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**Texas Taxpayers and Research Association
Annual Membership Meeting
November 2011**

Administrative Issues and the Franchise Tax

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Administrative Issues and the Franchise Tax

Current Issues

- Total Revenue
- COGS Deduction
- Compensation Deduction
- Tax Rate
- Apportionment
- Temporary Credits
- Presumption of Unity

Administrative Issues and the Franchise Tax

Total Revenue

- Management Companies
 - Active trade or business
 - Substantially all activities or distinct revenue producing component
 - Back office operations
- Healthcare Companies – Uncompensated Care Deduction
- Flow-through Funds
 - Mandated by law or fiduciary duty vs by contract
- Removal of Pass-Through Income/Loss
- Revenue for Federal Income Tax Purposes

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COGS Deduction

- Direct Labor Costs
- Indirect Costs
- Acquisition vs Production of the Goods
- Depreciation
- Lending Institutions
- License of Software
- Transportation Costs
- Mixed Transactions
- Service Companies – Real Property Construction, etc.

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Compensation Deduction

- Foreign Compensation (no W-2)
- Benefits
- Form 1099 Compensation

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Tax Rate

- SIC Codes
- Affiliate Manufacturers

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Apportionment

- Generally Equal to Total Revenue
- Gross vs Net on Loans and Securities
- MTC Three Factor Formula

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Temporary Credits

- Notification Letters
- Merger vs Dissolution
- Change in Combined Groups
- Change in Control

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Presumption of Unity

- Ownership
- Centralized Management
- Instant Unity

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