

By: Parker, et al.

S.B. No. 5

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from ad valorem taxation of a portion of the appraised value of tangible personal property that is held or used for the production of income and a franchise tax credit for the payment of certain related ad valorem taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. INCOME-PRODUCING TANGIBLE PERSONAL PROPERTY AD VALOREM
TAX EXEMPTION

SECTION 1.01. Section 11.145, Tax Code, is amended to read as follows:

Sec. 11.145. INCOME-PRODUCING TANGIBLE PERSONAL PROPERTY [~~HAVING VALUE OF LESS THAN \$2,500~~]. (a) In this section:

(1) "Related business entity" means a business entity that:

(A) engages in a common business enterprise with at least one other business entity; and

(B) owns tangible personal property that:
(i) is held or used for the production of income as part of the common business enterprise; and

(ii) is located at the same physical address that tangible personal property owned by at least one other business entity engaged in the common business enterprise is located.

(2) "Unified business enterprise" means a common

1 business enterprise composed of more than one related business
2 entity.

3 (b) Subject to Subsection (f) and except as provided by
4 Subsection (d), a [A] person is entitled to an exemption from
5 taxation by a taxing unit of \$25,000 of the appraised value of the
6 tangible personal property the person owns that is held or used for
7 the production of income and has taxable situs at the same location
8 in the taxing unit [~~if that property has a taxable value of less~~
9 ~~than \$2,500~~].

10 (c) [~~(b)~~] The exemption provided by Subsection (b) [~~(a)~~]
11 applies to each separate location in a taxing unit in which a person
12 holds or uses tangible personal property for the production of
13 income, and, for the purposes of Subsection (b) [~~(a)~~], all property
14 that has taxable situs in each separate location in the taxing unit
15 is aggregated to determine taxable value.

16 (d) A person who leases tangible personal property is
17 entitled to an exemption from taxation by a taxing unit of \$25,000
18 of the total appraised value of all the tangible personal property
19 the person owns that is held or used for the production of income
20 and is subject to a lease, regardless of where the property is
21 located in the taxing unit.

22 (e) The exemption provided by Subsection (d) applies to each
23 separate taxing unit in which a person holds or uses tangible
24 personal property for the production of income.

25 (f) For the purposes of Subsection (b), if a person is a
26 related business entity, all property described by that subsection
27 that has taxable situs at the same location in a taxing unit and

1 that is owned by the person is aggregated with the property
2 described by that subsection that has taxable situs at the same
3 location in the taxing unit and that is owned by each other related
4 business enterprise that composes the same unified business
5 enterprise to determine taxable value for the entity.

6 (g) A chief appraiser may investigate a business entity to
7 determine whether the entity:

8 (1) is a related business entity; and

9 (2) has aggregated tangible personal property as
10 provided by Subsection (f).

11 (h) When calculating an exemption to which the person is
12 entitled under this section, a taxing unit shall apply the amount of
13 the exemption to tangible personal property other than inventory
14 that the person owns and is held or used for the production of
15 income before applying the exemption to inventory owned by the
16 person.

17 (h-1) For purposes of Subsection (h), "inventory" has the
18 meaning assigned by Section 171.701.

19 SECTION 1.02. Section 22.01, Tax Code, is amended by
20 amending Subsection (c-1) and adding Subsections (j-1), (j-2),
21 (j-3), and (n) to read as follows:

22 (c-1) In this section:

23 (1) "Related business entity" and "unified business
24 enterprise" have the meanings assigned by Section 11.145.

25 (2) "Secured party" has the meaning assigned by
26 Section 9.102, Business & Commerce Code.

27 (3) [~~(2)~~] "Security interest" has the meaning assigned

1 by Section [1.201](#), Business & Commerce Code.

2 (j-1) Notwithstanding Subsections (a) and (b), a person is
3 required to render tangible personal property the person owns that
4 is held or used for the production of income only if, in the
5 person's opinion and as applicable:

6 (1) the aggregate market value of the property that
7 has taxable situs in the same location in at least one taxing unit
8 that participates in the appraisal district is greater than the
9 amount exempted under Section [11.145\(b\)](#); or

10 (2) the aggregate market value of the property in at
11 least one taxing unit that participates in the appraisal district
12 is greater than the amount exempted under Section [11.145\(d\)](#).

