

By: Berman

H.B. No. 1439

A BILL TO BE ENTITLED

AN ACT

relating to the franchise tax liability of certain taxable entities.

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

SECTION 1. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.0024 to read as follows:

Sec. 171.0024. TAX LIABILITY OF CERTAIN TAXABLE ENTITIES.

(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 is not required to pay any tax and is not considered to owe any tax for a period on which margin is based if the taxable entity's taxable income for the period is zero or less.

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

3 (d) Section 171.1011(a) applies to a reference in this
4 section to an Internal Revenue Service form, and Section
5 171.1011(b) applies to a reference in this section to an amount
6 reportable on a line number on an Internal Revenue Service form.

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

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

11 (b) The comptroller may require a taxable entity that does
12 not owe any tax because of the application of Section 171.002(d)(2)
13 to file an abbreviated information report with the comptroller
14 stating the amount of the taxable entity's total revenue from its
15 entire business. The comptroller may require a taxable entity that
16 does not owe any tax because of the application of Section 171.0024
17 to file an abbreviated information report with the comptroller
18 stating the amount of the taxable entity's taxable income as
19 defined by that section. The comptroller may not require a taxable
20 entity described by this subsection to file an information report
21 that requires the taxable entity to report or compute its margin.

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

24 SECTION 4. This Act takes effect January 1, 2012.