

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 19, 2009**

**TO:** Honorable Rene Oliveira, Chair, House Committee on Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3909** by Madden (Relating to the computation of the franchise tax.), **As Introduced**

**The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of \$32,166,000 for the 2010-11 biennium. Any loss to the Property Tax Relief Fund will have to be made up with General Revenue of the same amount to fund property tax relief.**

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2010	(\$15,884,000)
2011	(\$16,282,000)
2012	(\$16,852,000)
2013	(\$17,526,000)
2014	(\$18,227,000)

**Fiscal Analysis**

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by adding a provision relating to taxable entities primarily engaged in retail or wholesale trade.

**Methodology**

Under current law, a taxable entity primarily engaged in retail or wholesale trade must derive less than 50 percent of total revenue from the sale of products it produces or products produced by a member of a taxable entity's affiliated group. Current law contains an exception for the total revenue from activities of eating and drinking places (Major Group 58 of the Standard Industrial Classification Manual). The bill would add a similarly worded exception for total revenue in activities in a trade that rents or leases tangible personal property as described by Industry Group 735 of the Standard Industrial Classification Manual (miscellaneous equipment rental and leasing).

The estimated fiscal impact of the is based on taxable entities in Industry Group 735 calculated such that tax would be paid at a rate of one-half of one percent.

**Note:** This analysis assumes the bill's language applies the one-half percent rate to Industry Group 735. However, if the provisions were to apply to a larger group of firms (i.e., all revenue from a trade that, in the course of their business activities, rents of leases the kind of tangible personal property rented or leased by firms in Industry Group 735) then the fiscal impact could be higher.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, SM