

SENATE AMENDMENTS

2nd Printing

By: Oliveira, Paxton, Hopson, Callegari,
Creighton, et al.

H.B. No. 4765

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the total revenue exemption for the franchise tax.

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

4 SECTION 1. TEMPORARY EXEMPTION INCREASE. Section
5 171.002(d), Tax Code, is amended to read as follows:

6 (d) A taxable entity is not required to pay any tax and is
7 not considered to owe any tax for a period if:

8 (1) the amount of tax computed for the taxable entity
9 is less than \$1,000; or

10 (2) the amount of the taxable entity's total revenue
11 from its entire business is less than or equal to \$1 million
12 [~~\$300,000~~] or the amount determined under Section 171.006 per
13 12-month period on which margin is based.

14 SECTION 2. SUNSET OF TEMPORARY INCREASE. Effective January
15 1, 2012, Section 171.002(d), Tax Code, is amended to read as
16 follows:

17 (d) A taxable entity is not required to pay any tax and is
18 not considered to owe any tax for a period if:

19 (1) the amount of tax computed for the taxable entity
20 is less than \$1,000; or

21 (2) the amount of the taxable entity's total revenue
22 from its entire business is less than or equal to \$300,000 or the
23 amount determined under Section 171.006 per 12-month period on
24 which margin is based.

1 SECTION 3. TRANSITION. (a) Section 171.002(d), Tax Code,
2 as amended by Section 1 of this Act, applies only to a report
3 originally due on or after the effective date of this Act.

4 (b) Section 171.002(d), Tax Code, as amended by Section 2 of
5 this Act, applies only to a report originally due on or after
6 January 1, 2012.

7 SECTION 4. EFFECTIVE DATE. This Act takes effect January 1,
8 2010.

ADOPTED

MAY 27 2009

Lacey Brown
Secretary of the Senate

By: *[Signature]*

H.B. No. 4765

Substitute the following for __.B. No. _____:

By: *Allen*

C.S. __.B. No. _____

A BILL TO BE ENTITLED

AN ACT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

relating to the computation of the franchise tax.

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

SECTION 1. (a) Section 171.002(d), Tax Code, is amended to read as follows:

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if:

(1) the amount of tax computed for the taxable entity is less than \$1,000; or

(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million [~~\$300,000~~] or the amount determined under Section 171.006 per 12-month period on which margin is based.

(b) This section takes effect only if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section has no effect.

(c) If this section takes effect, this section expires December 31, 2011.

1 (d) This section applies only to a report originally due on
2 or after the effective date of this section.

3 SECTION 2. (a) Section 171.002(d), Tax Code, is amended to
4 read as follows:

5 (d) A taxable entity is not required to pay any tax and is
6 not considered to owe any tax for a period if:

7 (1) the amount of tax computed for the taxable entity
8 is less than \$1,000; or

9 (2) the amount of the taxable entity's total revenue
10 from its entire business is less than or equal to \$600,000
11 [~~\$300,000~~] or the amount determined under Section 171.006 per
12 12-month period on which margin is based.

13 (b) This section takes effect January 1, 2012, if H.B. No.
14 2154, Acts of the 81st Legislature, Regular Session, 2009, amends
15 Section 155.0211, Tax Code, in a manner that results in an increase
16 in the revenue from the tax under that section during the state
17 fiscal biennium beginning September 1, 2009, that is attributable
18 to that change, and that Act is enacted and becomes law. If H.B. No.
19 2154, Acts of the 81st Legislature, Regular Session, 2009, does not
20 amend Section 155.0211, Tax Code, in that manner or is not enacted
21 or does not become law, this section takes effect January 1, 2010.

22 (c) This section applies only to a report originally due on
23 or after the effective date of this section.

24 SECTION 3. (a) Section 171.0021(a), Tax Code, is amended to
25 read as follows:

26 (a) A taxable entity is entitled to a discount of the tax
27 imposed under this chapter that the taxable entity is required to

1 pay after determining its taxable margin under Section 171.101,
2 applying the appropriate rate of the tax under Section 171.002(a)
3 or (b), and subtracting any other allowable credits, as follows:

4 (1) ~~[for a taxable entity for which the total revenue~~
5 ~~from its entire business is greater than \$300,000 but less than~~
6 ~~\$400,000, the taxable entity is entitled to a discount of 80~~
7 ~~percent,~~

8 ~~[(2) for a taxable entity for which the total revenue~~
9 ~~from its entire business is equal to or greater than \$400,000 but~~
10 ~~less than \$500,000, the taxable entity is entitled to a discount of~~
11 ~~60 percent,~~

12 ~~[(3)]~~ for a taxable entity for which the total revenue
13 from its entire business is ~~[equal to or]~~ greater than \$600,000
14 ~~[\$500,000]~~ but less than \$700,000, the taxable entity is entitled
15 to a discount of 40 percent; and

16 (2) ~~[(4)]~~ for a taxable entity for which the total
17 revenue from its entire business is equal to or greater than
18 \$700,000 but less than \$900,000, the taxable entity is entitled to a
19 discount of 20 percent.

