



13 MAY -6 2:06
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: James G. Alderson

1 Amend C.S.H.B. No. 500 (house committee report) as follows:

2 (1) Strike page 1, lines 5 through 6, and substitute the
3 following, numbered appropriately:

4 SECTION _____. Sections 171.0001(4) and (12), Tax Code, are
5 amended to read as follows:

6 (4) "Beginning date" means:

7 (A) for a taxable entity chartered or organized
8 in this state, the date on which the taxable entity's charter or
9 organization takes effect; and

10 (B) for any other taxable entity:

11 (i) [~~7~~] the date on which the taxable entity
12 begins doing business in this state; or

13 (ii) if the taxable entity concurrently
14 begins doing business in this state and relocates its main office or
15 other principal place of business to this state from another state,
16 the third anniversary of the date on which the taxable entity begins
17 doing business in this state.

18 (2) Strike page 1, lines 20 through 21, and substitute the
19 following, numbered appropriately:

20 SECTION _____. Section 171.002, Tax Code, is amended by
21 adding Subsection (c-2) and amending Subsection (d) to read as
22 follows:

23 (3) On page 2, between lines 2 and 3, insert the following:

24 (d) A taxable entity is not required to pay any tax and is
25 not considered to owe any tax for a period if[+]

26 [~~1~~] the amount of tax computed for the taxable
27 entity is less than \$1,000[+~~or~~

28 [~~2~~] ~~the amount of the taxable entity's total revenue~~
29 ~~from its entire business is less than or equal to \$1 million or the~~

1 ~~amount determined under Section 171.006 per 12-month period on~~
2 ~~which margin is based~~].

3 (4) On page 2, lines 6 through 7, strike "Sections
4 171.002(d)(2) [~~171.0021~~], and 171.1013(c)" and substitute
5 "Sections 171.1011(c)(1)(C), 171.1011(c)(2)(C), 171.1011(c)(3),
6 [~~171.002(d)(2), 171.0021~~], and 171.1013(c)".

7 (5) On page 3, line 17, strike "amending Subsection (g)" and
8 substitute "amending Subsections (g) and (g-4)".

9 (6) On page 4, between lines 5 and 6, insert the following:

10 (g-4) A taxable entity that is a pharmacy cooperative shall
11 exclude from its total revenue, to the extent included under
12 Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds
13 from rebates from pharmacy wholesalers that are distributed to the
14 pharmacy cooperative's shareholders. A taxable entity that
15 provides a pharmacy network shall exclude from its total revenue,
16 to the extent included under Subsection (c)(1)(A), (c)(2)(A), or
17 (c)(3), flow-through funds from rebates from pharmacy wholesalers
18 that are distributed to pharmacies in the pharmacy network and
19 flow-through funds from reimbursements for payments to pharmacies
20 in the pharmacy network.

21 (7) Strike page 8, lines 2 through 9, and substitute the
22 following appropriately numbered SECTION:

23 SECTION _____. Section 171.1014, Tax Code, is amended by
24 amending Subsections (c) and (d) and adding Subsections (j) and
25 (j-1) to read as follows:

26 (c) For purposes of Section 171.101, a combined group shall
27 determine its total revenue by:

28 (1) determining the total revenue of each of its
29 members as provided by Section 171.1011 as if the member were an
30 individual taxable entity, except that only one member of the
31 combined group may subtract \$1 million under Section

1 171.1011(c)(1)(C), (c)(2)(C), or (c)(3);

2 (2) adding the total revenues of the members
3 determined under Subdivision (1) together; and

4 (3) subtracting, to the extent included under Section
5 171.1011(c)(1)(A), (c)(2)(A), or (c)(3), items of total revenue
6 received from a member of the combined group.

7 (d) For purposes of Section 171.101, a combined group shall
8 make an election to subtract either cost of goods sold or
9 compensation that applies to all of its members. Regardless of the
10 election, the taxable margin of the combined group may not exceed 70
11 percent of the combined group's total revenue from its entire
12 business, as provided by Section 171.101(a)(1)(A) notwithstanding
13 the percentage provided by Section 171.101(a)(1)(A).

14 (j) Notwithstanding any other provision of this chapter, a
15 nonqualified affiliate that would, except as otherwise provided by
16 this subsection, be included in a combined group with a qualified
17 affiliate may not be included in that combined group if:

18 (1) greater than 50 percent of the threshold amount is
19 from activities in retail or wholesale trade;

20 (2) less than 50 percent of the threshold amount is
21 from the sale of products produced by any entity that is included in
22 an affiliated group with that qualified affiliate; and

23 (3) less than five percent of the threshold amount is
24 from providing retail or wholesale electric utilities.

