

By: Hill

H.B. No. 2948

A BILL TO BE ENTITLED

AN ACT

relating to the temporary credit for business losses under the franchise tax.

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

SECTION 1. Section 171.111, Tax Code, as effective January 1, 2008, is amended to read as follows:

Sec. 171.111. TEMPORARY CREDIT ON TAXABLE MARGIN. (a) On the first report originally due under this chapter on or after January 1, 2008, [~~Not later than March 1, 2007,~~] a taxable entity [~~may notify the comptroller in writing of its intent to preserve its right to take a credit in an amount allowed by this section on the tax due on taxable margin. The taxable entity~~] may [~~thereafter~~] elect to claim the credit allowed by this section for the current year and future year. The credit remains in effect [~~at or before the original due date of any report due after January 1, 2007,~~] until the taxable entity revokes the election or this section expires, whichever is earlier. A taxable entity may claim the credit for not more than 10 [~~20~~] consecutive privilege periods beginning with the first report originally due under this chapter on or after January 1, 2008 [~~2007~~]. A taxable entity may make only one election under this section and the election may not be conveyed, assigned, or transferred to another entity.

(b) The credit allowed under this section for any privilege period is computed by:

1 (1) determining the amount of the business loss
2 carryforwards of the taxable entity under Section 171.110(e), as
3 that section applied to annual reports originally due before
4 January 1, 2008, that were not exhausted on a report originally due
5 under this chapter before January 1, 2008~~[, as of the end of the~~
6 ~~taxable entity's accounting year ending in 2006, of the difference~~
7 ~~between (i) the taxable entity's deductible temporary differences~~
8 ~~and net operating loss carryforwards, net of related valuation~~
9 ~~allowance amounts, shown on the taxable entity's books and records~~
10 ~~on the last day of its taxable year ending in 2006, and (ii) the~~
11 ~~taxable entity's taxable temporary differences as shown on those~~
12 ~~books and records on that date. The amount of other net deferred~~
13 ~~tax items may be less than zero. For the purpose of computing the~~
14 ~~amount of the taxable entity's other net deferred tax items, any~~
15 ~~credit carryforward allowed under this chapter shall be excluded~~
16 ~~from the amount of deductible temporary differences to the extent~~
17 ~~such credit carryforward amount, net of any related valuation~~
18 ~~allowance amount, is otherwise included in the taxable entity's~~
19 ~~deductible temporary differences, net of related valuation~~
20 ~~allowance amounts, shown on the taxable entity's books and records~~
21 ~~on the last day of the taxable entity's taxable year ending in~~
22 ~~2006];~~

23 (2) ~~[apportioning the amount determined under~~
24 ~~Subdivision (1) to this state in the same manner taxable margin is~~
25 ~~apportioned under Section 171.106 on the first report due on or~~
26 ~~after January 1, 2007;~~

27 ~~[(3)]~~ multiplying the amount determined under

1 Subdivision (1) [~~(2)~~] by 10 percent; and
2 (3) [~~(4)~~] multiplying the amount determined under
3 Subdivision (2) [~~(3)~~] by the 4.5 percent tax rate prescribed by
4 Section 171.002(a)(2), as that section existed on December 31,
5 2007.

6 (c) [~~A taxable entity that notifies the comptroller of its~~
7 ~~intent to preserve its right to take a credit allowed by this~~
8 ~~section shall submit with its notice of intent a statement of the~~
9 ~~amount determined under Subsection (b)(1).~~] The comptroller may
10 request that the taxable entity that intends to take a credit
11 allowed by this section submit, with each [~~in the~~] annual report
12 [~~for each succeeding privilege period~~] in which the taxable entity
13 is eligible to take a credit, information relating to the amount
14 determined under Subsection (b)(1). The taxable entity shall
15 submit in the form and content the comptroller requires any
16 information relating to the assets and liabilities that determine
17 the amount of the credit, the amount determined under Subsection
18 (b)(1), or any other matter relevant to the computation of the
19 credit for which the taxable entity is eligible.

20 (d) A credit that a taxable entity is entitled to under this
21 section does not convey, and may not be assigned or transferred, in
22 relation to a transaction in which the taxable entity is purchased
23 by another entity.

24 (d-1) A taxable entity, other than a combined group, may not
25 claim the credit under this section unless the taxable entity was,
26 on May 1, 2006, subject to the tax imposed by this chapter as this
27 chapter existed on that date. A taxable entity that is a combined

1 group may claim the credit for each member entity that was, on May
2 1, 2006, subject to the tax imposed by this chapter as this chapter
3 existed on that date and shall compute the amount of the credit for
4 that member as provided by this section.

5 (e) This section expires September 1, 2017 [~~2026~~].

6 SECTION 2. This Act applies only to a report originally due
7 on or after the effective date of this Act.

8 SECTION 3. This Act takes effect January 1, 2008.