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## LIST OF SUBSTANTIVE CHANGES AND ADDITIONS

### *PPC's Texas Franchise Tax Deskbook*

### Twenty-second Edition (January 2021)

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
CHAPTER 3 Foreign Entities and Nexus	1. Updated for changes made to TAC Rule 3.586 that was amended in response to the <i>Wayfair</i> case in regards to the determination of nexus.	Key Issue 3A
CHAPTER 5 Tax Rates	1. Noted that retail activities that fall under Division G, Group 5713 explicitly includes establishments that are primarily engaged in the retail sale of flooring and incidentally performing installation, therefore qualifying for the tax rate that is available to retailers and wholesalers.	Key Issue 5B
CHAPTER 8 Extensions	1. Noted that the 2020 Franchise report was extended beyond the normal extended due date in response to the COVID-19 pandemic and noted that taxpayers should monitor developments to see if a similar extension is provided in 2021.	Key Issue 8A
CHAPTER 13 Total Revenue from the Entire Business	1. Mentioned a Comptroller Hearing in which the Comptroller ruled that an oil and gas exploration, development, and production partnership was not entitled to exclude estimated taxable gains from sale of certain oil and gas leasehold interest from the total revenue calculation.	Key Issue 13B
CHAPTER 14 Gross Receipts and Apportionment	1. The Texas Comptroller has amended TAC Rule 3.591—the rule related to apportionment. The amendments are intended to incorporate legislative changes made in 2013 and 2015, update certain definitions, define new terms, and make significant changes to the sourcing rules for receipts from advertising, capital assets and investments, computer hardware and digital property, internet hosting and other services.  2. Mentioned the <i>Sirius</i> appeal case regarding apportionment of revenue to Texas from subscription services.	Throughout  Key Issue 14D
CHAPTER 15 Cost of Goods Sold Deduction	1. Mentioned the <i>American Multi-Cinema</i> case in which the Texas Supreme Court addressed the ability of the taxable entity to take a cost of goods sold deduction for the exhibition costs of movie theaters.	Key Issue 15A

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	2. Addressed the <i>Sirius XM Radio</i> case in which the Texas Supreme Court addressed whether the right to access and listen to radio programs broadcast by a satellite radio service was tangible personal property.	Key Issue 15A
	3. Mentioned Comptroller Decisions that dealt with determining whether internet access and telecommunication services include tangible personal property.	Key Issue 15A
	4. Mentioned the <i>Gulf Copper</i> case in which the Texas Supreme Court addressed if the taxpayer's cost qualified to be included in the cost of goods sold.	Key Issue 15D
CHAPTER 18 Special Status Entities	1. Mentioned a Comptroller hearing in which the Comptroller ruled that a courier and logistics company was not entitled to exclude from total revenue payments made to subcontractors due to an absence of source documents supporting this contention.	Key Issue 18K
CHAPTER 21 Tax Credits	1. Mentioned a Texas Attorney General Opinion in which indicates that a nonprofit lessee applicant could generally qualify for and obtain a Texas Franchise tax credit for certified rehabilitation of certified historic structures.	Key Issue 21C
CHAPTER 27 Penalties and Interest	1. Updated the interest rates applicable to underpayments and overpayments of franchise tax in 2021.	Key Issue 27B and 27F
CHAPTER 29 Dealing Effectively with the Comptroller's Office	1. Updated for a further ruling in the <i>EBS Solutions</i> case.	Key Issue 29E