

By: Creighton

H.B. No. 1316

A BILL TO BE ENTITLED

AN ACT

relating to exempting the first \$1 million from total revenue for purposes of the franchise tax.

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

SECTION 1. Section 171.1011(c), Tax Code, is amended to read as follows:

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

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

(A) adding:

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

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

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

(B) subtracting:

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

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

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

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

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

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

17 (vii) \$1 million;

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

20 (A) adding:

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

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

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

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

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

6 (vi) any total revenue reported by a lower  
7 tier entity as includable in the taxable entity's total revenue  
8 under Section 171.1015(b); and

9 (B) subtracting:

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

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

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

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

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

27 (vi) \$1 million; or

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

7           SECTION 2. Section 171.002(d), Tax Code, is amended to read  
8 as follows:

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

11           [~~(1)~~] the amount of tax computed for the taxable  
12 entity is less than \$1,000[~~,-or~~

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

17           SECTION 3. Section 171.006(b), Tax Code, is amended to read  
18 as follows:

19           (b) Beginning in 2010, on January 1 of each even-numbered  
20 year, the amounts prescribed by Sections 171.1011(c)(1)(B)(vii),  
21 171.1011(c)(2)(B)(vi), 171.1011(c)(3), [~~171.002(d)(2), 171.0021,~~]  
22 and 171.1013(c) are increased or decreased by an amount equal to the  
23 amount prescribed by those sections on December 31 of the preceding  
24 year multiplied by the percentage increase or decrease during the  
25 preceding state fiscal biennium in the consumer price index and  
26 rounded to the nearest \$10,000.

27           SECTION 4. Section 171.1014(c), Tax Code, is amended to

1 read as follows:

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

4 (1) determining the total revenue of each of its  
5 members as provided by Section 171.1011 as if the member were an  
6 individual taxable entity, except that only one member of the  
7 combined group may subtract \$1 million under Section  
8 171.1011(c)(1)(B)(vii), (c)(2)(B)(vi), or (c)(3);

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

11 (3) subtracting, to the extent included under Section  
12 171.1011(c)(1)(A), (c)(2)(A), or (c)(3), items of total revenue  
13 received from a member of the combined group.

14 SECTION 5. Section 171.1015(d), Tax Code, is amended to  
15 read as follows:

16 (d) Section 171.002(d) does not apply to an upper tier  
17 entity if, before the attribution of any total revenue by a lower  
18 tier entity to an upper tier entity under this section, the lower  
19 tier entity does not meet the criteria of Section 171.002(d)(1) [~~or~~  
20 ~~(d)(2)~~].

21 SECTION 6. (a) Section 1(c), Chapter 286 (H.B. 4765), Acts  
22 of the 81st Legislature, Regular Session, 2009, as amended by  
23 Section 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st  
24 Called Session, 2011, is repealed.

25 (b) This section takes effect September 1, 2013.

26 SECTION 7. (a) Section 2, Chapter 286 (H.B. 4765), Acts of  
27 the 81st Legislature, Regular Session, 2009, as amended by Section

1 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called  
2 Session, 2011, and which amended former Subsection (d), Section  
3 171.002, Tax Code, is repealed.

4 (b) This section takes effect September 1, 2013.

5 SECTION 8. (a) Section 3, Chapter 286 (H.B. 4765), Acts of  
6 the 81st Legislature, Regular Session, 2009, as amended by Section  
7 37.03, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called  
8 Session, 2011, and which amended former Subsection (a), Section  
9 171.0021, Tax Code, is repealed.

10 (b) This section takes effect September 1, 2013.

11 SECTION 9. Sections 171.0021, 171.1016(d), and 171.204(b),  
12 Tax Code, are repealed.

13 SECTION 10. This Act applies only to a report originally due  
14 on or after January 1, 2014.

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