



# This Week in State Tax (TWIST)

August 11, 2025



## Texas: Comptroller issues guidance on “sales-type leases” under franchise tax

The Texas Comptroller of Public Accounts issued a memo describing its intended standards for classifying sales-type leases as retail or wholesale sales for purposes of the Texas franchise tax. Recall that Texas imposes a 0.375 percent tax rate (rather than 0.75 percent) on the taxable margin of taxpayers engaged primarily in retail or wholesale trade. Taxable margin is determined by computing 70 percent of total revenue from the entity’s entire business, subtracting \$1 million from the total revenue or, at the taxpayer’s election, subtracting either the cost of goods sold (COGS) or compensation. In determining the applicable tax rate and eligible expenses for the COGS deduction, the state court of appeals, in *Hegar v. Xerox Corp.* (2021), ruled that the statutory use of the word “sales” did not require a transfer of title to property and includes certain leases that qualify as sales-type leases.

In the new guidance, the Comptroller clarifies that it will treat any arrangement that qualifies as a sales-type lease under Financial Accounting Standard (FAS) 13 as a “sale” for purposes of determining both the character of the taxpayer’s primary business and its cost of goods sold. To qualify as a sales-type lease under FAS 13, the collectability of the minimum lease payments must be reasonably predictable, and no important uncertainties can surround the amount of reimbursable costs yet to be incurred by the lessor. In addition, at least one of the following criteria must be met: (1) the lease transfers ownership of the property to the lessee by the end of the lease term; (2) the lease contains a bargain purchase option; (3) the lease term is equal to 75 percent or more of the estimated economic life of the leased property; or (4) the present value of minimum payments must equal or exceed 90 percent of the excess of the fair value of the leased property. Please contact [Jeffrey Benson](#) with questions about [STAR Document 202507015M](#).

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