

Summary of AGC-TBB's efforts:

3x

SAVED
FRANCHISE
TAXES

5

INDUSTRY
GROUPS

3

YEARS TO
RESOLVE

AGC extends a special thanks to:

- Tom Vaughn, CEO
Vaughn Construction
- Bill Riegler, CFO
Linbeck Group
- Karey Barton,
Barton Texas Consulting
- Adina Christian,
Ryan Tax Consulting
- ABC of Texas
- Texas Association of
Builders
- Texas Construction
Association

COST OF GOODS SOLD:

How AGC saved you lots of money!

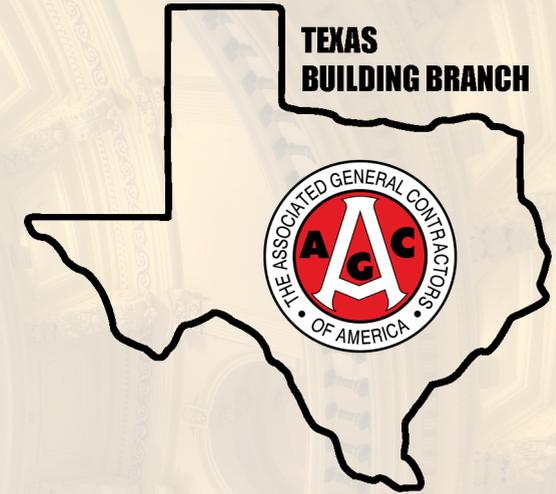
AGC-TBB's efforts, your savings:

To calculate the savings impact of the efforts of the AGC-TBB revised COGS rule now accepted by the Comptroller, use the following formula:

(Sum of all supervisory labor + per diem + travel) X 1% = your company's **annual COGS savings** thanks to AGC-TBB

IF you multiplied your company's annual savings X 3 (years) = your **company's potential liability PLUS interest** had your firm been audited

COGS =
**proof: membership
MATTERS**



Success and change are directly impacted by involvement and engagement. This unified effort saved **YOU** countless dollars. Collective effort through your AGC chapters, on a local and state level, made this legislation possible. AGC -TBB appreciates your membership and will continue to act as the voice of the construction industry.



*Protecting the
interests of
commercial
builders in Texas*

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YEAR ONE

FEBRUARY 2011

- AGC-TBB notified of irregularities by Houston AGC firm via Houston AGC
- TEXO notified AGC-TBB of a similar situation

PROBLEM: The Texas Comptroller's Office began disallowing deductions for supervisory labor (significant portion of construction project costs for jobs).



For tax years 2008, 2009, 2010 firms universally deducted these costs from their tax filings under Texas Tax Code 171.0012

MARCH 29, 2011

- AGC-TBB meeting with Comptroller's Chief of Staff
- AGC-TBB alerts ABC of Texas and the Texas Construction Association, who participate in the meeting
- Concerns about interpretations of "Cost of Goods Sold (COGS)" deductions discussed with Comptroller's staff – response expected in 3 weeks

AUGUST 30, 2011

- AGC-TBB receives letter rule from Comptroller's Director of Tax Administration, stripping supervisory personnel (including superintendents & project mgrs, and others)

FALL 2011

COALITION FORMED

- **AGC-TBB leads effort** to form construction industry coalition to resolve the issue
- AGC-TBB, ABC of Texas, Texas Association of Builders and Texas Construction Association agree to hire tax consultant, Karey Barton

COALITION OPTIONS

1. Administrative Rule Change by Comptroller (would apply retroactively)
2. Legislative change by passing new legislation to amend the tax code (would only apply to future returns)

Because the ruling essentially eliminated deductibility for all supervisory labor, AGC-TBB launched a **concerted effort across all sectors of the industry** organizing a coalition that included homebuilding and heavy highway construction companies. The ruling had massive monetary implications and required the involvement of Karey Barton, franchise tax consultant.

RISK IMPLICATIONS:

- Potential to triple franchise tax payments for contractors both retroactively and prospectively

ISSUE TO BE RESOLVED: Comptroller's response letter redefined direct labor within cost of goods sold to include **only** labor of workers in the field, thus **excluding all supervisory labor from being a direct cost.**

YEAR TWO

FEBRUARY 14, 2012

SUCCESSFUL MEETING WITH TEXAS COMPTROLLER, SUSAN COMBS

Outcomes:

- Rescinded Letter Ruling
- Placed all existing and planned audits on hold pending policy review
- Working Group formed to resolve issue

AGC WORKGROUP INDUSTRY REPRESENTATIVES:

- Tom Vaughn, CEO *Vaughn Construction*
- Bill Riegler, CFO *Linbeck Group*
- Karey Barton & Adina Christian, Ryan Tax Group

MARCH-OCTOBER 2012

- Working group holds meetings and conference calls

NOVEMBER 2012

- Comptroller communicates that a new draft rule will be ready soon

JANUARY 2013

- Proposed new draft rule is sent to Comptroller's Tax Advisory Group and the Construction Industry Working Group
- Draft rule is worse than previous August 2011 letter ruling and is expanded to other industries

INDUSTRY

RESPONSE: The construction industry and other impacted non-construction industries submitted a **charged response** to the Comptroller. A follow-up meeting was scheduled for **February 15, 2013**



ADDITIONAL MEASURES: The construction coalition **drafted legislation** for filing and had full support of all construction industry groups, including AGC-Highway.

YEAR THREE

FEBRUARY 14, 2013

COALITION MEETS WITH WAYS & MEANS COMMITTEE

Outcomes:

- Agreed to file legislative draft
- Requested updates from Comptroller meeting

FEBRUARY 15, 2013

RESOLUTION: Meeting with Comptroller staff, who clarified the direct cost issues and allowed deductions for the cost of supervisory personnel and allowed per diem, travel and other items to remain deductible for state franchise tax purposes.

MAY 16, 2013

ADOPTION: Comptroller **adopted** the revised rule.

JUNE 5, 2013

EFFECT: Rule went into **effect** and in its final form, it delivers a slight tax cut.