20 (b) This section takes effect January 1, 2012, if H.B. No.
21 2154, Acts of the 81st Legislature, Regular Session, 2009, amends
22 Section 155.0211, Tax Code, in a manner that results in an increase
23 in the revenue from the tax under that section during the state
24 fiscal biennium beginning September 1, 2009, that is attributable
25 to that change, and that Act is enacted and becomes law. If H.B. No.
26 2154, Acts of the 81st Legislature, Regular Session, 2009, does not
27 amend Section 155.0211, Tax Code, in that manner or is not enacted

1 or does not become law, this section takes effect January 1, 2010.

2 (c) This section applies only to a report originally due on
3 or after the effective date of this section.

4 SECTION 4. Except as otherwise provided by this Act, this
5 Act takes effect January 1, 2010.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB4765 by Oliveira (Relating to the computation of the franchise tax.), **As Passed 2nd House**

The bill would have a direct impact of a revenue loss to the Property Tax Relief Fund of \$172,125,000 for the 2010-11 biennium if HB 2154 were to become law or a direct impact of a revenue loss to the Property Tax Relief Fund of \$36,450,000 for the 2010-11 biennium if HB 2154 were not to become law. 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.

The following table assumes that HB 2154, which would amend Chapter 155 of the Tax Code to change the taxation of certain tobacco products, would become law.

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2010	(\$85,000,000)
2011	(\$87,125,000)
2012	(\$19,096,000)
2013	(\$19,860,000)
2014	(\$20,654,000)

The following table assumes that HB 2154, which would amend Chapter 155 of the Tax Code to change the taxation of certain tobacco products, would not become law.

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2010	(\$18,000,000)
2011	(\$18,450,000)
2012	(\$19,096,000)
2013	(\$19,860,000)
2014	(\$20,654,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by increasing the amount of total revenue at which a taxable entity would owe no tax.

The amount under current law is \$300,000. The amount provided for by this bill would depend on whether HB 2154, which amends Chapter 155 of the Tax Code to change the taxation of certain tobacco products, becomes law. If HB 2154 were to become law and were to result in an increase in the revenue from the tobacco products tax, the total revenue amount at which a taxable entity would owe no tax would be \$1 million for the years 2010 and 2011, and \$600,000 in future years. If HB 2154 were not to become law the total revenue amount would be \$600,000 beginning in 2010 and would remain at that level.

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

Methodology

The estimated fiscal impact of the bill is based on data reported on the 2008 franchise tax reports, and extrapolated through the forecast period.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 26, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: **HB4765** by Oliveira (Relating to the computation of the franchise tax.), **Committee Report 2nd House, Substituted**

The bill would have a direct impact of a revenue loss to the Property Tax Relief Fund of \$172,125,000 for the 2010-11 biennium if HB 2154 were to become law or a direct impact of a revenue loss to the Property Tax Relief Fund of \$36,450,000 for the 2010-11 biennium if HB 2154 were not to become law. 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.

The following table assumes that HB 2154, which would amend Chapter 155 of the Tax Code to change the taxation of certain tobacco products, would become law.

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2010	(\$85,000,000)
2011	(\$87,125,000)
2012	(\$19,096,000)
2013	(\$19,860,000)
2014	(\$20,654,000)

The following table assumes that HB 2154, which would amend Chapter 155 of the Tax Code to change the taxation of certain tobacco products, would not become law.

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Property Tax Relief Fund</i> 304
2010	(\$18,000,000)
2011	(\$18,450,000)
2012	(\$19,096,000)
2013	(\$19,860,000)
2014	(\$20,654,000)

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by increasing the amount of total revenue at which a taxable entity would owe no tax.

