

**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: HB4268** 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 costs 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 the franchise tax. The bill would allow a taxable entity who elects to subtract cost of goods sold to determine cost of goods sold as the amount reportable on the Internal Revenue Service (IRS) form appropriate for the type of taxable entity reporting. A taxable entity could continue to determine cost of goods sold in accordance with the provisions in existing law.

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

The impact of allowing 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. For one, service firms generally report some cost of goods sold on IRS forms. This bill may allow firms not now eligible for cost of goods sold for computing franchise tax to use the amount reported on the IRS form. 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. This factor would affect both firms currently using the cost of goods sold deduction and those firms who do not use the deduction (but who might elect to do so in the future), including service firms.

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