerized entry, retrieval, search, compilation, manipulation, or storage of data or information provided by the purchaser or the purchaser’s designee. For example, storing product listings and photographs, maintaining records of transactions, and compiling analytics are taxable data processing services.

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Finally, the newly adopted rule provides that a data processing service performed in Texas but used in multiple states is exempt from tax to the extent the service is used outside of Texas. Further, the Comptroller is to develop a form that a purchaser may provide to the seller indicating the use in multiple states and indicating that the purchaser assumes responsibility for paying the required tax. A purchaser may use a reasonable and consistent method supported by its business records to allocate the service between jurisdictions. Under the prior rule, the purchaser was required to demonstrate that the non-Texas use was attributable to a separate, identifiable business segment to avail itself of the multistate benefit if its principal place of business was Texas. For more information on [Comptroller's Revised Rules on Data Processing Services](#), contact [Karey Barton](#).

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