**Opinion Letter**

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| **Letter Number:** | **O-2008-004** |

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| **Tax Type:** | **Individual Income Tax** |
| **Brief Description:** | **Regarding the revised Texas franchise tax.** |
| **Keywords:** |  |
| **Approval Date:** | **09/02/2008** |

**Body:**

Office of Policy & Research

September 2, 2008

XXXXXXX
XXXXXXX

Re: Kansas Income Tax

Dear: Mr. XXXXX

Your correspondence of June 13, 2008 has been referred to me for response. Thank you for your inquiry and please accept my apologies for the delay in responding.

Your e-mail notes that in Opinion Letter O-2003-001 the Kansas Department of Revenue ruled that the Texas franchise tax was a state franchise tax and not a state income tax. You also note that since the issuance of that ruling the Texas franchise tax has been replaced with the revised Texas franchise tax which is characterized on the Texas web site as “a privilege tax imposed on each taxable entity chartered/organized in Texas or doing business in Texas.” By your e-mail you ask whether Kansas considers the revised Texas franchise tax to be a franchise tax or an income tax with respect to Kansas partnerships, S corporations and individuals for purposes of (1) adjustment for taxes on or measured by income or fees or payment in lieu of income taxes and (2) credits for taxes paid to other states.

In response to your inquiry, please be advised the Department has considered this matter and has determined the revised Texas franchise tax is based on income and is therefore in the nature of an income tax. Accordingly, the revised Texas franchise tax will be an addback modification for Kansas corporate income tax purposes. It could also be claimed as a credit for taxes paid to another state.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,

Jim Weisgerber
Attorney
Tax Specialist

JW:jw

*NOTE: This opinion letter is based solely on the facts provided in your request for advice. If material facts or information were not disclosed this letter is null and void. This letter will be revoked without further action by the Department if the statutes, administrative regulations, published revenue rulings, or court decisions that materially affect this opinion are changed.*

**Date Composed: 09/04/2008 Date Modified: 09/04/2008**