BILL ANALYSIS

H.B. 4270
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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. That 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 may not take 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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 4270 amends provisions of the Tax Code relating to certain franchise tax calculations to provide that, in a related-party transaction not made at arm's length, involving a payment by a member of an affiliated group to another member of that affiliated group not included in the combined group, the purchasing member may subtract as a cost of goods sold an amount not to exceed the market value of the transaction. The bill authorizes the selling member involved in such a transaction to include in the selling member's gross receipts for purposes of certain provisions of law an amount not to exceed the market value of the transaction.

EFFECTIVE DATE

January 1, 2010.