



Government officials around the world are in the news for how they are dealing with the COVID-19 pandemic, and unfortunately, the news rarely lauds their efforts. However, Texas Comptroller of Public Accounts Glenn Hegar has quietly been getting it done. Below is a summary of Comptroller Hegar's accomplishments last week and there is a little something in there for every business owner in Texas.

REMOTE WORKING CONDITIONS IN LIGHT OF COVID-19

[On March 30, 2020, the Comptroller made moves to protect his staff and the public.](#) He announced that:

- He was temporarily closing his audit field offices.
- He was temporarily suspending the 60-day deadline for businesses to contest their audit results.
- He was waiving any interest that would accrue during this period of inactivity.
- And he would notify businesses to reestablish the deadline for filing a Statement of Grounds at a later date.

In the meantime, if a taxpayer wishes to file a Statement of Grounds and Request for Redetermination Hearing or try to settle a tax case, the Comptroller still has employees working remotely who can process these requests.

FLEXIBILITY ON EXISTING PAYMENT PLAN AGREEMENTS

On March 31, 2020, the Comptroller offered to help taxpayers avoid default on existing payment plan agreements by considering on a case-by-case basis, postponement of the deadlines to remit payments to the Comptroller's office. This is quite novel as the Comptroller has been unwilling to modify payment agreements. Postponement will only apply to existing payment plan agreements for periods *prior* to the February 2020 sales and use tax return. The potential postponements will not extend or delay a taxpayer's due dates for remitting or reporting tax collected on behalf of state and local governments. It will also not apply to settlement agreements that specify a deadline to make a single lump sum payment of the entire liability.

The total amount due under the existing payment plan agreement will not be reduced. After the expiration of the postponement period, all payment deadlines will resume on the next periodic payment deadline as provided in the payment plan agreement. Postponed payments will be added to the end of the term of the agreement.

FRANCHISE TAX REPORT DEADLINE EXTENSION

[On April 2, 2020, the Texas Comptroller of Public Accounts automatically extended the due date for 2020 franchise tax reports from May 15, 2020, to July 15, 2020.](#) (This mirrored the Internal Revenue Services' automatic extension of the filing deadlines for individual, trust and corporate returns to July 15, 2020, announced March 21, 2020). The Comptroller's extension applies to all taxpayers and is automatic. HOWEVER, while this extension is automatic, subsequent extensions (to August 15 and November 15) still require taxpayers to file extension requests and make tax payments. The extensions that would have been to November 15, 2020, will now be extended to January 15, 2021.

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UPDATE ON COST-OF-GOODS-SOLD (COGS) DEDUCTION

On April 3, 2020, the Comptroller won three cases at the Texas Supreme Court on what qualifies for the COGS deduction for Texas franchise tax. In each case, the Texas Supreme Court found for the Comptroller who had disallowed certain deductions for COGS. Each case confirms the court's reluctance to expand the scope of the available deductions particularly when it means granting deductions on tenuous or novel grounds.

[Sunstate Equipment Co., LLC v. Hegar, Cause No. 17-0444:](#)

In this case, the Texas Supreme Court concluded that Sunstate Equipment Co., LLC (Sunstate), a heavy construction equipment leasing company, was not allowed to deduct the costs of delivering or retrieving its rental equipment to or from its customer's jobsites. The court also concluded that Sunstate was not furnishing labor or material for the construction, improvement, remodeling, repair or industrial maintenance of real property.

[Hegar v. American Multi-Cinema, Inc., Cause No. 17-0464:](#)

In this case, the Texas Supreme Court concluded that American Multi-Cinema, Inc. (AMC) was not transferring property to movie viewers through its film exhibitions even though such films were perceptible to the senses. The court held that the only personal property which AMC's customers could leave the theater with were their concessions and their ticket stubs, which greatly reduced the COGS deductions available to AMC.

[Hegar v. Gulf Copper and Manufacturing Corporation, Cause No. 17-0894:](#)

Gulf Copper and Manufacturing Corporation (Gulf Copper) is in the business of surveying, repairing and upgrading offshore oil-and-gas rigs for rig owners and drilling contractors who in turn use the rigs to drill offshore wells for exploration-and-production companies. In this case, the Texas Supreme Court concluded that Gulf Copper had properly excluded the payments it made to its subcontractors from its total revenue but concluded that Gulf Copper (like Sunstate) was not furnishing labor or material for the construction, improvement, remodeling, repair or industrial maintenance of real property.

Our tax team at Gray Reed is ready and able to assist you with any state tax matters during this period of uncertainty. If you have any questions about Texas state tax matters, please [contact us](#).

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Leader of Gray Reed's State and Local Tax Practice Group, Isreal is a tax attorney focused on advising clients in state and local taxation matters and resolving related audits and litigation, primarily involving Texas sales and use tax, franchise tax and ad valorem taxes. Before joining Gray Reed, Isreal served for five years as a trial attorney for the Texas Comptroller of Public Accounts, where he personally handled over 1,700 cases, including over 850 cases litigated at the State Office of Administrative Hearings. He is Board Certified in Tax Law by the Texas Board of Legal Specialization, a Certified Public Accountant, a Certified Financial Planner™ practitioner and a Personal Financial Specialist.