Insights: Publications

# 4 Key Takeaways | Navigating the Texas Tax Maze

**FEBRUARY 20, 2025** Written by David A. Hughes

Kilpatrick partner **David Hughes** recently presented on **"Navigating the Texas Tax Maze"** at the firm's annual **In-House Counsel Summit** in Houston. David and a fellow thought leader discussed traps to avoid and opportunities to seize including best practices to reduce the overall tax burden. Texas sales tax and property tax can be a challenge for even the most sophisticated taxpayers. From ever-changing laws to aggressive Comptroller positions, Texas taxpayers are faced with many challenges to manage their tax compliance.

Key takeaways from the presentation include:

**1. Leasing Company.** Purchases of tangible personal in Texas are subject to sales tax unless an exemption applies. A lessor, however, can purchase an asset without paying sales tax because the lessor collects and pays sales tax on the lease stream. A leasing company can therefore be used to eliminate the tax on the full purchase price of an asset and instead defer much of the tax cost by spreading it over the duration of the lease. This planning opportunity, however, requires arm's-length, fair market value lease payments.

**2. Business Purpose.** While a leasing company can help defer and possibly reduce the tax cost of acquiring an asset, there must also be a non-tax business purpose to support the leasing arrangement. Common non-tax business reasons to use a leasing company to own and lease assets include segregation of liabilities, financing benefits, administrative efficiency resulting from common ownership of operating assets, improved cash flow and protection from creditors.

**3. Motor Vehicles.** There are some unique and possibly material Texas sales tax benefits resulting from use of a leasing company to own and lease motor vehicles, especially vehicles used in the oil and gas service provider industry. A lessor that purchases a "bare" motor vehicle – such as a truck, trailer or flatbed with no equipment attached – pays motor vehicle tax on the purchase of the bare vehicle. As a result of the interplay between the motor vehicle tax and the Texas sales tax rules for lessors, the lessor pays no sales tax when it purchases equipment (such as a pump) for the vehicle, including any repair or replacement parts. The lessor also pays no sales tax on the lease stream because the lessor has already paid the motor fuel tax.

**4. Property Tax.** Typically, a property tax appraisal is based on the market value of the property. But a lessor is subject to different rules. Specifically, a lessor calculates property tax based on the total annual lease revenue of the leased property rather than its market value. By adopting the intercompany leasing structure, a company can reduce its Texas property tax exposure.

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