

SALT Alert! 2026-14: Texas Comptroller proposes draft rules making significant changes in taxation of cable service and data processing

According to information available on Texas Secretary of State website, Texas Comptroller of Public Accounts Don Huffines, on November 9, 2026, submitted four proposed rules to the Texas Register for publication on November 20, 2026. The proposed rules, described below, represent a marked departure from previous Comptroller guidance on particular issues and have substantial estimated impacts on state and local revenues in Texas. The formal 30-day public comment period starts upon publication, and they could be adopted as early as December 20, 2026. The comment periods for two earlier proposed rules, Rule 3.330 (Data Processing Services) and Rule 3.342 (Information Services) end on November 15 and November 29, respectively. Sarah Eckhardt, currently a state senator, was elected to be Comptroller in the recent election and will take office on January 1, 2027. (For a discussion of the earlier proposed rules, see our TWIST of October 12, 2026.)

Rule 3.313 (Cable Television Service and Bundled Cable Service)

The proposed amendment would reverse existing guidance holding that video streaming services delivered via the Internet are taxable as either cable television service or taxable amusement services. Cable television service is defined in Texas law as "the distribution of video programming with or without the use of wires to subscribing or paying customers." Specifically, the proposed rule would:

- Amend the definitions of cable service provider, cable system, and cable television service to limit the definition to the delivery of video programming to a purchaser or subscriber through a system of facilities and equipment that are owned, operated, or leased by a person who owns all or part of the system used to deliver the programming. It would also state that a person is not a cable service provider solely because they deliver video programming to purchasers over the Internet;
- Add a definition of streaming service as a "service that delivers video programming to a purchaser over the Internet, whether live or on demand, regardless of the type of device the purchaser uses to receive it or how the purchaser pays for it"; and
- Provide that a streaming service is not a cable television service or a taxable amusement service.

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The preamble to the proposed rule explains that the amended rule is correcting an error from a 2014 Comptroller rulemaking. It further states that the statute is best read as a provider delivering programming to its subscribers through a cable system that it owns, operates, controls, or leases, i.e., the type of cable television service that existed in 1984 when the tax was enacted. The preamble also indicates that the agency intends to apply the amendment prospectively. As explained in the preamble, the chief revenue estimator in the Comptroller's office estimates that the proposed rule would reduce state general fund revenues by amounts ranging from $290 million in fiscal year (FY) 2027 to $375 million in FY 2032. The impact on local sales tax revenues would increase from $84 million to $108 million over that period.

Rule 3.308 (Computers-Hardware, Computer Programs, Services, and Sales)

The proposed amendments to this rule would narrow the definition of taxable data processing services by creating new categories of software-related services and providing that such services are not considered data processing services. As formulated, the draft rule would exclude many services determined to be taxable in previous Comptroller administrative rules and other guidance from the definition of taxable data processing, including software-as-a-service, hosted or remotely accessed applications, other cloud computing services, Internet hosting, and data storage. It would also allow a multi-state allocation of the tax on sales of computer programs.

More specifically, if adopted, the amendments would:

- Provide a new definition of "data processing service" and limit it to a service in which a provider processes data supplied by the customer and returns that data to the customer in an organized and usable format such as a report, chart, graph, form or database. To be considered taxable, a data processing service must result in the customer receiving its own data back in a processed format. The definition states that the storage or manipulation of data standing on its own is not a data processing service, and that a service in which the customer processes its own data, including by use of a provider's software, platform, or computing, is not data processing;
- Provide a new definition of "hosted technology service" as access to computing resources or other technologies that the provider hosts and operates, including access through a web or other electronic interface and in which no computer program is transferred to the customer, including cloud computing and artificial intelligence applications and services. The proposed rule further states that these are not taxable services; neither are they the sale, lease, or rental of tangible personal property;
- Specify that Internet hosting is not a taxable service;
- Allow an allocation of the sales price of a computer program or license that may be used in Texas and at least one other state to be taxed in Texas only to the extent used in Texas. The portion of the sales price allocated to Texas is to be determined by a reasonable method that reflects the extent of authorized use in Texas. The sale and licensing of computer software is considered a sale of tangible personal property, and a multistate allocation has previously been allowed by the Comptroller's office only for services; and
- Provide that when a charge for a hosted technology service is bundled with a taxable item, tax applies only to the portion of the charge attributable to the taxable item.

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The preamble states the proposed rule is premised on a belief that prior Comptroller determinations on data processing have been too expansive and relied on the technology involved rather than on the manipulation and storage of customer data. The proposed amendments are to be considered the Comptroller's interpretation of Tax Code §151.0101, and the Comptroller intends to apply them prospectively. The agency did not make corresponding changes to Rule 3.330 (Data Processing), which is currently in the public comment period for other amendments. The Comptroller's office estimates general fund revenue reductions from the draft rule would be $1.9 billion in FY 2027, rising to $4.3 billion in FY 2032. Local government impacts would grow from $500 million to $1.1 billion over the 2027-2032 period.

Comptroller Huffines also has proposed amendments to Rule 3.300 concerning certain manufacturing and fabrication equipment. The proposed rule would expand the exemption for compressors used in oil and gas operations and specify that the equipment is not subject to divergent use calculation as well as allowing a previously denied sales and use tax exemption for racking, mounting hardware, and tracker systems that are installed as part of a solar electric generation facility for the generation of electricity for sale. In early November, the Comptroller superseded the guidance disallowing the exemption for the solar equipment; the preamble does not specify whether the agency intends to apply this prospectively only. Finally, the Comptroller has proposed to repeal and replace Rule 3.12 to revise the definitions for certain hotel construction and development projects to align with recent state court decisions and new agency interpretations.

Resources and Contacts

For further information and questions on the proposed rules and other Texas questions, please contact:

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