

By: Homer

H.B. No. 95

A BILL TO BE ENTITLED

AN ACT

relating to franchise tax incentives for recycling.

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

SECTION 1. Subchapter C, Chapter 171, Tax Code, is amended by adding Section 171.1045 to read as follows:

Sec. 171.1045. GROSS RECEIPTS: DEDUCTION FOR RECYCLED PRODUCTS. (a) In this section, "recycled product" has the meaning assigned by Section 361.421, Health and Safety Code.

(b) A corporation may exclude from its receipts includable under Sections 171.103(1), 171.1032(a)(1), 171.105(a)(1), and 171.1051(a)(1) the amount of the corporation's receipts from sales of recycled products manufactured by the corporation. A corporation that chooses to exclude receipts as provided by this section shall exclude those receipts from each computation of gross receipts required by this chapter.

SECTION 2. Section 171.110(a), Tax Code, as amended by Section 39, H.B. No. 2424, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) The net taxable earned surplus of a corporation is computed by:

(1) determining the corporation's reportable federal taxable income, subtracting from that amount any amount excludable under Subsection (k), any amount included in reportable federal taxable income under Section 78 or Sections 951-964, Internal

1 Revenue Code, any amount derived from the sale of recycled products
2 manufactured by the corporation, and dividends received from a
3 subsidiary, associate, or affiliated corporation that does not
4 transact a substantial portion of its business or regularly
5 maintain a substantial portion of its assets in the United States,
6 and adding to that amount any compensation of officers or
7 directors, or if a bank, any compensation of directors and
8 executive officers, to the extent excluded in determining federal
9 taxable income to determine the corporation's taxable earned
10 surplus;

11 (2) apportioning the corporation's taxable earned
12 surplus to this state as provided by Section 171.106(b) or (c), as
13 applicable, to determine the corporation's apportioned taxable
14 earned surplus;

15 (3) adding the corporation's taxable earned surplus
16 allocated to this state as provided by Section 171.1061; and

17 (4) subtracting from that amount any allowable
18 deductions and any business loss that is carried forward to the tax
19 reporting period and deductible under Subsection (e).

20 SECTION 3. Section 171.110(1), Tax Code, as added by
21 Section 39, H.B. No. 2424, Acts of the 78th Legislature, Regular
22 Session, 2003, is amended by adding Subdivision (6) to read as
23 follows:

24 (6) "Recycled product" has the meaning assigned by
25 Section 361.421, Health and Safety Code.

26 SECTION 4. Chapter 171, Tax Code, is amended by adding
27 Subchapter W to read as follows:

1 SUBCHAPTER W. TAX CREDIT FOR CAPITAL EXPENDITURES FOR CERTAIN

2 RECYCLING EQUIPMENT

3 Sec. 171.951. DEFINITION. In this subchapter, "recycling
4 equipment" means equipment necessary to assist a corporation in
5 recycling waste and used predominantly for that purpose.

6 Sec. 171.952. ELIGIBILITY. A corporation is eligible for a
7 credit against the tax imposed under this chapter in the amount and
8 under the conditions and limitations provided by this subchapter.

9 Sec. 171.953. CREDIT FOR CAPITAL EXPENDITURE FOR RECYCLING
10 EQUIPMENT. A corporation may claim a credit under this subchapter
11 only for a capital expenditure made toward purchasing recycling
12 equipment.

13 Sec. 171.954. AMOUNTS; LIMITATIONS. (a) The amount of the
14 credit is equal to the lesser of:

15 (1) the total amount of the capital expenditure made
16 during the reporting period; or

17 (2) \$50,000.

18 (b) The corporation may claim the credit only in five equal
19 installments of one-fifth the credit amount over five consecutive
20 reports beginning with the report based on the period during which
21 the capital expenditure was made.

22 Sec. 171.955. APPLICATION FOR CREDIT. (a) A corporation
23 must apply for a credit under this subchapter on or with the tax
24 report for the period for which the credit is claimed.

25 (b) The comptroller shall adopt a form for the application
26 for the credit. A corporation must use this form in applying for
27 the credit.

1 Sec. 171.956. ASSIGNMENT PROHIBITED. A corporation may not
2 convey, assign, or transfer the credit allowed under this
3 subchapter to another entity unless all of the assets of the
4 corporation are conveyed, assigned, or transferred in the same
5 transaction.

6 SECTION 5. (a) This Act takes effect January 1, 2004, and
7 applies only to a report due on or after that date.

8 (b) A corporation may claim a credit under Subchapter W,
9 Chapter 171, Tax Code, as added by this Act, only for an expenditure
10 made on or after January 1, 2004.