

By: Shapleigh

S.B. No. 323

A BILL TO BE ENTITLED

AN ACT

relating to the franchise tax liability of certain taxable entities during an initial period of operation.

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

SECTION 1. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.0023 to read as follows:

Sec. 171.0023. TAX LIABILITY OF CERTAIN TAXABLE ENTITIES DURING INITIAL PERIOD OF OPERATION. (a) In this section, "taxable income" means:

(1) for a taxable entity treated for federal income tax purposes as a corporation, the amount reportable as taxable income on line 30, Internal Revenue Service Form 1120;

(2) for a taxable entity treated for federal income tax purposes as a partnership, the amount reportable as ordinary business income or loss on line 22, Internal Revenue Service Form 1065; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2) determined by rules the comptroller shall adopt.

(b) Except as provided by Subsection (c), a taxable entity chartered or organized under the laws of this state, another state, or the United States is not required to pay any tax and is not

1 considered to owe any tax for a period if:

2 (1) any part of the period is earlier than the third
3 anniversary of the date the entity's charter or organization took
4 effect; and

5 (2) the taxable entity's taxable income for the period
6 is zero or less.

7 (c) Subsection (b) does not apply to a taxable entity that
8 is a member of a combined group.

9 (d) Section 171.1011(a) applies to a reference in this
10 section to an Internal Revenue Service form, and Section
11 171.1011(b) applies to a reference in this section to an amount
12 reportable on a line number on an Internal Revenue Service form.

13 (e) The comptroller shall adopt rules as necessary to
14 accomplish the legislative intent prescribed by this section.

15 SECTION 2. Section 171.204(b), Tax Code, is amended to read
16 as follows:

17 (b) The comptroller may require a taxable entity that does
18 not owe any tax because of the application of Section 171.002(d)(2)
19 to file an abbreviated information report with the comptroller
20 stating the amount of the taxable entity's total revenue from its
21 entire business. The comptroller may require a taxable entity that
22 does not owe any tax because of the application of Section 171.0023
23 to file an abbreviated information report with the comptroller
24 stating the amount of the taxable entity's taxable income as
25 defined by that section. The comptroller may not require a taxable
26 entity described by this subsection to file an information report
27 that requires the taxable entity to report or compute its margin.

1 SECTION 3. This Act applies only to a report originally due
2 on or after the effective date of this Act.

3 SECTION 4. This Act takes effect only if the constitutional
4 amendment proposed by the 81st Legislature, Regular Session, 2009,
5 providing that Section 24, Article VIII, Texas Constitution, does
6 not apply to a tax imposed on certain business entities is approved
7 by the voters. If that amendment is not approved by the voters,
8 this Act has no effect.

9 SECTION 5. Except as otherwise provided by this Act, this
10 Act takes effect January 1, 2010.