

By: Leach

H.B. No. 2370

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to an exemption from the franchise tax for a limited period  
3 following the relocation of a taxable entity to this state from  
4 another state.

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

6 SECTION 1. Section 171.0001(4), Tax Code, is amended to  
7 read as follows:

8 (4) "Beginning date" means:

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

12 (B) for any other taxable entity:

13 (i) ~~the~~ the date on which the taxable entity  
14 begins doing business in this state; or

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

20 SECTION 2. Section 171.001, Tax Code, is amended by adding  
21 Subsection (d) to read as follows:

22 (d) Notwithstanding Subsection (a), the tax imposed under  
23 this chapter is not imposed on a taxable entity that is chartered or  
24 organized under the laws of the United States or another state and

1 that concurrently begins doing business in this state and relocates  
2 its main office or other principal place of business to this state  
3 from another state until the third anniversary of the date on which  
4 the taxable entity begins doing business in this state.

5 SECTION 3. Section 171.063(g), Tax Code, is amended to read  
6 as follows:

7 (g) If a corporation's federal tax exemption is withdrawn by  
8 the Internal Revenue Service for failure of the corporation to  
9 qualify or maintain its qualification for the exemption, the  
10 corporation's exemption under this section ends on the effective  
11 date of that withdrawal by the Internal Revenue Service. The  
12 effective date of the withdrawal is considered the corporation's  
13 beginning date for purposes of determining the corporation's  
14 privilege periods and for all other purposes of this chapter,  
15 except that if the corporation would have been subject to Section  
16 171.001(d) or exempted from the franchise tax under Section 171.089  
17 in the absence of the federal tax exemption, and the effective date  
18 of the withdrawal is a date earlier than the date the corporation  
19 would have become subject to the franchise tax as provided by  
20 Section 171.001(d) or Section 171.089, as applicable, the date the  
21 corporation would have become subject to the franchise tax under  
22 the applicable provision is considered the corporation's beginning  
23 date for those purposes.

24 SECTION 4. Subchapter B, Chapter 171, Tax Code, is amended  
25 by adding Section 171.089 to read as follows:

26 Sec. 171.089. EXEMPTION FOR LIMITED PERIOD: CERTAIN  
27 ENTITIES RELOCATING TO TEXAS. (a) A taxable entity is exempted

1 from the franchise tax for a period of three years if the taxable  
2 entity:

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

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

6 (3) had its main office or principal place of business  
7 located in another state but relocates that main office or other  
8 principal place of business to this state.

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

15 SECTION 5. Section 171.204, Tax Code, is amended by adding  
16 Subsection (d) to read as follows:

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

1 except that the comptroller may not require the taxable entity to  
2 report or compute its margin.

3 SECTION 6. (a) The change in law made by this Act applies to  
4 a taxable entity doing business in this state before, on, or after  
5 the effective date of this Act.

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

13 SECTION 7. This Act takes effect January 1, 2014.