

By: Paxton, Patrick

S.B. No. 179

A BILL TO BE ENTITLED

AN ACT

relating to the phaseout and repeal of the franchise tax.

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

SECTION 1. (a) Effective January 1, 2014, Sections 171.002(a) and (b), Tax Code, are amended to read as follows:

(a) Subject to Sections 171.003 and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.75 [~~one~~] percent of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the rate of the franchise tax is 0.38 [~~0.5~~] percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

(b) This section applies only to a report originally due on or after January 1, 2014.

SECTION 2. (a) Effective January 1, 2015, Sections 171.002(a) and (b), Tax Code, are amended to read as follows:

(a) Subject to Sections 171.003 and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.50 [~~one~~] percent of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the rate of the franchise tax is 0.25 [~~0.5~~] percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

(b) This section applies only to a report originally due on or after January 1, 2015.

SECTION 3. (a) Effective January 1, 2016, Sections

1 171.002(a) and (b), Tax Code, are amended to read as follows:

2 (a) Subject to Sections 171.003 and 171.1016 and except as
3 provided by Subsection (b), the rate of the franchise tax is 0.25
4 [~~one~~] percent of taxable margin.

5 (b) Subject to Sections 171.003 and 171.1016, the rate of
6 the franchise tax is 0.13 [~~0.5~~] percent of taxable margin for those
7 taxable entities primarily engaged in retail or wholesale trade.

8 (b) This section applies only to a report originally due on
9 or after January 1, 2016.

10 SECTION 4. (a) Effective January 1, 2014, Section
11 171.1016(b), Tax Code, is amended to read as follows:

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

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

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

20 (3) multiplying the amount computed under Subdivision
21 (2) by the rate of 0.43 [~~0.575~~] percent.

22 (b) This section applies only to a report originally due on
23 or after January 1, 2014.

24 SECTION 5. (a) Effective January 1, 2015, Section
25 171.1016(b), Tax Code, is amended to read as follows:

26 (b) The amount of the tax for which a taxable entity that
27 elects to pay the tax as provided by this section is liable is

1 computed by:

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

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

7 (3) multiplying the amount computed under Subdivision
8 (2) by the rate of 0.29 [~~0.575~~] percent.

9 (b) This section applies only to a report originally due on
10 or after January 1, 2015.

11 SECTION 6. (a) Effective January 1, 2016, Section
12 171.1016(b), Tax Code, is amended to read as follows:

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

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

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

21 (3) multiplying the amount computed under Subdivision
22 (2) by the rate of 0.14 [~~0.575~~] percent.

23 (b) This section applies only to a report originally due on
24 or after January 1, 2016.

25 SECTION 7. Section 171.006(b), Tax Code, is amended to read
26 as follows:

27 (b) Beginning in 2010, on January 1 of each even-numbered

1 year, the amounts prescribed by Sections 171.002(d)(2) [~~7~~
2 ~~171.0021,~~] and 171.1013(c) are increased or decreased by an amount
3 equal to the amount prescribed by those sections on December 31 of
4 the preceding year multiplied by the percentage increase or
5 decrease during the preceding state fiscal biennium in the consumer
6 price index and rounded to the nearest \$10,000.

7 SECTION 8. Section 171.362(f), Tax Code, is amended to read
8 as follows:

9 (f) In addition to any other penalty authorized by this
10 section, a taxable entity that owes a tax for a reporting period and
11 ~~[who]~~ fails to file a report for the reporting period as required by
12 this chapter shall pay a penalty of \$50. The penalty provided by
13 this subsection is assessed without regard to whether the taxable
14 entity subsequently files the report ~~[or whether any taxes were due~~
15 ~~from the taxable entity for the reporting period under the required~~
16 ~~report]~~.

17 SECTION 9. Section 1(c), Chapter 286 (H.B. 4765), Acts of
18 the 81st Legislature, Regular Session, 2009, as amended by Section
19 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
20 Session, 2011, is repealed.

21 SECTION 10. Section 2, Chapter 286 (H.B. 4765), Acts of the
22 81st Legislature, Regular Session, 2009, as amended by Section
23 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
24 Session, 2011, and which amended former Subsection (d), Section
25 171.002, Tax Code, is repealed.

26 SECTION 11. Section 3, Chapter 286 (H.B. 4765), Acts of the
27 81st Legislature, Regular Session, 2009, as amended by Section

1 37.03, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
2 Session, 2011, and which amended former Subsection (a), Section
3 171.0021, Tax Code, is repealed.

4 SECTION 12. (a) Chapter 171, Tax Code, is repealed.

5 (b) A taxable entity that is subject to the franchise tax
6 imposed under Chapter 171, Tax Code, on December 31, 2016, shall
7 file a final franchise tax return and pay a transitional tax as
8 required by this subsection on or before May 15, 2017. The
9 transitional tax is equal to the tax the taxable entity would have
10 paid in 2017 under Chapter 171, Tax Code, if Chapter 171, Tax Code,
11 had not been repealed. The provisions of Chapter 171, Tax Code,
12 relating to the computation and payment of the franchise tax remain
13 in effect after the repeal of Chapter 171, Tax Code, by this section
14 for the purposes of computing and paying the transitional tax
15 required by this subsection.

16 (c) Chapter 171, Tax Code, and Subtitle B, Title 2, Tax
17 Code, continue to apply to audits, deficiencies, redeterminations,
18 and refunds of any tax due or collected under Chapter 171, including
19 the tax due as provided by Subsection (b) of this section, until
20 barred by limitations.

21 (d) The repeal of Chapter 171, Tax Code, does not affect:

22 (1) the status of a taxable entity that has had its
23 corporate privileges, certificate of authority, certificate of
24 organization, certificate of limited partnership, corporate
25 charter, or registration revoked, suit filed against it, or a
26 receiver appointed under Subchapter F, G, or H of that chapter;

27 (2) the ability of the comptroller, secretary of

1 state, or attorney general to take action against a taxable entity
2 under Subchapter F, G, or H of that chapter for actions that took
3 place before the repeal; or

4 (3) the right of a taxable entity to contest a
5 forfeiture, revocation, lawsuit, or appointment of a receiver under
6 Subchapter F, G, or H of that chapter.

7 (e) This section takes effect January 1, 2017.

8 SECTION 13. Sections 171.0021 and 171.1016(d), Tax Code,
9 are repealed.

10 SECTION 14. Except as otherwise provided by this Act, this
11 Act applies only to a report originally due on or after the
12 effective date of this Act.

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