

Amend **CSHB 3** as follows:

(1) Strike SECTION 4.10 (committee printing page 26, lines 25-43) and substitute the following:

SECTION 4.10. Section 171.103, Tax Code, is amended to read as follows:

Sec. 171.103. DETERMINATION OF GROSS RECEIPTS FROM BUSINESS DONE IN THIS STATE FOR TAXABLE CAPITAL.

(a) In apportioning taxable capital, the gross receipts of a taxable entity [~~corporation~~] from its business done in this state is the sum of the taxable entity's [~~corporation's~~] receipts from:

(1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale, and each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to taxation;

(2) each service performed in this state;

(3) each rental of property situated in this state;

(4) the use of a patent, copyright, trademark, franchise, or license in this state;

(5) each sale of real property located in this state, including royalties from oil, gas, or other mineral interests; and

(6) other business done in this state.

(b) If related parties which are wholly owned subsidiaries of the same ultimate parent have collectively as of May 1, 2005 made an investment of at least \$100,000,000 in a new manufacturing capital improvement project located in this state for which the total capital investment for real and personal property will be in excess of \$400,000,000 and tangible personal property is sold from one related party to another and ultimately resold to an unrelated party in the normal course of business in the form or condition in which it is acquired or as an attachment to other tangible personal property, then the buyer or purchaser for purposes of subsection (a)(1) is deemed to be the first unrelated purchaser to whom the tangible personal property is resold.

(2) Strike SECTION 4.11 (committee printing page 26, line 44 - page 27, line 17) and substitute the following:

SECTION 4.11. Section 171.1032, Tax Code, is amended to read as follows:

Sec. 171.1032. DETERMINATION OF GROSS RECEIPTS FROM BUSINESS DONE IN THIS STATE FOR TAXABLE EARNED SURPLUS.

(a) Except for the gross receipts of a taxable entity [~~corporation~~] that are subject to the provisions of Section 171.1061, in apportioning taxable earned surplus, the gross receipts of a taxable entity [~~corporation~~] from its business done in this state is the sum of the taxable entity's [~~corporation's~~] receipts from:

(1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale, and each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to any tax on, or measured by, net income, without regard to whether the tax is imposed;

(2) each service performed in this state;

(3) each rental of property situated in this state;

(4) the use of a patent, copyright, trademark, franchise, or license in this state;

(5) each sale of real property located in this state, including royalties from oil, gas, or other mineral interests;

(6) each partnership or joint venture to the extent provided by Subsection (c); and

(7) other business done in this state.

(b) A taxable entity [~~corporation~~] shall deduct from its gross receipts computed under Subsection (a) any amount to the extent included under Subsection (a) because of the application of Section 78 or Sections 951-964, Internal Revenue Code, any amount excludable under Section 171.110(k), and dividends received from a subsidiary, associate, or affiliated entity [~~corporation~~] that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States.

(c) A taxable entity [~~corporation~~] shall include in its gross receipts computed under Subsection (a) the taxable entity's [~~corporation's~~] share of the gross receipts of each entity that is not a taxable entity [~~partnership and joint venture~~] of which the taxable entity [~~corporation~~] is a part apportioned to this state as though the taxable entity [~~corporation~~] directly earned the

receipts, including receipts from business done with the taxable entity [~~corporation~~].

(d) If related parties which are wholly owned subsidiaries of the same ultimate parent have collectively as of May 1, 2005 made an investment of at least \$100,000,000 in a new manufacturing capital improvement project located in this state for which the total capital investment is budgeted to be in excess of \$400,000,000 and tangible personal property is sold from one related party to another and ultimately resold to an unrelated party in the normal course of business in the form or condition in which it is acquired or as an attachment to other tangible personal property, then the buyer or purchaser for purposes of subsection (a)(1) is deemed to be the first unrelated purchaser to whom the tangible personal property is resold.