The amount under current law is \$300,000. The amount provided for by this bill would depend on whether HB 2154, which amends Chapter 155 of the Tax Code to change the taxation of certain tobacco products, becomes law. If HB 2154 were to become law and were to result in an increase in the revenue from the tobacco products tax, the total revenue amount at which a taxable entity would owe no tax would be \$1 million for the years 2010 and 2011, and \$600,000 in future years. If HB 2154 were not to become law the total revenue amount would be \$600,000 beginning in 2010 and would remain at that level.

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

Methodology

The estimated fiscal impact of the bill is based on data reported on the 2008 franchise tax reports, and extrapolated through the forecast period.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: HB4765 by Oliveira (Relating to the total revenue exemption for the franchise tax.), As
Engrossed

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of \$172,123,000 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	(\$85,000,000)
2011	(\$87,123,000)
2012	\$0
2013	\$0
2014	\$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by temporarily increasing the amount of total revenue at which a taxable entity would owe no tax. The amount in current law is \$300,000. This bill would raise the amount to \$1 million for tax reports due in 2010 and 2011. For tax reports due on or after January 1, 2012, the bill would return the amount to the current law amount.

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

Methodology

The estimated fiscal impact of the bill is based on data reported on the 2008 franchise tax reports from taxable entities with total revenue of \$1,000,000 or less.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

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

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

IN RE: HB4765 by Oliveira (Relating to the total revenue exemption for the franchise tax.), **As Introduced**

The bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of \$172,123,000 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	(\$85,000,000)
2011	(\$87,123,000)
2012	\$0
2013	\$0
2014	\$0

Fiscal Analysis

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, by temporarily increasing the amount of total revenue at which a taxable entity would owe no tax. The amount in current law is \$300,000. This bill would raise the amount to \$1 million for tax reports due in 2010 and 2011. For tax reports due on or after January 1, 2012, the bill would return the amount to the current law amount.

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

Methodology

The estimated fiscal impact of the bill is based on data reported on the 2008 franchise tax reports from taxable entities with total revenue of \$1,000,000 or less.



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

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

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

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

IN RE: HB4765 by Oliveira (Relating to the total revenue exemption for the franchise tax.), **As Introduced**

Table 1
Summary of Elements: HB 4765, As Introduced

This analysis is for taxes effective in fiscal 2011.

Revenue Changes

- Increases temporarily (for 2010 and 2011) the minimum taxable threshold from \$300,000 to \$1 million

Dollar Value of Revenue Changes in Fiscal 2011

- \$87.1 million business tax reduction
- \$87.1 million net tax reduction

Initial Impact in Fiscal 2011

- A net decrease to business of \$87.1 million
- A net increase to households of \$0.0 million

Major Industry Initial Impact in Fiscal 2011

- The largest dollar decrease: \$21.0 to the All Other Services industry (Business Services, Hospitality, Food, etc.)
- The largest percentage decrease: 0.4 percent to the Wholesale & Retail Trade industry

Final Incidence of Changes Effective in Fiscal 2011

- Lowest income level (income range from \$0 to \$27,088):
A decrease of \$4.3 million, or 0.08 percent.
- Middle income level (income range from \$49,112 to \$75,402):
A decrease of \$9.4 million, or 0.09 percent.
- Highest income level (income range from \$117,899 and above):
A decrease of \$25.7 million, or 0.09 percent.

Initial Tax Impact by Industry

HB 4765, As Introduced was analyzed using the LBB's multi-tax model to determine the initial impact of the proposed changes relative to current state and local tax law. The results of the analysis are shown in Table 2 below.

Table 2

**Comparison of Initial Tax Impact under
Current Law vs. HB 4765, As Introduced
Fiscal Year 2011**

Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business

	Gross State Product: Shares	Current Law Liability	Percent of Total	Proposed Law Liability	Percent of Total	Change in Liability	Percent of Total	Percent Change in Liability
	[%]	[\$ Million]	[%]	[\$ Million]	[%]	[\$ Million]	[%]	[%]
Taxes Paid by Business:								
Agriculture, Forestry, Fishing &	0.9	675.8	1.5	675.5	1.5	-0.3	0.3	-0.04
Mining	11.6	6,951.2	15.8	6,942.6	15.8	-8.6	9.9	-0.12
Utilities & Transportation	7.9	5,536.3	12.6	5,530.3	12.6	-6.0	6.9	-0.11
Construction	4.9	1,178.9	2.7	1,174.4	2.7	-4.5	5.2	-0.38
Manufacturing	14.2	5,879.0	13.3	5,862.6	13.3	-16.4	18.8	-0.28
Wholesale & Retail Trade	13.6	3,913.4	8.9	3,898.3	8.9	-15.1	17.3	-0.39
Information	4.7	2,783.9	6.3	2,779.8	6.3	-4.1	4.7	-0.15
Finance, Insurance & Real Estate	16.1	8,909.5	20.2	8,898.4	20.2	-11.1	12.7	-0.12
All Other Services	26.1	8,221.0	18.7	8,200.0	18.7	-21.0	24.1	-0.26
Total Taxes on Business:	100.0	44,049.0	100.0	43,961.9	100.0	-87.1	100.0	-0.20
Taxes Paid by Households:								
Residential Owner-Occupied		19,715.0		19,715.0		0.0		0.00
Personal Consumption		22,384.1		22,384.1		0.0		0.00
Total Taxes on Households:		42,099.1		42,099.1		0.0		0.00
Total Taxes								
		86,148.1		86,061.0		-87.1		-0.10

