# Taxes

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"The bank's financial statements will appear as though the Nevada subsidiary had not been established and will, therefore, be transparent," the application stated.

Contacted by the *Dallas Business Journal*, Bank One officials refused to comment.

An official at the bank's parent company, Banc One Corp. of Ohio, said that moving funds around the country to avoid taxation "makes all the business sense in the world."

Lee Adams, deputy general counsel of Banc One Corp., said the practice has long been part of the company's business strategy. Of the company's estimated 50 separate banks, he said, more than 20 have shepherded funds away from undesirable taxes.

Adams was not aware of the particular tax involved in Texas, but Gabbart and other observers pointed to the new franchise tax as the obvious culprit in the Las Vegas move.

Those who criticize Bank One for trying to save money, Adams said, are "financially naive."

"That's what the whole interstate commerce system is all about," he said. "I understand the sentiment, but I think it's way out of proportion."

Texas state lawmakers, however, angrily lashed out at Bank One, accusing the company of taking advantage of Texas and reneging on its civic obligations.

Rep. Steve Wolens, a Dallas Democrat who heads the House Business and Commerce Committee, labeled the Ohio company's executives "carpetbaggers" and "tax avoiders."

No matter what the business rationale for moving the investment portfolio out of state, Wolens said, Bank One should keep its money where the company has chosen to do business.

He noted that the franchise tax — which would cost Bank One at least $7.5 million — is needed to offset a budget deficit and allow the state to continue funding such vital government services as education and transportation.

"What Texas needs is some business people who care about Texas," he said. "These are people from Ohio coming into Texas to avail themselves of the fruits and benefits of our state, and they're not helping to pay for it."

Officials in the comptroller's office fear that if enough companies are successful in circumventing the tax, the whole purpose of the measure will be defeated.

A leading Dallas tax consultant said he has heard stories about companies so bold that they plan to go out of business in December and then reopen after the first of the year — skirting the Dec. 31 effective date for the franchise tax.

John Swords of Coopers & Lybrand, a nationwide accounting firm, said that while he does not recommend that sort of maneuver, he also does not agree with state leaders who criticize businesses for fleeing the tax.

"That's absolute hogwash," he said. "A business is in business to do business and make money."

Approved as part of a package of tax increases this summer during intensive budget debates in Austin, the franchise tax was expanded to include more types of businesses and to change the method of collection.

The tax now will be collected at a rate of either $2.50 for each $1,000 in assets or 4.5 percent of the profits earned on those assets — whichever is higher.

For banks fleeing such taxes across the country, Nevada has become a particularly popular sanctuary. The state's only business tax applies strictly to the gambling industry, and it provides about half the money needed to run the state.

Marge Egan, an analyst for the U.S. Comptroller of the Currency, said that several states, most recently Wisconsin, have seen a number of large banks shelter investment portfolios elsewhere.

But Egan said that regulators, as a matter of policy, do not consider the effect that such a move has on a bank's home state. She predicted that Bank One's application would be approved.

"More and more banks are doing this," she said. "There is nothing at this time that would prevent it."

Industry analyst Frank Anderson said that while he had never heard of a maneuver like Bank One's sojourn to Las Vegas, he praised the company's managers as conservative bankers who make business decisions very meticulously.

"I'll bet you there's some sound financial planning behind it," he said. "Their management style is not one typically associated with a Las Vegas environment."

Bank One has been anything but conservative, however, since moving into Texas two years ago. Through numerous acquisitions, the company has built one of the state's largest banking operations, with deposits totaling $13 billion.

The bank has loaned about 60 percent of that amount to customers. The investment portfolio represents roughly one-fourth.

The only larger Dallas-based bank belongs to North Carolina giant NCNB Corp., whose NCNB Texas National Bank has about $30 billion in deposits and about $13 billion in loans.

Both NCNB and Banc One have been criticized for not making more loans to consumers and businesses here.

During this summer's budget debate, Texas lawmakers considered imposing a special tax on banks for deposits over a certain level that are not channeled back into the state through loans.

The main sponsor of that bill was Rep. Pete Patterson, an East Texas Democrat, whose staff was not aware of Bank One's plan for Texas Investment Holding Corp.

Kevin McCommon, an aide to Patterson, said the Las Vegas move is questionable because it would allow bank officials "to hide what they're doing" with the bank's investments.

"It sounds real smarmy to me," he said. "These old boys can rock n' roll with their investments."