25 (j-1) For purposes of Subsection (j):

26 (1) a nonqualified affiliate is an individual taxable
27 entity that provides retail or wholesale electric utilities;

28 (2) a qualified affiliate is an individual taxable
29 entity that does not provide retail or wholesale electric
30 utilities; and

31 (3) the threshold amount is the total revenue that

1 would be determined under Subsection (c), provided that Subsection
2 (j) does not apply to the determination of total revenue for
3 purposes of this subdivision.

4 (8) Strike page 8, lines 15 through 16, and substitute the
5 following appropriately numbered SECTION:

6 SECTION _____. Sections 171.0021, 171.1016(d), 171.103(c)
7 and (d), and 171.204(b), Tax Code, are repealed.

8 (9) Strike page 9, line 6, and substitute the following
9 appropriately numbered SECTION:

10 SECTION _____. Except as otherwise provided by this Act,
11 this Act takes effect January 1, 2014.

12 (10) Add the following appropriately numbered SECTIONS to
13 the bill and renumber the SECTIONS of the bill accordingly:

14 SECTION _____. Section 171.001, Tax Code, is amended by
15 adding Subsection (d) to read as follows:

16 (d) Notwithstanding Subsection (a), the tax imposed under
17 this chapter is not imposed on a taxable entity that is chartered or
18 organized under the laws of the United States or another state and
19 that concurrently begins doing business in this state and relocates
20 its main office or other principal place of business to this state
21 from another state until the third anniversary of the date on which
22 the taxable entity begins doing business in this state.

23 SECTION _____. Section 171.063(g), Tax Code, is amended to
24 read as follows:

25 (g) If a corporation's federal tax exemption is withdrawn by
26 the Internal Revenue Service for failure of the corporation to
27 qualify or maintain its qualification for the exemption, the
28 corporation's exemption under this section ends on the effective
29 date of that withdrawal by the Internal Revenue Service. The
30 effective date of the withdrawal is considered the corporation's
31 beginning date for purposes of determining the corporation's

1 privilege periods and for all other purposes of this chapter,
2 except that if the corporation would have been subject to Section
3 171.001(d) or exempted from the franchise tax under Section 171.089
4 in the absence of the federal tax exemption, and the effective date
5 of the withdrawal is a date earlier than the date the corporation
6 would have become subject to the franchise tax as provided by
7 Section 171.001(d) or Section 171.089, as applicable, the date the
8 corporation would have become subject to the franchise tax under
9 the applicable provision is considered the corporation's beginning
10 date for those purposes.

11 SECTION _____. Subchapter B, Chapter 171, Tax Code, is
12 amended by adding Section 171.089 to read as follows:

13 Sec. 171.089. EXEMPTION FOR LIMITED PERIOD: CERTAIN
14 ENTITIES RELOCATING TO TEXAS. (a) A taxable entity is exempted
15 from the franchise tax for a period of three years if the taxable
16 entity:

17 (1) is chartered or organized under the laws of the
18 United States or another state;

19 (2) has been doing business in this state; and

20 (3) had its main office or principal place of business
21 located in another state but relocates that main office or other
22 principal place of business to this state.

23 (b) The three-year period during which a taxable entity is
24 exempted from the franchise tax as provided by this section begins
25 on January 1 of the year following the date the relocation of the
26 main office or other principal place of business is completed, as
27 defined by comptroller rules, and ends on the third anniversary of
28 that date.

29 SECTION _____. (a) Effective January 1, 2014, Section
30 171.1011(c), Tax Code, is amended to read as follows:

31 (c) Except as provided by this section, and subject to

1 Section 171.1014, for the purpose of computing its taxable margin
2 under Section 171.101, the total revenue of a taxable entity is:

3 (1) for a taxable entity treated for federal income
4 tax purposes as a corporation, an amount computed by:

5 (A) adding:

6 (i) the amount reportable as income on line
7 1c, Internal Revenue Service Form 1120;

8 (ii) the amounts reportable as income on
9 lines 4 through 10, Internal Revenue Service Form 1120; and

10 (iii) any total revenue reported by a lower
11 tier entity as includable in the taxable entity's total revenue
12 under Section 171.1015(b); ~~and~~

13 (B) subtracting:

14 (i) bad debt expensed for federal income
15 tax purposes that corresponds to items of gross receipts included
16 in Subsection (c)(1)(A) for the current reporting period or a past
17 reporting period;

18 (ii) to the extent included in Subsection
19 (c)(1)(A), foreign royalties and foreign dividends, including
20 amounts determined under Section 78 or Sections 951-964, Internal
21 Revenue Code;

22 (iii) to the extent included in Subsection
23 (c)(1)(A), net distributive income from a taxable entity treated as
24 a partnership or as an S corporation for federal income tax
25 purposes;

26 (iv) allowable deductions from Internal
27 Revenue Service Form 1120, Schedule C, to the extent the relating
28 dividend income is included in total revenue;