13 (j-2) A person required to render property for taxation
14 under Subsection (j-1) must render all tangible personal property
15 the person owns that is held or used for the production of income
16 and has taxable situs in the appraisal district. This subsection
17 does not apply to property exempt from taxation under a provision of
18 law other than Section [11.145](#).

19 (j-3) A person who elects not to render property for
20 taxation as authorized by Subsection (j-1) must file a rendition
21 statement or property report that includes a certification that the
22 person reasonably believes that the value of the property is not
23 more than the amount exempted under Section [11.145\(b\)](#) or (d), as
24 applicable. The election takes effect beginning with the tax year
25 following the tax year in which the rendition statement or property
26 report is filed and continues in effect until the ownership of the
27 person changes. Notwithstanding Subsection (j-1), a person

1 described by that subsection must render property for taxation if
2 required by the chief appraiser.

3 (n) A rendition statement of a related business entity must
4 contain the information required by Subsection (a) or (f), as
5 applicable, stated for each related business entity that composes
6 the unified business enterprise of which the related business
7 entity that is the subject of the rendition is a part.

8 SECTION 1.03. Section 22.24(c), Tax Code, is amended to
9 read as follows:

10 (c) The comptroller may prescribe or approve different
11 forms for different kinds of property but shall ensure that each
12 form requires a property owner to furnish the information necessary
13 to identify the property and to determine its ownership,
14 taxability, and situs. Each form must include a box that the
15 property owner may check to permit the property owner to affirm that
16 the information contained in the most recent rendition statement
17 filed by the property owner in a prior tax year is accurate with
18 respect to the current tax year in accordance with Section
19 22.01(1). Each form must include a box that a property owner that
20 is a related business entity, as defined by Section 11.145, must
21 check to identify the owner as a related business entity. Each form
22 must include a box that a property owner who elects not to render
23 the property for taxation as authorized by Section 22.01(j-1) must
24 check to certify that the owner reasonably believes that the value
25 of the property is not more than the amount exempted under Section
26 11.145(b) or (d), as applicable. A form may not require but may
27 permit a property owner to furnish information not specifically

1 required by this chapter to be reported. In addition, a form
2 prescribed or approved under this subsection must contain the
3 following statement in bold type: "If you make a false statement on
4 this form, you could be found guilty of a Class A misdemeanor or a
5 state jail felony under Section 37.10, Penal Code."

6 SECTION 1.04. Chapter 25, Tax Code, is amended by adding
7 Section 25.14 to read as follows:

8 Sec. 25.14. INVENTORY AND TANGIBLE PERSONAL PROPERTY. (a)
9 In this section, "inventory" means:

10 (1) a finished good held for sale, resale, lease, or
11 rental;

12 (2) a raw or finished material held to be incorporated
13 into or attached to tangible personal property to create a finished
14 good; or

15 (3) a material or supply, including fuel or a spare
16 part, being held for future use.

17 (b) For purposes of this section, the term "inventory" does
18 not include:

19 (1) a dealer's motor vehicle inventory, as defined by
20 Section 23.121;

21 (2) a dealer's vessel and outboard motor inventory, as
22 defined by Section 23.124;

23 (3) a dealer's heavy equipment inventory, as defined
24 by Section 23.1241; or

25 (4) retail manufactured housing inventory, as defined
26 by Section 23.127.

27 (c) Except as provided by Subsection (d), a person's

1 inventory shall be listed separately from any other tangible
2 personal property the person holds or uses for the production of
3 income.

4 (d) This section does not apply to tangible personal
5 property for which a person is required to file a rendition
6 statement under Section 22.01(j-3) but that the person is not
7 required to render for taxation under any other provision of that
8 section.

