

Sales/Use/Indirect:

Texas Comptroller of Public Accounts Proposes Changes to Local Tax Siting Rule

Proposed Amended Title 34 Tex. Admin. Code section 3.334, Tex. Comptroller of Public Accounts (10/27/23). The Texas Comptroller of Public Accounts (Comptroller) is proposing revisions to Title 34 Tex. Admin. Code section 3.334, including adding a “subsection (c)(7)” regarding the location where an order is received as follows:

URL: <https://www.sos.state.tx.us/texreg/pdf/backview/1027/1027is.pdf>

“The location where the order is received by or on behalf of the seller means the physical location of a seller or third party such as an established outlet, office location, or automated order receipt system operated by or on behalf of the seller where an order is initially received by or on behalf of the seller and not where the order may be subsequently accepted, completed or fulfilled. An order is received when all of the information from the purchaser necessary to the determination whether the order can be accepted has been received by or on behalf of the seller. The location from which a product is shipped shall not be used in determining the location where the order is received by the seller.”

The proposed revisions attempt to articulate the Comptroller’s interpretation of the term “received” by providing a general standard that is “applicable to all situations, as well as to automated website orders and fulfillment warehouses” and seek to “promote uniformity with those states that have elected or will elect origin-based sourcing.” Litigation that may impact these proposed changes remains pending. The Comptroller has scheduled a hearing for November 8, 2023 to take public comments on these proposed rule amendments; written comments are due 30 days from the October 27, 2023 publication date in the Texas Register. Please contact us with any questions.

— Chris Blackwell (Austin)
Senior Manager
Deloitte Tax LLP
cblackwell@deloitte.com

Robin Robinson (Houston)
Specialist Executive
Deloitte Tax LLP
rorobinson@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.