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Texas revises policy - Taxpayers can change their margin tax deduction method on an amended return

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In Brief

On June 12, 2012, in a significant and complete reversal of prior policy, the Texas Comptroller of Public Accounts announced that it will allow taxpayers to file amended long form franchise tax reports changing their election to deduct cost of goods sold or compensation at any time within the statute of limitations. [News Release, Comptroller of Public Accounts, 6/12/12] Previously, the Comptroller provided by rule that taxpayers could not file amended reports to change or make their election after the due date of the report.

In Detail

Texas Administrative Code Section 3.584(d) currently prohibits taxpayers from filing an amended report (after the due date) to change their method of computing taxable margin to either a COGS or compensation deduction (a change to calculate margin at 70% of total revenue is permitted). The Comptroller has revised this policy and will allow taxpayers to file amended reports changing their deduction method. The Comptroller will also allow taxpayers that elected to use the E-Z computation report or filed the no tax due information report to switch to the long form and make an election to claim either deduction. Amended reports must be filed within the statute

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of limitations. The Comptroller noted that this change in policy does not affect the eligibility requirements to claim either deduction. Rule 3.584 will be amended to reflect the policy change.

PWC Observes

William Essay, SALT partner with PwC in Houston, observes that, "this change could impact many taxpayers who may have been unaware of the election, may have inadvertently made a less advantageous election, or may have had their initial elected deduction reduced upon audit."

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