This Week in State Tax (TWIST)

January 12, 2026

Texas: Comptroller announces change to IRC conformity

The Texas Comptroller of Public Accounts on December 19, 2025 released a memo describing its recent policy change with respect to conformity to the Internal Revenue Code (IRC). Recall, earlier in December 2025, the Comptroller announced that a "fresh legal review" determined that Texas would conform to tax year 2025 changes to bonus depreciation made by the One Big, Beautiful Bill Act despite a statutory conformity date of January 1, 2007. The new memo expands this policy to cover all tax return items not specifically tied to the Internal Revenue Code.

As background, Texas franchise tax law defines "Internal Revenue Code" to mean the IRC in effect for the tax year beginning January 1, 2007, along with any regulations adopted under the code applicable to that period. However, the law also requires that "total revenue from entire business", which is the starting point for the franchise tax base, be computed using the amount reportable on specific lines of federal Form 1120. The Comptroller's revised position is that the starting point amounts referred to are the actual amounts reported for federal purposes under the IRC in effect for the tax year at issue. The taxpayer will then make adjustments to apply the 2007 version of the IRC for individual items specifically tied to the IRC under Texas law. As an example, the Comptroller notes that deductions for foreign royalties and dividends would be generally computed under the current year IRC, but deductions under IRC sections 78 and 951-964 would be computed under the IRC as of January 1, 2007, because Texas law regarding those items specifically references those IRC sections. Similarly, Texas apportionment is based on gross receipts, which is defined by reference to amounts reported on the federal tax return without any specific reference to the IRC; as such, apportionment will be based on gross receipts calculated under the IRC for the tax year in question, not the 2007 version of the IRC.

The memo also provides a transition rule for applying current bonus depreciation rules to the Cost of Goods Sold (COGS) calculation. The depreciation portion of COGS is now based on federal depreciation calculated under the IRC for the current year. Consequently, any amounts of depreciation previously deducted for federal, but not Texas, purposes would be lost without some accommodation. Accordingly, a taxpayer with one or more qualifying assets (assets placed in service prior to the accounting period for the 2026 franchise tax report, not disposed of prior to that date, and associated with and necessary for the production of goods) may claim a one-time net depreciation adjustment for each such asset. This adjustment is equal to the total difference between depreciation claimed on federal tax returns and that claimed on Texas franchise tax returns with respect to COGS in previous years. If this amount is positive (i.e., the taxpayer has taken more total federal depreciation than Texas depreciation amounts for that asset), the taxpayer may include that positive difference in its COGS deduction for the 2026 report. Any unused net depreciation may be carried forward. Contact Jeffrey Benson with questions about STAR Doc. 202512012M.