29 (v) to the extent included in Subsection
30 (c)(1)(A), items of income attributable to an entity that is a
31 disregarded entity for federal income tax purposes; and

1 (vi) to the extent included in Subsection
2 (c)(1)(A), other amounts authorized by this section; and
3 (C) if the amount computed under Subsections
4 (c)(1)(A) and (c)(1)(B) totals \$5 million or less, subtracting \$1
5 million;

6 (2) for a taxable entity treated for federal income
7 tax purposes as a partnership, an amount computed by:

8 (A) adding:

9 (i) the amount reportable as income on line
10 1c, Internal Revenue Service Form 1065;

11 (ii) the amounts reportable as income on
12 lines 4, 6, and 7, Internal Revenue Service Form 1065;

13 (iii) the amounts reportable as income on
14 lines 3a and 5 through 11, Internal Revenue Service Form 1065,
15 Schedule K;

16 (iv) the amounts reportable as income on
17 line 17, Internal Revenue Service Form 8825;

18 (v) the amounts reportable as income on
19 line 11, plus line 2 or line 45, Internal Revenue Service Form 1040,
20 Schedule F; and

21 (vi) any total revenue reported by a lower
22 tier entity as includable in the taxable entity's total revenue
23 under Section 171.1015(b); ~~and~~

24 (B) subtracting:

25 (i) bad debt expensed for federal income
26 tax purposes that corresponds to items of gross receipts included
27 in Subsection (c)(2)(A) for the current reporting period or a past
28 reporting period;

29 (ii) to the extent included in Subsection
30 (c)(2)(A), foreign royalties and foreign dividends, including
31 amounts determined under Section 78 or Sections 951-964, Internal

1 Revenue Code;

2 (iii) to the extent included in Subsection
3 (c)(2)(A), net distributive income from a taxable entity treated as
4 a partnership or as an S corporation for federal income tax
5 purposes;

6 (iv) to the extent included in Subsection
7 (c)(2)(A), items of income attributable to an entity that is a
8 disregarded entity for federal income tax purposes; and

9 (v) to the extent included in Subsection
10 (c)(2)(A), other amounts authorized by this section; and

11 (C) if the amount computed under Subsections
12 (c)(2)(A) and (c)(2)(B) totals \$5 million or less, subtracting \$1
13 million; or

14 (3) for a taxable entity other than a taxable entity
15 treated for federal income tax purposes as a corporation or
16 partnership, an amount determined in a manner substantially
17 equivalent to the amount for Subdivision (1) or (2), including the
18 subtraction of \$1 million as provided by Subdivision (1)(C) or
19 (2)(C), determined by rules that the comptroller shall adopt.

20 (b) Effective January 1, 2016, Section 171.1011(c), Tax
21 Code, is amended to read as follows:

22 (c) Except as provided by this section, and subject to
23 Section 171.1014, for the purpose of computing its taxable margin
24 under Section 171.101, the total revenue of a taxable entity is:

25 (1) for a taxable entity treated for federal income
26 tax purposes as a corporation, an amount computed by:

27 (A) adding:

28 (i) the amount reportable as income on line
29 1c, Internal Revenue Service Form 1120;

30 (ii) the amounts reportable as income on
31 lines 4 through 10, Internal Revenue Service Form 1120; and

1 (iii) any total revenue reported by a lower
2 tier entity as includable in the taxable entity's total revenue
3 under Section 171.1015(b); ~~and~~

4 (B) subtracting:

5 (i) bad debt expensed for federal income
6 tax purposes that corresponds to items of gross receipts included
7 in Subsection (c)(1)(A) for the current reporting period or a past
8 reporting period;

9 (ii) to the extent included in Subsection
10 (c)(1)(A), foreign royalties and foreign dividends, including
11 amounts determined under Section 78 or Sections 951-964, Internal
12 Revenue Code;

13 (iii) to the extent included in Subsection
14 (c)(1)(A), net distributive income from a taxable entity treated as
15 a partnership or as an S corporation for federal income tax
16 purposes;

17 (iv) allowable deductions from Internal
18 Revenue Service Form 1120, Schedule C, to the extent the relating
19 dividend income is included in total revenue;

20 (v) to the extent included in Subsection
21 (c)(1)(A), items of income attributable to an entity that is a
22 disregarded entity for federal income tax purposes; and

23 (vi) to the extent included in Subsection
24 (c)(1)(A), other amounts authorized by this section; and

25 (C) if the amount computed under Subsections
26 (c)(1)(A) and (c)(1)(B) totals \$10 million or less, subtracting \$1
27 million;

28 (2) for a taxable entity treated for federal income
29 tax purposes as a partnership, an amount computed by:

30 (A) adding:

