

By: Hilderbran

H.B. No. 2168

A BILL TO BE ENTITLED

1 AN ACT

2 relating to exempting the first \$1 million from the total revenue of
3 certain taxable entities for purposes of the franchise tax.

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

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

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

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

12 (A) adding:

13 (i) the amount reportable as income on line
14 1c, Internal Revenue Service Form 1120;

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

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

20 (B) subtracting:

21 (i) bad debt expensed for federal income
22 tax purposes that corresponds to items of gross receipts included
23 in Subsection (c)(1)(A) for the current reporting period or a past
24 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 (C) if the amount computed under Subsections
18 (c)(1)(A) and (c)(1)(B) totals \$20 million or less, subtracting \$1
19 million;

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

22 (A) adding:

23 (i) the amount reportable as income on line
24 1c, Internal Revenue Service Form 1065;

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

27 (iii) the amounts reportable as income on

1 lines 3a and 5 through 11, Internal Revenue Service Form 1065,
2 Schedule K;

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

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

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

11 (B) subtracting:

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

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

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

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

27 (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 \$20 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 SECTION 2. Section 171.002(d), Tax Code, is amended to read
12 as follows:

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

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

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

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

23 (b) Beginning in 2010, on January 1 of each even-numbered
24 year, the amounts prescribed by Sections 171.1011(c)(1)(C),
25 171.1011(c)(2)(C), 171.1011(c)(3), [~~171.002(d)(2), 171.0021,~~] and
26 171.1013(c) are increased or decreased by an amount equal to the
27 amount prescribed by those sections on December 31 of the preceding

1 year multiplied by the percentage increase or decrease during the
2 preceding state fiscal biennium in the consumer price index and
3 rounded to the nearest \$10,000.

4 SECTION 4. Section 171.1014(c), Tax Code, is amended to
5 read as follows:

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

8 (1) determining the total revenue of each of its
9 members as provided by Section 171.1011 as if the member were an
10 individual taxable entity, except that only one member of the
11 combined group may subtract \$1 million under Section
12 171.1011(c)(1)(C), (c)(2)(C), or (c)(3);

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

15 (3) subtracting, to the extent included under Section
16 171.1011(c)(1)(A), (c)(2)(A), or (c)(3), items of total revenue
17 received from a member of the combined group.

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

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

25 SECTION 6. (a) Section 1(c), Chapter 286 (H.B. 4765), Acts
26 of the 81st Legislature, Regular Session, 2009, as amended by
27 Section 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st

1 Called Session, 2011, is repealed.

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

3 SECTION 7. (a) Section 2, Chapter 286 (H.B. 4765), Acts of
4 the 81st Legislature, Regular Session, 2009, as amended by Section
5 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
6 Session, 2011, and which amended former Subsection (d), Section
7 171.002, Tax Code, is repealed.

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

9 SECTION 8. (a) Section 3, Chapter 286 (H.B. 4765), Acts of
10 the 81st Legislature, Regular Session, 2009, as amended by Section
11 37.03, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
12 Session, 2011, and which amended former Subsection (a), Section
13 171.0021, Tax Code, is repealed.

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

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

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

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