

By: Hilderbran

H.B. No. 3109

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the E-Z computation and rate of the franchise tax and
3 exempting the first \$1 million from the total revenue of certain
4 taxable entities.

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

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

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

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

13 (A) adding:

14 (i) the amount reportable as income on line
15 1c, Internal Revenue Service Form 1120;

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

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

21 (B) subtracting:

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

1 reporting period;

2 (ii) to the extent included in Subsection
3 (c)(1)(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)(1)(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) allowable deductions from Internal
11 Revenue Service Form 1120, Schedule C, to the extent the relating
12 dividend income is included in total revenue;

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

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

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

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

23 (A) adding:

24 (i) the amount reportable as income on line
25 1c, Internal Revenue Service Form 1065;

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

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

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

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

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

12 (B) subtracting:

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

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

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

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

1 (v) to the extent included in Subsection
2 (c)(2)(A), other amounts authorized by this section; and
3 (C) if the amount computed under Subsections
4 (c)(2)(A) and (c)(2)(B) totals \$20 million or less, subtracting \$1
5 million; or

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

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

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

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

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

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

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

1 amount prescribed by those sections on December 31 of the preceding
2 year multiplied by the percentage increase or decrease during the
3 preceding state fiscal biennium in the consumer price index and
4 rounded to the nearest \$10,000.

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

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

9 (1) determining the total revenue of each of its
10 members as provided by Section 171.1011 as if the member were an
11 individual taxable entity, except that only one member of the
12 combined group may subtract \$1 million under Section
13 171.1011(c)(1)(C), (c)(2)(C), or (c)(3);

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

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

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

21 (d) Section 171.002(d) does not apply to an upper tier
22 entity if, before the attribution of any total revenue by a lower
23 tier entity to an upper tier entity under this section, the lower
24 tier entity does not meet the criteria of Section 171.002(d)
25 [~~171.002(d)(1) or (d)(2)~~].

26 SECTION 6. Sections 171.1016(a) and (b), Tax Code, are
27 amended to read as follows:

1 (a) Notwithstanding any other provision of this chapter, a
2 taxable entity whose total revenue from its entire business is not
3 more than \$20 [~~\$10~~] million may elect to pay the tax imposed under
4 this chapter in the amount computed and at the rate provided by this
5 section rather than in the amount computed and at the tax rate
6 provided by Section 171.002.

7 (b) The amount of the tax for which a taxable entity that
8 elects to pay the tax as provided by this section is liable is
9 computed by:

10 (1) determining the taxable entity's total revenue
11 from its entire business, as determined under Section 171.1011;

12 (2) apportioning the amount computed under
13 Subdivision (1) to this state, as provided by Section 171.106, to
14 determine the taxable entity's apportioned total revenue; and

15 (3) multiplying the amount computed under Subdivision
16 (2) by the rate of 0.48 [~~0.575~~] percent.

17 SECTION 7. (a) Section 1(c), Chapter 286 (H.B. 4765), Acts
18 of the 81st Legislature, Regular Session, 2009, as amended by
19 Section 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st
20 Called Session, 2011, is repealed.

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

22 SECTION 8. (a) Section 2, Chapter 286 (H.B. 4765), Acts of
23 the 81st Legislature, Regular Session, 2009, as amended by Section
24 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
25 Session, 2011, and which amended former Subsection (d), Section
26 171.002, Tax Code, is repealed.

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

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

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

7 SECTION 10. Sections 171.0021, 171.1016(d), and
8 171.204(b), Tax Code, are repealed.

9 SECTION 11. This Act applies only to a report originally due
10 on or after January 1, 2014.

11 SECTION 12. Except as otherwise provided by this Act, this
12 Act takes effect January 1, 2014.