31 (i) the amount reportable as income on line

1 1c, Internal Revenue Service Form 1065;

2 (ii) the amounts reportable as income on
3 lines 4, 6, and 7, Internal Revenue Service Form 1065;

4 (iii) the amounts reportable as income on
5 lines 3a and 5 through 11, Internal Revenue Service Form 1065,
6 Schedule K;

7 (iv) the amounts reportable as income on
8 line 17, Internal Revenue Service Form 8825;

9 (v) the amounts reportable as income on
10 line 11, plus line 2 or line 45, Internal Revenue Service Form 1040,
11 Schedule F; and

12 (vi) any total revenue reported by a lower
13 tier entity as includable in the taxable entity's total revenue
14 under Section 171.1015(b); ~~and~~

15 (B) subtracting:

16 (i) bad debt expensed for federal income
17 tax purposes that corresponds to items of gross receipts included
18 in Subsection (c)(2)(A) for the current reporting period or a past
19 reporting period;

20 (ii) to the extent included in Subsection
21 (c)(2)(A), foreign royalties and foreign dividends, including
22 amounts determined under Section 78 or Sections 951-964, Internal
23 Revenue Code;

24 (iii) to the extent included in Subsection
25 (c)(2)(A), net distributive income from a taxable entity treated as
26 a partnership or as an S corporation for federal income tax
27 purposes;

28 (iv) to the extent included in Subsection
29 (c)(2)(A), items of income attributable to an entity that is a
30 disregarded entity for federal income tax purposes; and

31 (v) to the extent included in Subsection

1 (c)(2)(A), other amounts authorized by this section; and
2 (C) if the amount computed under Subsections
3 (c)(2)(A) and (c)(2)(B) totals \$10 million or less, subtracting \$1
4 million; or

5 (3) for a taxable entity other than a taxable entity
6 treated for federal income tax purposes as a corporation or
7 partnership, an amount determined in a manner substantially
8 equivalent to the amount for Subdivision (1) or (2), including the
9 subtraction of \$1 million as provided by Subdivision (1)(C) or
10 (2)(C), determined by rules that the comptroller shall adopt.

11 (c) Effective January 1, 2018, Section 171.1011(c), Tax
12 Code, is amended to read as follows:

13 (c) Except as provided by this section, and subject to
14 Section 171.1014, for the purpose of computing its taxable margin
15 under Section 171.101, the total revenue of a taxable entity is:

16 (1) for a taxable entity treated for federal income
17 tax purposes as a corporation, an amount computed by:

18 (A) adding:

19 (i) the amount reportable as income on line
20 1c, Internal Revenue Service Form 1120;

21 (ii) the amounts reportable as income on
22 lines 4 through 10, Internal Revenue Service Form 1120; and

23 (iii) any total revenue reported by a lower
24 tier entity as includable in the taxable entity's total revenue
25 under Section 171.1015(b); ~~and~~

26 (B) subtracting:

27 (i) bad debt expensed for federal income
28 tax purposes that corresponds to items of gross receipts included
29 in Subsection (c)(1)(A) for the current reporting period or a past
30 reporting period;

31 (ii) to the extent included in Subsection

1 (c)(1)(A), foreign royalties and foreign dividends, including
2 amounts determined under Section 78 or Sections 951-964, Internal
3 Revenue Code;

4 (iii) to the extent included in Subsection
5 (c)(1)(A), net distributive income from a taxable entity treated as
6 a partnership or as an S corporation for federal income tax
7 purposes;

8 (iv) allowable deductions from Internal
9 Revenue Service Form 1120, Schedule C, to the extent the relating
10 dividend income is included in total revenue;

11 (v) to the extent included in Subsection
12 (c)(1)(A), items of income attributable to an entity that is a
13 disregarded entity for federal income tax purposes; and

14 (vi) to the extent included in Subsection
15 (c)(1)(A), other amounts authorized by this section; and

16 (C) if the amount computed under Subsections
17 (c)(1)(A) and (c)(1)(B) totals \$15 million or less, subtracting \$1
18 million;

19 (2) for a taxable entity treated for federal income
20 tax purposes as a partnership, an amount computed by:

21 (A) adding:

22 (i) the amount reportable as income on line
23 1c, Internal Revenue Service Form 1065;

24 (ii) the amounts reportable as income on
25 lines 4, 6, and 7, Internal Revenue Service Form 1065;

26 (iii) the amounts reportable as income on
27 lines 3a and 5 through 11, Internal Revenue Service Form 1065,
28 Schedule K;

29 (iv) the amounts reportable as income on
30 line 17, Internal Revenue Service Form 8825;

31 (v) the amounts reportable as income on

1 line 11, plus line 2 or line 45, Internal Revenue Service Form 1040,
2 Schedule F; and

