

Sales/Use/Indirect:

Texas Letter Ruling Says Biometric Identification Services are Not Taxable Despite Underlying Data Processing Aspects

Letter No. 202309040L, Tex. Comptroller of Public Accounts (9/19/23). The Tax Policy Division of the Texas Comptroller of Public Accounts issued a private letter ruling regarding the taxability of a company's biometric identification services where the company performs identity verification so that travelers may pass through airport security checkpoints more efficiently. The ruling concludes that while the company performs some activities that meet the definition of "taxable data processing" under Texas law (e.g., gathering and storing customers' electronic information including fingerprints and iris scans, and then retrieving and verifying this information when a customer checks in at a kiosk), such activities are performed to facilitate an overall biometric identification service that allows for expedited access at airport checkpoints – which is *not* an enumerated taxable service under Texas law and, therefore, its fees for such services are *not* subject to Texas sales and use tax. Under the facts, customers pay an annual enrollment fee and upload personal identifying information, including fingerprints, iris scans, biographical information, and/or passport information to the company's platform. To check in at an airport using the company's service, customers verify their identity at a kiosk using either their fingerprints or iris scans. The company's employees also scan a customer's boarding pass and confirm relevant information including airport, airline, name, and date. Once the customer's identity and travel information have been verified, the customer is escorted to the company's designated lanes at airport checkpoints for expedited screening. Please contact us with any questions.

URL: <https://star.comptroller.texas.gov/view/202309040L>

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