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Texas Comptroller Amends Policy Regarding Taxability of Medical Billing Services

Those who deal with it on a regular basis know all too well that Texas sales and use tax laws are fraught with nuance and subject to varying interpretation, often creating confusion and uncertainty for Texas taxpayers. However, thanks to recent changes made during the 87th Texas Legislative Session and by the Texas Comptroller of Public Accounts, medical and dental billing service providers can breathe a small sigh of relief when it comes to alleviating at least some of that ambiguity regarding the taxability of the services they provide.

Historically, the Comptroller had included medical and dental billing services in the definition of “enumerated taxable insurance services.” Then, in 2002, the Comptroller took a closer look and determined that the taxability of medical billing services may vary and was largely dependent not just on what service was provided but when that service was provided. The agency determined that medical billing services performed *before* the insurance claim was submitted, such as completing a claim form, were beyond the scope of what was intended to be taxed and fundamentally different from the taxable services performed *after* an insurance claim was submitted. As such, the Comptroller deemed that pre-claim medical billing services were exempt from sales tax.

In 2019, the Comptroller decided to revisit its long-standing policy. This time, it was decided that pre-claim medical billing services would be deemed taxable since neither Texas Tax Code §151.0039 or Comptroller Rule 3.355(a)(8) specifically excluded those services from the definition of a “taxable” insurance service. However, the Comptroller agreed to delay enforcement of its new policy position until after the legislative session to allow time for taxpayers to seek support for a legislative change.

As a result, H.B. 1445 was introduced during the recent legislative session and successfully signed into law on April 30, 2021. H.B. 1445 made small but important changes to Texas Tax Code §151.0039(b). The revised law now codifies the definition of medical and dental billing services and specifically exempts those services which are performed before the original submission of a claim from the definition of a “taxable” insurance service.

The amended law is not set to take effect until January 1, 2022. However, the Comptroller has already superseded its prior position policy. On June 4, 2021, the Comptroller’s Tax Policy Division published Comptroller’s Letter Ruling 202106003L stating that the agency “will immediately treat these services as excluded from the definition” and affirming that “medical and dental billing services performed prior to the submission of an original claim are not taxable services.”

If you have questions about how your business may be impacted by these changes, please contact our indirect tax specialist, Brandon Hayes, at 817.502.7732.