3 (vi) any total revenue reported by a lower
4 tier entity as includable in the taxable entity's total revenue
5 under Section 171.1015(b); ~~and~~

6 (B) subtracting:

7 (i) bad debt expensed for federal income
8 tax purposes that corresponds to items of gross receipts included
9 in Subsection (c)(2)(A) for the current reporting period or a past
10 reporting period;

11 (ii) to the extent included in Subsection
12 (c)(2)(A), foreign royalties and foreign dividends, including
13 amounts determined under Section 78 or Sections 951-964, Internal
14 Revenue Code;

15 (iii) to the extent included in Subsection
16 (c)(2)(A), net distributive income from a taxable entity treated as
17 a partnership or as an S corporation for federal income tax
18 purposes;

19 (iv) to the extent included in Subsection
20 (c)(2)(A), items of income attributable to an entity that is a
21 disregarded entity for federal income tax purposes; and

22 (v) to the extent included in Subsection
23 (c)(2)(A), other amounts authorized by this section; and

24 (C) if the amount computed under Subsections
25 (c)(2)(A) and (c)(2)(B) totals \$15 million or less, subtracting \$1
26 million; or

27 (3) for a taxable entity other than a taxable entity
28 treated for federal income tax purposes as a corporation or
29 partnership, an amount determined in a manner substantially
30 equivalent to the amount for Subdivision (1) or (2), including the
31 subtraction of \$1 million as provided by Subdivision (1)(C) or

1 (2)(C), determined by rules that the comptroller shall adopt.

2 (d) Effective January 1, 2020, Section 171.1011(c), Tax
3 Code, is amended to read as follows:

4 (c) Except as provided by this section, and subject to
5 Section 171.1014, for the purpose of computing its taxable margin
6 under Section 171.101, the total revenue of a taxable entity is:

7 (1) for a taxable entity treated for federal income
8 tax purposes as a corporation, an amount computed by:

9 (A) adding:

10 (i) the amount reportable as income on line
11 1c, Internal Revenue Service Form 1120;

12 (ii) the amounts reportable as income on
13 lines 4 through 10, Internal Revenue Service Form 1120; and

14 (iii) any total revenue reported by a lower
15 tier entity as includable in the taxable entity's total revenue
16 under Section 171.1015(b); ~~and~~

17 (B) subtracting:

18 (i) bad debt expensed for federal income
19 tax purposes that corresponds to items of gross receipts included
20 in Subsection (c)(1)(A) for the current reporting period or a past
21 reporting period;

22 (ii) to the extent included in Subsection
23 (c)(1)(A), foreign royalties and foreign dividends, including
24 amounts determined under Section 78 or Sections 951-964, Internal
25 Revenue Code;

26 (iii) to the extent included in Subsection
27 (c)(1)(A), net distributive income from a taxable entity treated as
28 a partnership or as an S corporation for federal income tax
29 purposes;

30 (iv) allowable deductions from Internal
31 Revenue Service Form 1120, Schedule C, to the extent the relating

1 dividend income is included in total revenue;

2 (v) to the extent included in Subsection
3 (c)(1)(A), items of income attributable to an entity that is a
4 disregarded entity for federal income tax purposes; and

5 (vi) to the extent included in Subsection
6 (c)(1)(A), other amounts authorized by this section; and

7 (C) if the amount computed under Subsections
8 (c)(1)(A) and (c)(1)(B) totals \$20 million or less, subtracting \$1
9 million;

10 (2) for a taxable entity treated for federal income
11 tax purposes as a partnership, an amount computed by:

12 (A) adding:

13 (i) the amount reportable as income on line
14 1c, Internal Revenue Service Form 1065;

15 (ii) the amounts reportable as income on
16 lines 4, 6, and 7, Internal Revenue Service Form 1065;

17 (iii) the amounts reportable as income on
18 lines 3a and 5 through 11, Internal Revenue Service Form 1065,
19 Schedule K;

20 (iv) the amounts reportable as income on
21 line 17, Internal Revenue Service Form 8825;

22 (v) the amounts reportable as income on
23 line 11, plus line 2 or line 45, Internal Revenue Service Form 1040,
24 Schedule F; and

25 (vi) any total revenue reported by a lower
26 tier entity as includable in the taxable entity's total revenue
27 under Section 171.1015(b); ~~and~~

28 (B) subtracting:

29 (i) bad debt expensed for federal income
30 tax purposes that corresponds to items of gross receipts included
31 in Subsection (c)(2)(A) for the current reporting period or a past

1 reporting period;

2 (ii) to the extent included in Subsection
3 (c)(2)(A), foreign royalties and foreign dividends, including
4 amounts determined under Section 78 or Sections 951-964, Internal
5 Revenue Code;

