

By: Homer

H.B. No. 2113

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, Tax Code, is amended by amending Subsection (a) and adding Subsection (k) 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 included in reportable federal taxable income under Section 78 or Sections 951-964, Internal Revenue Code, any amount derived from the sale of

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

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

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

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

19 (k) In this section, "recycled product" has the meaning
20 assigned by Section 361.421, Health and Safety Code.

21 SECTION 3. Chapter 171, Tax Code, is amended by adding
22 Subchapter W to read as follows:

23 SUBCHAPTER W. TAX CREDIT FOR CAPITAL EXPENDITURES FOR CERTAIN

24 RECYCLING EQUIPMENT

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

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

4 Sec. 171.953. CREDIT FOR CAPITAL EXPENDITURE FOR RECYCLING
5 EQUIPMENT. A corporation may claim a credit under this subchapter
6 only for a capital expenditure made toward purchasing recycling
7 equipment.

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

10 (1) the total amount of the capital expenditure made
11 during the reporting period; or

12 (2) \$50,000.

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

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

20 (b) The comptroller shall adopt a form for the application
21 for the credit. A corporation must use this form in applying for
22 the credit.

23 Sec. 171.956. ASSIGNMENT PROHIBITED. A corporation may not
24 convey, assign, or transfer the credit allowed under this
25 subchapter to another entity unless all of the assets of the
26 corporation are conveyed, assigned, or transferred in the same
27 transaction.

1 SECTION 4. (a) This Act takes effect January 1, 2004, and
2 applies only to a report due on or after that date.

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