

## Texas Supreme Court Issues Three Decisions Addressing Various Aspects of the Texas Franchise Tax

By [David E. Colmenero](#) and [Alex J. Pilawski](#) on April 6, 2020



In a monumental day for Texas franchise tax, the Texas Supreme Court issued on Friday, April 3<sup>rd</sup>, three much-anticipated decisions addressing different aspects of the Texas franchise tax. All three decisions address the cost of goods sold deduction. One of these decisions also addresses the applicability of the exclusion for real property work under Section 171.1011(g). These decisions are not yet final as the parties could still request a rehearing. However, once final, these decisions will be important in construing and applying the Texas franchise tax provisions for years to come.

One of these three cases involves the question of whether a movie theater chain could claim a cost of goods sold deduction for the cost of exhibiting movies. The Supreme Court held that, under the Tax Code as it existed for the tax years at issue, it could not. See [American Multi-Cinema, Inc. v. Hegar \(Case No. 17-0464\)](#). The second of these decisions involves the question of whether a taxpayer engaged in renting heavy-duty construction equipment could claim a deduction for the cost of delivering and picking up equipment from job sites. The Court held it could not. See [Sunstate Equipment Co., LLC v. Hegar, \(Cause No. 17-0444\)](#). The third decision addresses whether a taxpayer engaged in surveying, repairing and upgrading off-shore drilling rigs could claim a cost of goods sold deduction for the costs associated with that work. The Court held it could not. This latter case also addressed whether that same taxpayer could exclude payments made to independent contractors for work performed on the drilling rigs from total revenue as flow-through payments under Section 171.1011(g). On this issue, the Court held in favor of the taxpayer that the costs could be excluded. See [Hegar v. Gulf Copper & Manufacturing Corp., \(Cause No. 17-0894\)](#).

Each of these decisions merits independent analysis. Over the next few days, we plan to issue a blog post addressing each in more detail. Meanwhile, any questions can be directed to either David Colmenero at [dcolmenero@meadowscollier.com](mailto:dcolmenero@meadowscollier.com) or Alex Pilawski at [apilawski@meadowscollier.com](mailto:apilawski@meadowscollier.com). You can reach both attorneys by calling (214)744-3700.