

BILL ANALYSIS

Senate Research Center
81R10294 JE-F

H.B. 4270
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain provisions of the Tax Code relating to state franchise taxation provide a restriction on the cost-of-goods-sold deduction for payments made by one member of an affiliated group to another member of the group. The restriction specifies that the deduction is allowed only if it is a transaction made at arm's length. This provision is interpreted by authorities to mean that if a deduction is taken for an amount that later is determined not to be at arm's length, the taxpayer is prohibited from taking any deduction for the expenditure.

H.B. 4270 provides that if a related-party transaction is not made at arm's length, the taxpayer's deduction is limited to an amount not to exceed the fair market value of the transaction.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.1012(1), Tax Code, as follows:

(1) Authorizes that a payment made by one member of an affiliated group to another member of that affiliated group not included in the combined group, notwithstanding any other provision of this section, be subtracted as a cost of goods sold, rather than sold only, if it is a transaction made at arm's length. Provides that if the related-party transaction is not made at arm's length the purchasing member may subtract as a cost of goods sold an amount not to exceed the market value of the transaction; and the selling member may include in the selling member's gross receipts for purposes of Sections 171.103 (Determination of Gross Receipts from Business Done in This State for Margin), 171.105 (Determination of Gross Receipts from Entire Business for Margin), 171.1055 (Exclusion of Certain Receipts for Margin Apportionment), and 171.106 (Apportionment of Margin to this State) an amount not to exceed the market value of the transaction.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2010.