



This Week in State Tax (TWIST)

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Texas: Charges to fuel stops for purchases through app deemed taxable data processing

The Texas Comptroller recently determined that a taxpayer's fee charged to fuel stops based on the total sale of discounted fuel facilitated through the taxpayer's mobile app is taxable as a sale of data processing services. The taxpayer operated a mobile app that enabled independent owner-operator truck drivers to locate fuel stops offering discounted fuel to app users, as well as amenities such as showers, parking, and dining options. The app was provided at no charge to the drivers, but fuel stops agreeing to participate in the system were charged a fee based on the volume of fuel sales facilitated by the app.

When a driver wished to purchase fuel at a participating fuel stop, the app would generate a numeric code unique to that driver and the designated fuel stop and display the guaranteed discounted price. To claim the discounted price, the driver provided the code to the fuel stop clerk. Once the driver finished fueling, the clerk inputted the number of gallons pumped into taxpayer's system, and the taxpayer charged the driver's debit or credit card on file. The taxpayer then transferred the appropriate proceeds to the fuel stop in payment for the fuel. In addition to facilitating purchases, the app provided fuel stops with detailed financial reports that tracked transaction histories, which the fuel stops could view and download. Importantly, the taxpayer's Master Services Agreement with fuel stops specified that the taxpayer was not acting as a money transmitter, payment instrument seller, or money services business. Neither did the taxpayer operate as a seller fuel; only the fuel stop sold fuel and was subject to all taxes applicable to fuel sales.

Texas imposes sales tax on the sale of tangible personal property and enumerated taxable services, including data processing. Data processing encompasses activities such as data entry, retrieval, search, compilation, and other computerized storage or manipulation of information. However, it excludes the settlement of electronic payment transactions by certain payment processors and financial institutions. The Comptroller concluded that the taxpayer's app performed data compilation, manipulation, and information storage by listing fuel stop locations, fuel prices, and amenities; generating codes to confirm purchases; and producing transaction reports. These activities fall squarely within the definition of data processing, and as the taxpayer did not qualify for the exclusion applicable to payment processors or financial institutions, the fee the taxpayer charged the fuel stops represented a data processing service subject to sales and use tax. Thus, the fee paid by the fuel stops to the taxpayer based on the amount of fuel purchased was taxable. Contact [Karey Barton](#) or [Sarah Vergel de Dios](#) for more information on [PLR No. 20241031152954](#).

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