

By: Howard of Fort Bend

H.B. No. 3944

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption from the franchise tax for certain taxable  
3 entities during an initial period of operation.

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

5 SECTION 1. Section 171.0001(4), Tax Code, is amended to  
6 read as follows:

7 (4) "Beginning date" means:

8 (A) for a taxable entity chartered or organized  
9 in this state, the second anniversary of the date on which the  
10 taxable entity's charter or organization takes effect; and

11 (B) for any other taxable entity, the later of:

12 (i) the second anniversary of the date on  
13 which the taxable entity's charter or organization under the laws  
14 of the United States or another state takes effect; or

15 (ii) the date on which the taxable entity  
16 begins doing business in this state.

17 SECTION 2. Section 171.001, Tax Code, is amended by adding  
18 Subsection (d) to read as follows:

19 (d) Notwithstanding Subsection (a), the tax imposed under  
20 this chapter is not imposed on a taxable entity until:

21 (1) for a taxable entity chartered or organized in  
22 this state, the second anniversary of the date the taxable entity's  
23 charter or organization takes effect; or

24 (2) for a taxable entity chartered or organized under

1 the laws of the United States or another state, the later of:

2 (A) the second anniversary of the date the  
3 taxable entity's charter or organization takes effect; or

4 (B) the date the taxable entity begins doing  
5 business in this state.

6 SECTION 3. Section 171.063(g), Tax Code, is amended to read  
7 as follows:

8 (g) If a corporation's federal tax exemption is withdrawn by  
9 the Internal Revenue Service for failure of the corporation to  
10 qualify or maintain its qualification for the exemption, the  
11 corporation's exemption under this section ends on the effective  
12 date of that withdrawal by the Internal Revenue Service. The  
13 effective date of the withdrawal is considered the corporation's  
14 beginning date for purposes of determining the corporation's  
15 privilege periods and for all other purposes of this chapter,  
16 except that if the effective date of the withdrawal is a date  
17 earlier than the second anniversary of the date the corporation's  
18 charter or organization under the laws of this state, another  
19 state, or the United States took effect, the second anniversary of  
20 that effective date is considered the corporation's beginning date  
21 for those purposes.

22 SECTION 4. Section 171.204, Tax Code, is amended by adding  
23 Subsection (d) to read as follows:

24 (d) The comptroller may require a taxable entity on which  
25 the tax imposed under this chapter is not imposed solely because of  
26 the application of Section 171.001(d) to file an information report  
27 stating the date the taxable entity's charter or organization took

1 effect and the taxable entity's beginning date. The comptroller  
2 may require the report to include other information the comptroller  
3 determines necessary, except that the comptroller may not require  
4 the taxable entity to report or compute its margin.

5 SECTION 5. (a) The change in law made by this Act applies to  
6 a taxable entity doing business in this state before, on, or after  
7 the effective date of this Act, regardless of the date the taxable  
8 entity's charter or organization takes effect.

9 (b) A taxable entity on which the tax under Chapter 171, Tax  
10 Code, was imposed before the effective date of this Act, but on  
11 which the tax is not imposed on the effective date of this Act  
12 because of the application of Section 171.001(d), Tax Code, as  
13 added by this Act, is not entitled to a refund of or credit for taxes  
14 paid under Chapter 171, Tax Code, before the effective date of this  
15 Act.

16 SECTION 6. This Act takes effect January 1, 2010.