

PUBLICATION

Texas Taxpayers May See Relief

February 11, 2013

A Texas District Court recently interpreted the Texas Tax Code and determined a particular Texas Comptroller's Rule improperly narrows the state statute. The Texas Comptroller's Rule 3.589(c)(2) effectively required taxpayers to take less deductions for franchise tax purposes than they would be allowed to take for federal income tax purposes.

A Texas taxpayer filed suit against the Texas Comptroller seeking a refund of \$30,000 in franchise taxes paid under protest. The taxpayer was alleged to have underpaid taxes because it took deductions for employee benefits, such as parking, occupation taxes and fees related to continuing education. The Texas Comptroller claimed those deductions were improper because Rule 3.589(c)(2) directs certain deductions to be excluded even though a business may take a deduction for the same benefits on its federal income taxes.

Section 171.101(a)(1) of the Texas Tax Code allows a taxpayer to take a deduction for cost of goods sold or compensation. Under a compensation deduction and Section 171.1013(b)(2), the cost of benefits may be deducted to the extent they are also deductible for federal income tax purposes.

Against an argument by the Texas Comptroller, the District Court ruled that these sections of the Texas Tax Code are unambiguous and that Rule 3.589(c)(2) violates the plain meaning of the Tax Code. If this ruling stands, Texas taxpayers may see some relief in the form of additional permitted deductions. The Texas Comptroller may appeal this ruling to the Texas Third Court of Appeals for further consideration.

If you would like to discuss the impact of this ruling on your business, or other Texas state or local tax issues, please contact one of the attorneys associated with the Firm's Tax Department.