

## Income/Franchise:

### Texas: Settlement Payment Deemed for Tort Damages and Thus Not Deductible as COGS for Franchise Tax Purposes

*Case No. 13-21-00335-CV, Tex. Ct. App. (10/19/23).* The Texas Thirteenth Court of Appeals (Corpus Christi – Edinburg) affirmed that an oil and gas company could *not* deduct a settlement payment made to a third-party as costs of goods sold (COGS) for Texas franchise tax purposes, because the payment was deemed to be “a cost of committing a tort” and did *not* constitute direct costs of acquiring or producing goods. Although the Court of Appeals agreed in general that the language of a settlement agreement should not definitely control for Texas franchise tax purposes, the Court explained the ineluctable evidence supported the trial court’s finding that the settlement payment went towards tort damages, “which are not identified as COGS deductions.” Please contact us with any questions.

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