

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: HB4264 by Howard, Charlie (Relating to the determination of cost of goods sold for purposes of computing the franchise tax.), **As Introduced**

Depending upon the extent to which firms use this new manner of reporting cost of goods sold, there would be an indeterminate revenue loss to the Property Tax Relief Fund.

Any loss to the Property Tax Relief Fund will have to be made up with General Revenue to fund property tax relief.

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, in relation to the determination of cost of goods sold for computing franchise tax.

The bill would strike the provisions in current law related to determining cost of goods sold and substitute provisions that would require determining cost of goods sold as the amount reportable on the Internal Revenue Service (IRS) form appropriate for the type of taxable entity reporting.

The bill would take effect on January 1, 2010, and apply to tax reports due on or after that date.

The impact of requiring cost of goods sold used for computing franchise tax to be the amount of cost of goods sold reportable on an IRS form could be affected by several factors. One factor is the method by which firms currently report items characterized as "cost of goods sold" on IRS forms. For service firms, it appears as though some business expenses are reported either as cost of goods sold or another item of expense (e.g., salaries/wages). While an individual service firm might minimize tax liability by choosing cost of goods sold, an initial analysis suggests that, on average, service firms would minimize Texas franchise tax by electing to deduct compensation.

Another, and perhaps more significant, factor would be the manner in which taxpayers would complete IRS tax reports with respect to items—for Texas franchise tax purposes—as relating to cost of goods sold. To the degree allowable by the IRS, it is assumed costs would migrate from other categories (e.g., salaries/wages, depreciation, depletion, etc.) to the federal cost of goods sold line item.

As the fiscal implications of these factors cannot be assessed at this time, the fiscal impact of the bill cannot be determined.

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