6 (iii) to the extent included in Subsection
7 (c)(2)(A), net distributive income from a taxable entity treated as
8 a partnership or as an S corporation for federal income tax
9 purposes;

10 (iv) to the extent included in Subsection
11 (c)(2)(A), items of income attributable to an entity that is a
12 disregarded entity for federal income tax purposes; and

13 (v) to the extent included in Subsection
14 (c)(2)(A), other amounts authorized by this section; and

15 (C) if the amount computed under Subsections
16 (c)(2)(A) and (c)(2)(B) totals \$20 million or less, subtracting \$1
17 million; or

18 (3) for a taxable entity other than a taxable entity
19 treated for federal income tax purposes as a corporation or
20 partnership, an amount determined in a manner substantially
21 equivalent to the amount for Subdivision (1) or (2), including the
22 subtraction of \$1 million as provided by Subdivision (1)(C) or
23 (2)(C), determined by rules that the comptroller shall adopt.

24 SECTION _____. (a) Section 171.1012, Tax Code, is amended by
25 adding Subsection (r) to read as follows:

26 (r) If a taxable entity that is a movie theater elects to
27 subtract cost of goods sold, the cost of goods sold for the taxable
28 entity shall be the costs described by this section in relation to
29 the acquisition, production, exhibition, or use of a film or motion
30 picture, including expenses for the right to use the film or motion
31 picture.

1 (b) Section 171.1012(r), Tax Code, as added by this section,
2 is a clarification of existing law and does not imply that existing
3 law may be construed as inconsistent with the law as amended by this
4 section.

5 (c) This section takes effect September 1, 2013.

6 SECTION _____. Section 171.1015(d), Tax Code, is amended to
7 read as follows:

8 (d) Section 171.002(d) does not apply to an upper tier
9 entity if, before the attribution of any total revenue by a lower
10 tier entity to an upper tier entity under this section, the lower
11 tier entity does not meet the criteria of Section 171.002(d)(1) [~~ex~~
12 ~~(d)(2)~~].

13 SECTION _____. Section 171.204, Tax Code, is amended by
14 adding Subsection (d) to read as follows:

15 (d) The comptroller may require a taxable entity on which
16 the tax imposed under this chapter is not imposed solely because of
17 the application of Section 171.001(d) to file an information report
18 stating the taxable entity's beginning date as determined under
19 Section 171.0001(4)(B)(ii). The comptroller may require a taxable
20 entity exempted from the franchise tax solely because of the
21 application of Section 171.089 to file an information report
22 stating the date the relocation of the taxable entity's main office
23 or other principal place of business was completed, as defined by
24 comptroller rules. The comptroller may require the report to
25 include other information the comptroller determines necessary,
26 except that the comptroller may not require the taxable entity to
27 report or compute its margin.

28 SECTION _____. Chapter 171, Tax Code, is amended by adding
29 Subchapter S to read as follows:

1 SUBCHAPTER S. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED
2 HISTORIC STRUCTURES

3 Sec. 171.901. DEFINITIONS. In this subchapter:

4 (1) "Certified historic structure" means a property in
5 this state that is:

6 (A) listed individually in the National Register
7 of Historic Places;

8 (B) designated as a Recorded Texas Historic
9 Landmark under Section 442.006, Government Code, or as a state
10 archeological landmark under Chapter 191, Natural Resources Code;
11 or

12 (C) certified by the commission as contributing
13 to the historic significance of:

14 (i) a historic district listed in the
15 National Register of Historic Places; or

16 (ii) a local district certified by the
17 United States Department of the Interior in accordance with 36
18 C.F.R. Section 67.9.

19 (2) "Certified rehabilitation" means the
20 rehabilitation of a certified historic structure that the
21 commission has certified as meeting the United States secretary of
22 the interior's Standards for Rehabilitation as defined in 36 C.F.R.
23 Section 67.7.

24 (3) "Commission" means the Texas Historical
25 Commission.

26 (4) "Eligible costs and expenses" means qualified
27 rehabilitation expenditures as defined by Section 47(c)(2),
28 Internal Revenue Code.

29 Sec. 171.902. ELIGIBILITY FOR CREDIT. An entity is
30 eligible to apply for a credit in the amount and under the
31 conditions and limitations provided by this subchapter against the

1 tax imposed under this chapter.

2 Sec. 171.903. QUALIFICATION. An entity is eligible for a
3 credit for eligible costs and expenses incurred in the certified
4 rehabilitation of a certified historic structure as provided by
5 this subchapter if:

6 (1) the rehabilitated certified historic structure is
7 placed in service on or after September 1, 2013;

8 (2) the entity has an ownership interest in the
9 certified historic structure in the year during which the structure
10 is placed in service after the rehabilitation; and

11 (3) the total amount of the eligible costs and
12 expenses incurred exceeds \$5,000.

