

By: Wentworth

S.B. No. 1811

A BILL TO BE ENTITLED

AN ACT

relating to entities subject to the franchise tax.

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

SECTION 1. Subsection (c), Section 171.0002, Tax Code, as effective January 1, 2008, is amended to read as follows:

(c) "Taxable entity" does not include an entity that is:

(1) a grantor trust as defined by Sections 671 and 7701(a)(30)(E), Internal Revenue Code, all of the grantors and beneficiaries of which are natural persons or charitable entities as described in Section 501(c)(3), Internal Revenue Code, excluding a trust taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(2) an estate of a natural person as defined by Section 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(3) an escrow;

(4) a family limited partnership that is a passive entity in which at least 80 percent of the interests are held, directly or indirectly, by members of the same family, including an individual's ancestors, lineal descendants, spouse, and brothers and sisters by the whole or half blood, and the estate of any of these persons, and that is a limited partnership:

(A) formed pursuant to the Texas Revised Limited

1 Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes);

2 (B) formed pursuant to the limited partnership
3 law of any other state; or

4 (C) treated as a partnership for federal income
5 tax purposes;

6 (5) a passive investment partnership that is a passive
7 entity and that is:

8 (A) formed pursuant to the Texas Revised Limited
9 Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes);

10 (B) formed pursuant to the limited partnership
11 law of any other state; or

12 (C) formed pursuant to the limited partnership
13 laws of any foreign country;

14 (6) a passive investment partnership that is a passive
15 entity and is a general partnership;

16 (7) a trust that is a passive entity:

17 (A) that is taxable as a trust under Section 641,
18 Internal Revenue Code;

19 (B) all of the beneficiaries of which are natural
20 persons or charitable entities as defined in Section 501(c)(3),
21 Internal Revenue Code;

22 (C) that is not a trust taxable as a business
23 entity pursuant to Treasury Regulation Section 301.7701-4(b); and

24 (D) that is organized as a trust and is described
25 in Section 7701(a)(30)(E), Internal Revenue Code;

26 (8) a real estate investment trust (REIT) as defined
27 by Section 856, Internal Revenue Code, and its "qualified REIT

1 subsidiary" entities as defined by Section 856(i)(2), Internal
2 Revenue Code, provided that:

3 (A) a REIT with any amount of its assets in direct
4 holdings of real estate, other than real estate it occupies for
5 business purposes, as opposed to holding interests in limited
6 partnerships or other entities that directly hold the real estate,
7 is a taxable entity; and

8 (B) a limited partnership or other entity that
9 directly holds the real estate as described in Paragraph (A) is not
10 exempt under this subdivision, without regard to whether a REIT
11 holds an interest in it; ~~or~~

12 (9) a real estate mortgage investment conduit (REMIC),
13 as defined by Section 860D, Internal Revenue Code; or

14 (10) a trust or other entity, including an entity
15 owned by the trust or other entity, that is described by Section
16 501(c)(9), Internal Revenue Code, or whose exclusive purpose is to
17 provide pension, health, disability, or other benefits to the
18 employees of one or more employers.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2007.