Tax Incidence by Income Group

Economists commonly distinguish between the initial "impact" of a tax and its "incidence." The initial impact of a tax falls on taxpayers legally liable to pay the tax, while the incidence refers to the ultimate payer of the tax. For example, the initial impact of a business tax falls on the firm incurring the tax liability. Over time, to varying degrees, the tax cost is "shifted" so that the ultimate burden of the tax falls either to consumers in different retail prices, to employees in changed wages, to owners of land and capital in different investment returns, or most likely, to some combination of all three. The degree to which a tax can be shifted, and the amount of time that elapses before a tax can be shifted, depend on the type of tax and the competitiveness of capital, labor, input material and product markets.

The results of this analysis for tax law changes effective with this proposal are shown in Table 3 and Table 4.

Table 3

**Tax Incidence by Income Quintile
Current Law vs. HB 4765, As Introduced
Taxes Effective in Fiscal Year 2011
Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business**

Quintile	Quintile Income: Lower Bound	Quintile Income: Upper Bound	Current Law Tax	Percent of Total	Proposed Law Tax	Percent of Total	Change in Tax	Percent Change in Tax
	[\$]	[\$]	[\$ Million]	[%]	[\$ Million]	[%]	[\$ Million]	[%]
1	0	27,088	5,382.5	8.0	5,378.2	8.0	-4.3	-0.08
2	27,088	49,112	7,845.8	11.6	7,839.2	11.6	-6.6	-0.08
3	49,112	75,402	10,921.4	16.2	10,912.0	16.2	-9.4	-0.09
4	75,402	117,899	15,575.6	23.1	15,561.7	23.1	-13.9	-0.09
5	117,899	and above	27,637.1	41.0	27,611.4	41.0	-25.7	-0.09
		Total:	67,362.5	100.0	67,302.6	100.0	-59.9	-0.09

Summary of Tax Incidence Findings

HB 4765, As Introduced would ultimately reduce the taxes of all households by \$59.9 million for tax law changes effective in 2011. The difference between the initial reduction in revenue of \$87.1 million in fiscal 2011 and the ultimate reduction of \$59.9 million in tax incidence is primarily due to the exporting of some of the tax changes to non-Texas consumers and businesses, changes in federal tax liability, and the absorption of some of the tax changes by business profits, some of which are received by non-Texas shareholders and business owners.

Table 4

**Effective Tax Rate by Income Quintile
Current Law vs. HB 4765, As Introduced
Taxes Effective in Fiscal Year 2011**

Comparisons Include Property Tax, Sales and Excise Taxes and Taxes on Business

Quintile	Quintile Income: Lower Bound	Quintile Income: Upper Bound	Current Law Effective Rate	Proposed Law Effective Rate	Change in Effective Rate	Percent Change in Effective Rate
	[\$]	[\$]	[%]	[%]	[%]	[%]
1	0	27,088	19.56	19.54	-0.02	-0.08
2	27,088	49,112	11.42	11.41	-0.01	-0.08
3	49,112	75,402	9.57	9.56	-0.01	-0.09
4	75,402	117,899	8.94	8.93	-0.01	-0.09
5	117,899	and above	7.04	7.03	-0.01	-0.09
		Total:	8.67	8.66	-0.01	-0.09

Summary of Effective Rate Findings

HB 4765, As Introduced would ultimately reduce the effective rate for all households by 0.09 percent for taxes effective in fiscal year 2011 . The effective tax rate is the aggregate amount of tax in a given income class divided by the aggregate amount of personal income in that class.

Source Agencies:

LBB Staff: JOB, SD, SM