13 Sec. 171.904. CERTIFICATION OF ELIGIBILITY. (a) Before
14 claiming, selling, or assigning a credit under this subchapter, the
15 entity that incurred the eligible costs and expenses in the
16 rehabilitation of a certified historic structure must request from
17 the commission a certificate of eligibility on which the commission
18 certifies that the work performed meets the definition of a
19 certified rehabilitation. The entity must include with the
20 entity's request:

21 (1) information on the property that is sufficient for
22 the commission to determine whether the property meets the
23 definition of a certified historic structure; and

24 (2) information on the rehabilitation, and
25 photographs before and after work is performed, sufficient for the
26 commission to determine whether the rehabilitation meets the United
27 States secretary of the interior's Standards for Rehabilitation as
28 defined in 36 C.F.R. Section 67.7.

29 (b) The commission shall issue a certificate of eligibility
30 to an entity that has incurred eligible costs and expenses as
31 provided by this subchapter. The certificate must:

1 (1) confirm that:

2 (A) the property to which the eligible costs and
3 expenses relate is a certified historic structure; and

4 (B) the rehabilitation qualifies as a certified
5 rehabilitation; and

6 (2) specify the date the certified historic structure
7 was first placed in service after the rehabilitation.

8 (c) The entity must forward the certificate of eligibility
9 and the following documentation to the comptroller to claim the tax
10 credit:

11 (1) an audited cost report issued by a certified
12 public accountant, as defined by Section 901.002, Occupations Code,
13 that itemizes the eligible costs and expenses incurred in the
14 certified rehabilitation of the certified historic structure by the
15 entity;

16 (2) the date the certified historic structure was
17 first placed in service after the rehabilitation and evidence of
18 that placement in service; and

19 (3) an attestation of the total eligible costs and
20 expenses incurred by the entity on the rehabilitation of the
21 certified historic structure.

22 (d) For purposes of approving the tax credit under
23 Subsection (c), the comptroller may rely on the audited cost report
24 provided by the entity that requested the tax credit.

25 (e) An entity that sells or assigns a credit under this
26 subchapter to another entity shall provide a copy of the
27 certificate of eligibility, together with the audited cost report,
28 to the purchaser or assignee.

29 Sec. 171.905. AMOUNT OF CREDIT; LIMITATIONS. (a) The total
30 amount of the credit under this subchapter with respect to the
31 rehabilitation of a single certified historic structure that may be

1 claimed may not exceed 25 percent of the total eligible costs and
2 expenses incurred in the certified rehabilitation of the certified
3 historic structure.

4 (b) The total credit claimed for a report, including the
5 amount of any carryforward under Section 171.906, may not exceed
6 the amount of franchise tax due for the report after any other
7 applicable tax credits.

8 (c) Eligible costs and expenses may only be counted once in
9 determining the amount of the tax credit available, and more than
10 one entity may not claim a credit for the same eligible costs and
11 expenses.

12 Sec. 171.906. CARRYFORWARD. (a) If an entity is eligible
13 for a credit that exceeds the limitation under Section 171.905(b),
14 the entity may carry the unused credit forward for not more than
15 five consecutive reports.

16 (b) A carryforward is considered the remaining portion of a
17 credit that cannot be claimed in the current year because of the
18 limitation under Section 171.905(b).

19 Sec. 171.907. APPLICATION FOR CREDIT. (a) An entity must
20 apply for a credit under this subchapter on or with the report for
21 the period for which the credit is claimed.

22 (b) An entity shall file with any report on which the credit
23 is claimed a copy of the certificate of eligibility issued by the
24 commission under Section 171.904 and any other information required
25 by the comptroller to sufficiently demonstrate that the entity is
26 eligible for the credit.

27 (c) The burden of establishing eligibility for and the value
28 of the credit is on the entity.

29 Sec. 171.908. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
30 that incurs eligible costs and expenses may sell or assign all or
31 part of the credit that may be claimed for those costs and expenses

1 to one or more entities, and any entity to which all or part of the
2 credit is sold or assigned may sell or assign all or part of the
3 credit to another entity. There is no limit on the total number of
4 transactions for the sale or assignment of all or part of the total
5 credit authorized under this subchapter, however, collectively all
6 transfers are subject to the maximum total limits provided by
7 Section 171.905.

8 (b) An entity that sells or assigns a credit under this
9 section and the entity to which the credit is sold or assigned shall
10 jointly submit written notice of the sale or assignment to the
11 comptroller on a form promulgated by the comptroller not later than
12 the 30th day after the date of the sale or assignment. The notice
13 must include:

14 (1) the date of the sale or assignment;
15 (2) the amount of the credit sold or assigned;
16 (3) the names and federal tax identification numbers
17 of the entity that sold or assigned the credit or part of the credit
18 and the entity to which the credit or part of the credit was sold or
19 assigned; and

20 (4) the amount of the credit owned by the selling or
21 assigning entity before the sale or assignment, and the amount the
22 selling or assigning entity retained, if any, after the sale or
23 assignment.