9 SECTION 1.05. Section 31.01, Tax Code, is amended by
10 amending Subsection (c) and adding Subsection (c-3) to read as
11 follows:

12 (c) The tax bill or a separate statement accompanying the
13 tax bill shall:

- 14 (1) identify the property subject to the tax;
- 15 (2) state the appraised value, assessed value, and
16 taxable value of the property;
- 17 (3) if the property is land appraised as provided by
18 Subchapter C, D, E, or H, Chapter 23, state the market value and the
19 taxable value for purposes of deferred or additional taxation as
20 provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;
- 21 (4) state the assessment ratio for the unit;
- 22 (5) state the type and amount of any partial exemption
23 applicable to the property, indicating whether it applies to
24 appraised or assessed value;
- 25 (6) state the total tax rate for the unit;
- 26 (7) state the amount of tax due, the due date, and the
27 delinquency date;

1 (8) explain the payment option and discounts provided
2 by Sections 31.03 and 31.05, if available to the unit's taxpayers,
3 and state the date on which each of the discount periods provided by
4 Section 31.05 concludes, if the discounts are available;

5 (9) state the rates of penalty and interest imposed
6 for delinquent payment of the tax;

7 (10) include the name and telephone number of the
8 assessor for the unit and, if different, of the collector for the
9 unit;

10 (11) for real property, state for the current tax year
11 and each of the preceding five tax years:

12 (A) the appraised value and taxable value of the
13 property;

14 (B) the total tax rate for the unit;

15 (C) the amount of taxes imposed on the property
16 by the unit; and

17 (D) the difference, expressed as a percent
18 increase or decrease, as applicable, in the amount of taxes imposed
19 on the property by the unit compared to the amount imposed for the
20 preceding tax year; ~~and~~

21 (12) for real property, state the differences,
22 expressed as a percent increase or decrease, as applicable, in the
23 following for the current tax year as compared to the fifth tax year
24 before that tax year:

25 (A) the appraised value and taxable value of the
26 property;

27 (B) the total tax rate for the unit; and

1 (C) the amount of taxes imposed on the property
2 by the unit; and

3 (13) for tangible personal property, state separately
4 the amount of taxes imposed on a person's inventory from the amount
5 of taxes imposed on any other tangible personal property the person
6 held or used for the production of income.

7 (c-3) For purposes of Subsection (c), "inventory" has the
8 meaning assigned by Section 25.14.

9 SECTION 1.06. This article applies only to ad valorem taxes
10 imposed for a tax year that begins on or after the effective date of
11 this article.

12 SECTION 1.07. This article takes effect January 1, 2024,
13 but only if the constitutional amendment proposed by the 88th
14 Legislature, Regular Session, 2023, to authorize the legislature to
15 exempt from ad valorem taxation a portion of the market value of
16 tangible personal property that is held or used for the production
17 of income is approved by the voters. If that amendment is not
18 approved by the voters, this article has no effect.

19 ARTICLE 2. FRANCHISE TAX CREDIT FOR INVENTORY AD VALOREM TAX
20 LIABILITY

21 SECTION 2.01. Chapter 171, Tax Code, is amended by adding
22 Subchapter N to read as follows:

23 SUBCHAPTER N. TAX CREDIT FOR INVENTORY TAX LIABILITY

24 Sec. 171.701. DEFINITION. (a) In this subchapter,
25 "inventory" means:

26 (1) a finished good held for sale, resale, lease, or
27 rental, including:

1 (A) a dealer's vessel and outboard motor
2 inventory, as defined by Section 23.124;

3 (B) a dealer's heavy equipment inventory, as
4 defined by Section 23.1241; or

5 (C) retail manufactured housing inventory, as
6 defined by Section 23.127;

7 (2) a raw or finished material held to be incorporated
8 into or attached to tangible personal property to create a finished
9 good; or

10 (3) a material or supply, including fuel or a spare
11 part, being held for future use.

12 (b) Notwithstanding Subsection (a) and for purposes of this
13 subchapter, the term "inventory" does not include a dealer's motor
14 vehicle inventory, as defined by Section 23.121.

15 Sec. 171.702. ELIGIBILITY FOR CREDIT. A taxable entity is
16 entitled to apply for a credit against the tax imposed under this
17 chapter in the amount and under the conditions provided by this
18 subchapter.

19 Sec. 171.703. AMOUNT OF CREDIT; LIMITATIONS. (a) Subject
20 to Subsections (b) and (c), the amount of a taxable entity's credit
21 for a report is equal to the lesser of:

22 (1) the total franchise tax due for the report after
23 applying all other applicable credits; or

24 (2) 20 percent of the aggregate amount of ad valorem
25 taxes imposed by each taxing unit during the ad valorem tax year
26 preceding the year in which the report is originally due on property
27 owned by the taxable entity that were derived from the taxable value

1 of inventory owned by the taxable entity and located in this state.

