

By: Callegari

H.B. No. 3237

A BILL TO BE ENTITLED

AN ACT

relating to the franchise tax.

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

SECTION 1. Section 171.002(d), Tax Code, is amended to read as follows:

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if:

(1) the amount of tax computed for the taxable entity is less than \$1,000; or

(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million [~~\$300,000~~] or the amount determined under Section 171.006 per 12-month period on which margin is based.

SECTION 2. Section 171.006(b), Tax Code, is amended to read as follows:

(b) On [~~Beginning in 2010, on~~] January 1 of each even-numbered year, the amounts prescribed by Sections 171.002(d)(2) [~~, 171.0021,~~] and 171.1013(c) are increased or decreased by an amount equal to the amount prescribed by those sections on December 31 of the preceding year multiplied by the percentage increase or decrease during the preceding state fiscal biennium in the consumer price index and rounded to the nearest \$10,000.

SECTION 3. Section 171.1012, Tax Code, is amended by adding

1 Subsection (q) to read as follows:

2 (q) Subject to Section 171.1014, a taxable entity that
3 elects to subtract cost of goods sold for the purpose of computing
4 its taxable margin may, instead of determining its cost of goods
5 sold in accordance with the other provisions of this section, elect
6 to determine cost of goods sold as follows:

7 (1) for a taxable entity treated for federal income
8 tax purposes as a corporation, the cost of goods sold is the amount
9 reportable as cost of goods sold on line 2, Internal Revenue Service
10 Form 1120;

11 (2) for a taxable entity treated for federal income
12 tax purposes as a partnership, the cost of goods sold is the amount
13 reportable as cost of goods sold on line 2, Internal Revenue Service
14 Form 1065;

15 (3) for a taxable entity treated for federal income
16 tax purposes as an S corporation, the cost of goods sold is the
17 amount reportable as cost of goods sold on line 2, Internal Revenue
18 Service Form 1120S; or

19 (4) for any other taxable entity, the cost of goods
20 sold is an amount determined in a manner substantially equivalent
21 to the amount for Subdivision (1), (2), or (3) determined by rules
22 the comptroller shall adopt.

23 SECTION 4. Section 171.1013, Tax Code, is amended by
24 amending Subsection (a) and adding Subsection (i) to read as
25 follows:

26 (a) Except as otherwise provided by this section, "wages and
27 cash compensation" means the amount entered in the Medicare wages

1 and tips box of Internal Revenue Service Form W-2 or any subsequent
2 form with a different number or designation that substantially
3 provides the same information. The term also includes, to the
4 extent not included above:

5 (1) net distributive income from a taxable entity
6 treated as a partnership for federal income tax purposes, but only
7 if the person receiving the distribution is a natural person or a
8 professional corporation or professional association owned by a
9 natural person, to the extent the net distributive income is not
10 less than zero;

11 (2) net distributive income from limited liability
12 companies and corporations treated as S corporations for federal
13 income tax purposes, but only if the person receiving the
14 distribution is a natural person;

15 (3) stock awards and stock options deducted for
16 federal income tax purposes; and

17 (4) net distributive income from a limited liability
18 company treated as a sole proprietorship for federal income tax
19 purposes, but only if the person receiving the distribution is a
20 natural person.

21 (i) Subject to Section 171.1014 and the limitation in
22 Subsection (c), a taxable entity that elects to subtract
23 compensation for the purpose of computing its taxable margin under
24 Section 171.101 may include as wages and cash compensation any
25 compensation paid to an independent contractor as reported on
26 Internal Revenue Service Form 1099, or any subsequent form with a
27 different number or designation that substantially provides the

1 same information.

2 SECTION 5. Sections 171.1016(a) and (b), Tax Code, are
3 amended to read as follows:

4 (a) Notwithstanding any other provision of this chapter, a
5 taxable entity [~~whose total revenue from its entire business is not~~
6 ~~more than \$10 million~~] may elect to pay the tax imposed under this
7 chapter in the amount computed and at the rate provided by this
8 section rather than in the amount computed and at the tax rate
9 provided by Section 171.002.

10 (b) The amount of the tax for which a taxable entity that
11 elects to pay the tax as provided by this section is liable is
12 computed by:

13 (1) determining the taxable entity's total revenue
14 from its entire business, as determined under Section 171.1011;

15 (2) apportioning the amount computed under
16 Subdivision (1) to this state, as provided by Section 171.106, to
17 determine the taxable entity's apportioned total revenue; and

18 (3) multiplying the amount computed under Subdivision
19 (2) by the rate of 0.45 [~~0.575~~] percent.

20 SECTION 6. Sections 171.0021 and 171.1016(d), Tax Code, are
21 repealed.

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

24 SECTION 8. This Act takes effect January 1, 2010.