24 (c) The sale or assignment of a credit in accordance with
25 this section does not extend the period for which a credit may be
26 carried forward and does not increase the total amount of the credit
27 that may be claimed. After an entity claims a credit for eligible
28 costs and expenses, another entity may not use the same costs and
29 expenses as the basis for claiming a credit.

30 (d) Notwithstanding the requirements of this subchapter, a
31 credit earned or purchased by, or assigned to, a partnership,

1 limited liability company, S corporation, or other pass-through
2 entity may be allocated to the partners, members, or shareholders
3 of that entity and claimed under this subchapter in accordance with
4 the provisions of any agreement among the partners, members, or
5 shareholders and without regard to the ownership interest of the
6 partners, members, or shareholders in the rehabilitated certified
7 historic structure, provided that the entity that claims the credit
8 must be subject to the tax imposed under this chapter.

9 Sec. 171.909. RULES. The commission and the comptroller
10 shall adopt rules necessary to implement this subchapter.

11 SECTION _____. (a) Section 18, Chapter 1 (H.B. 3), Acts of
12 the 79th Legislature, 3rd Called Session, 2006, is amended by
13 adding Subsections (h) and (i) to read as follows:

14 (h) In this subsection and Subsection (i) of this section,
15 "transfer" includes a sale. Notwithstanding Subsections (e) and
16 (f) of this section, a corporation that has unused, unexpired
17 credits carried forward under former Subchapter P or Q, Chapter
18 171, Tax Code, may transfer the credits to another taxpayer of this
19 state. To be eligible to transfer the credits, the corporation must
20 obtain a certificate of transfer of credit from the comptroller of
21 public accounts for the amount of the credits to be transferred.
22 Not later than the 30th day after the date of the transfer, the
23 corporation must submit to the comptroller a notice of the transfer
24 in a form prescribed by the comptroller. The notice must be
25 accompanied by a copy of the certificate of transfer issued by the
26 comptroller and specify:

- 27 (1) the number on the certificate of transfer;
28 (2) the amount of the corporation's unused, unexpired
29 credits preceding the transfer;
30 (3) the date of the transfer;
31 (4) the amount of credits transferred;

1 (5) the tax identification numbers of the corporation
2 and the taxpayer to which the credits were transferred;

3 (6) the corporation's remaining amount of unused,
4 unexpired credits after the transfer; and

5 (7) any other information the comptroller requires.

6 (i) The transfer of a credit under Subsection (h) of this
7 section is limited to a credit that was first reported on a report
8 originally due before January 1, 2008, and does not include credits
9 authorized under former Subchapter Q-1, Chapter 171, Tax Code, or
10 credits that were created under the terms of a written agreement
11 between a taxpayer and the Texas Department of Economic Development
12 or its successor that was entered into before June 1, 2006, and
13 which credits continue to accrue under the terms provided by
14 Section 19 of this Act. The transferee of a credit under this
15 section obtains the credit subject to the same rights and
16 privileges as the transferor. The transfer of a credit under
17 Subsection (h) of this section does not extend or lessen the period
18 during which the credit may be claimed. If a corporation transfers a
19 credit that the corporation was not entitled to claim at the time of
20 the transfer:

21 (1) the taxpayer to which the credit was transferred
22 may pursue any remedy authorized by law against the corporation and
23 may not pursue any remedy against the comptroller of public
24 accounts or this state; and

25 (2) the comptroller:

26 (A) may not allow the taxpayer to which the
27 credit was transferred to apply the credit on a report; or

28 (B) shall recover from the taxpayer the amount of
29 the credit the taxpayer claims on a report using any means
30 authorized by law.

31 (b) This section applies only to a credit transferred on or

1 after the effective date of this section.

2 (c) This section takes effect September 1, 2013.

3 SECTION _____. (a) The changes in law made by this Act by the
4 addition of Sections 171.001(d), 171.089, and 171.204(d), Tax Code,
5 and the amendment of Sections 171.0001(4) and 171.063(g), Tax Code,
6 apply to a taxable entity doing business in this state before, on,
7 or after the effective date of this Act.

8 (b) A taxable entity on which the tax under Chapter 171, Tax
9 Code, was imposed before the effective date of this Act, but on
10 which the tax is not imposed on the effective date of this Act
11 because of the application of Section 171.001(d) or 171.089, Tax
12 Code, as added by this Act, is not entitled to a refund of or credit
13 for taxes paid under Chapter 171, Tax Code, before the effective
14 date of this Act.

