

Sales/Use/Indirect:

Texas Appellate Court Orders Dismissal of Local Franchise Fee Suit Against Streaming Companies

Case No. 05-23-00485-CV, Tex. Ct. App. (1/31/24). In an original proceeding of taxpayers seeking mandamus relief from the trial court's denial of their motion to dismiss, the Texas Fifth Court of Appeals (Dallas) ("Court") conditionally granted such relief in a lawsuit filed by various Texas municipalities against several streaming entertainment companies claiming that they owed local franchise fees imposed on certain video service providers under Texas law. In doing so, the Court held that the Texas Public Utility Regulatory Act (PURA) provides municipalities with a limited cause of action to sue franchise holders (*i.e.*, those holding a certificate of franchise authority), and it does *not* extend to non-franchise holders. Furthermore, the Court concluded that PURA contains no clearly implied cause of action for municipalities to sue non-franchise holders. The holding in this case is in line with similar court decisions in other states and jurisdictions, including a 2021 ruling by the US District Court for the Eastern District of Texas, Texarkana Division [see *State Tax Matters*, Issue 2021-40, for details on this 2021 ruling]. Please contact us with any questions.

URL: <https://search.txcourts.gov/Case.aspx?cn=05-23-00485-CV>

URL: https://dhub.deloitte.com/Newsletters/Tax/2021/STM/211008_8.html

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

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

Rick Heller (Morristown)
Managing Director
Deloitte Tax LLP
rickheller@deloitte.com

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