

Texas – Anticipated plans to modify treatment for commercial printing companies

May 22, 2014

In brief

In response to the Commercial Printer Roundtable that was held last Fall, on May 16, 2014, a Tax Policy Manager for the Texas Comptroller of Public Accounts announced plans to revise policy and amend the administrative rule governing the Texas Franchise Tax cost of goods sold (COGS) deduction as it relates to the commercial printing industry. Pursuant to the revised policy, commercial printers would be considered to own and produce goods when they print and sell tangible personal property to their customers. As a result, commercial printers may take a COGS deduction for the qualifying costs of their printing activities.

In detail

The Comptroller had previously classified commercial printers as service providers and took the position that commercial printers were not eligible to include the costs of the printing activities in their COGS deduction (e.g., a deduction was allowed for paper, but not labor costs, depreciation, etc.).

Under the revised policy, the most significant changes expected to be contained in the amended COGS rule for commercial printers include:

- Commercial printers would be considered to own and produce goods when they print and sell tangible personal property to their customers.

- Commercial printers may include the costs of their printing activities in their COGS deduction, to the extent allowed under Texas Tax Code § 171.1012.
- The costs of any ancillary services provided to customers, such as inventory management services and fulfillment, would continue to be excluded from COGS.

The Tax Policy Manager also commented that as a result of the COGS classification change, the apportionment calculation for commercial printers would change. Specifically, a commercial printer's revenue from the sale of tangible personal property would be sourced according to its delivery

destination under Rule 3.591(e)(29). Revenues that commercial printers derive from the sale of ancillary services would continue to be sourced to where the service is performed under Rule 3.591(e)(26).

We expect that the Comptroller will be revising the administrative rules to reflect these changes, which should apply retroactively to all past periods that are within the statute of limitations.

The takeaway

The anticipated policy change creates potential opportunities for commercial printers that were not previously taking the COGS deduction or did not include all of the qualifying costs of their printing activities

in their COGS deduction. Since the rule amendments are expected to be retroactive, refund opportunities may exist for all past periods that are within the statute of limitations and taxpayers should revisit prior audit results. It is important to note that a

commercial printer's revenue from the sale of tangible personal property will now be sourced to its delivery destination, which could have a significant impact on the taxpayer's Texas receipts factor.

Let's talk

If you have any questions about the anticipated policy change, please contact:

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