2 (b) The total amount of credits that may be awarded under
3 this subchapter for all reports originally due in a year may not
4 exceed \$700 million.

5 (c) The comptroller by rule shall prescribe procedures by
6 which the comptroller will allocate credits under this subchapter.
7 The procedures must provide that if the total amount of credits for
8 which taxable entities apply under Subsection (a) exceeds the limit
9 under Subsection (b) for a calendar year, the comptroller shall:

10 (1) for each taxable entity that applied for the
11 credit, reduce the amount under Subsection (a)(2) to a pro rata
12 share of \$700 million based on the amount of ad valorem taxes
13 described by Subsection (a)(2) imposed on property of the taxable
14 entity and on property of all taxable entities that applied for the
15 credit;

16 (2) after making the reductions under Subdivision (1),
17 determine the amount by which each taxable entity's pro rata share
18 under Subdivision (1) exceeds the amount provided by Subsection
19 (a)(1) for the taxable entity, if any, and the sum of those amounts
20 for all taxable entities; and

21 (3) allocate the sum determined under Subdivision (2)
22 to other taxable entities that applied for the credit on a pro rata
23 basis to partly or wholly restore the amount reduced under
24 Subdivision (1).

25 (d) For purposes of Subsection (a)(2), the aggregate amount
26 of ad valorem taxes imposed on property owned by the taxable entity
27 that were derived from the taxable value of inventory does not

1 include, and a taxable entity is not entitled to a credit for any
2 taxes imposed on, the taxable value of any inventory for which the
3 taxable entity was exempt from taxation under Section 11.145.

4 (e) For purposes of calculating the amount of the credit
5 under this subchapter in connection with the 2023 ad valorem tax
6 year, a taxable entity may make a good faith estimate of the portion
7 of the ad valorem taxes imposed on the taxable entity's property
8 that were derived from inventory owned by the taxable entity and
9 located in this state. For purposes of this subsection, "good
10 faith" means honesty in fact and intention and requires the absence
11 of an intent to mislead or deceive. This subsection expires January
12 1, 2026.

13 Sec. 171.704. APPLICATION FOR CREDIT. (a) A taxable entity
14 must apply for the credit under this subchapter on or with the
15 originally filed report for the period for which the credit is
16 claimed.

17 (b) The comptroller shall prescribe the form and method for
18 applying for a credit under this subchapter. A taxable entity must
19 use the form in applying for the credit and submit the form
20 electronically with the report for the period for which the credit
21 is claimed.

22 (c) The comptroller may require the taxable entity to
23 include any other information the comptroller determines is
24 necessary to demonstrate:

- 25 (1) whether the entity is eligible for the credit; and
26 (2) the amount of the credit.

27 (d) The burden of establishing eligibility for and the

1 amount of the credit is on the taxable entity.

2 (e) The comptroller may request permission to examine the
3 books and records of a taxable entity as necessary to determine
4 whether the entity is entitled to a credit under this subchapter and
5 the amount of the credit. The comptroller may disallow the credit
6 if the taxable entity refuses to allow the comptroller to examine
7 the books and records.

8 Sec. 171.705. ADMINISTRATION OF CREDIT; REFUND. (a) The
9 comptroller may require a taxable entity that applies for a credit
10 under this subchapter to submit with the report a payment for all or
11 part of the taxes to which the credit applies. As soon as
12 practicable after determining the amount of the credit under
13 Section 171.703, the comptroller shall issue a warrant for any
14 portion of the credit for which payment was made.

15 (b) The amount of a warrant issued by the comptroller under
16 Subsection (a) does not accrue interest under Section [111.064](#).

17 Sec. 171.706. SALE, ASSIGNMENT, OR CARRYFORWARD
18 PROHIBITED. A taxable entity that receives a credit under this
19 subchapter may not sell, assign, or carry forward any part of the
20 credit.

21 Sec. 171.707. RULES. The comptroller shall adopt rules as
22 necessary to implement and administer this subchapter.

23 SECTION 2.02. Subchapter N, Chapter [171](#), Tax Code, as added
24 by this article, applies only to a report originally due on or after
25 the effective date of this article.

26 SECTION 2.03. This article takes effect January 1, 2024.