

By: Keffer

H.B. No. 1974

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the use of certain surplus state revenue to phase out
3 the franchise tax.

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

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

7 (a) Subject to Sections 171.003, 171.007, and 171.1016 and
8 except as provided by Subsection (b), the rate of the franchise tax
9 is one percent of taxable margin.

10 (b) Subject to Sections 171.003, 171.007, and 171.1016, the
11 rate of the franchise tax is 0.5 percent of taxable margin for those
12 taxable entities primarily engaged in retail or wholesale trade.

13 SECTION 2. Subchapter A, Chapter 171, Tax Code, is amended
14 by adding Section 171.007 to read as follows:

15 Sec. 171.007. COMPTROLLER TAX RATE ADJUSTMENT. (a) On the
16 date the comptroller makes the transfer of any unencumbered
17 positive balance of general revenues from a preceding biennium to
18 the economic stabilization fund as described by Section 49-g(b),
19 Article III, Texas Constitution, the comptroller shall:

20 (1) identify an amount of money equal to 25 percent of
21 those unencumbered general revenues that are not transferred under
22 that subsection;

23 (2) estimate the amount of revenue attributable to the
24 tax imposed under this chapter that would be received by the

1 comptroller during the current state fiscal biennium if the tax
2 were imposed at the rates under Sections 171.002(a) and (b) and
3 Section 171.1016 in effect on the date the estimate is made; and

4 (3) subtract the amount of money identified under
5 Subdivision (1) from the amount of revenue estimated under
6 Subdivision (2).

7 (b) If the amount of money determined under Subsection
8 (a)(3) is greater than zero, the comptroller shall determine the
9 rates for purposes of Sections 171.002(a) and (b) and Section
10 171.1016 that, if applied beginning January 1 of the current state
11 fiscal biennium, are estimated to generate the amount of money
12 determined by the comptroller under that subsection for that
13 biennium. In determining the rates under this subsection, the
14 comptroller shall proportionally reduce the rates under Sections
15 171.002(a) and (b) and Section 171.1016 that are in effect on the
16 date the comptroller makes the determination.

17 (c) Not later than December 15 of each odd-numbered year,
18 the comptroller shall:

19 (1) adopt the adjusted tax rates determined under
20 Subsection (b);

21 (2) publish notice of the adjusted tax rates in the
22 Texas Register; and

23 (3) provide any other notice relating to the adjusted
24 tax rates that the comptroller considers appropriate.

25 (d) The adjusted tax rates adopted by the comptroller under
26 this section apply to a report originally due on or after January 1
27 of the even-numbered year following the date the rates are adopted.

1 (e) In the state fiscal year in which the amount of money
2 determined under Subsection (a)(3) is zero or less:

3 (1) this chapter expires as provided by Section
4 171.975; and

5 (2) not later than December 15 of that year the
6 comptroller shall:

7 (A) publish notice in the Texas Register that an
8 entity previously subject to the tax imposed under this chapter is
9 no longer required to file a report or pay the tax; and

10 (B) provide any other notice relating to the
11 expiration of the tax that the comptroller considers appropriate.

12 (f) An action taken by the comptroller under this section is
13 final and may not be appealed.

14 (g) The comptroller shall adopt rules to implement this
15 section.

16 SECTION 3. Sections 171.1016(b) and (e), Tax Code, are
17 amended to read as follows:

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

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

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

26 (3) multiplying the amount computed under Subdivision
27 (2) by the rate of 0.575 percent or, if applicable, the adjusted tax

1 rate adopted by the comptroller under Section 171.007.

2 (e) A reference in this chapter or other law to the rate of
3 the franchise tax means, as appropriate:

4 (1) ~~[7]~~ the rate under Section 171.002 or, for a
5 taxable entity that elects to pay the tax as provided by this
6 section, the rate under this section; or

7 (2) the adjusted rates under Section 171.007.

8 SECTION 4. Chapter 171, Tax Code, is amended by adding
9 Subchapter Z to read as follows:

10 SUBCHAPTER Z. EXPIRATION

11 Sec. 171.975. EXPIRATION. This chapter expires on December
12 31 of the year in which the amount of money determined by the
13 comptroller under Section 171.007(a)(3) is zero or less.

14 SECTION 5. (a) Chapter 171, Tax Code, and Subtitle B,
15 Title 2, Tax Code, continue to apply to audits, deficiencies,
16 redeterminations, and refunds of any tax due or collected under
17 Chapter 171 until barred by limitations.

18 (b) The expiration of Chapter 171, Tax Code, does not
19 affect:

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

25 (2) the ability of the comptroller of public accounts,
26 secretary of state, or attorney general to take action against a
27 taxable entity under Subchapter F, G, or H of that chapter for

1 actions that took place before the chapter expired; or

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

5 SECTION 6. Except as otherwise provided by this Act, this
6 Act takes effect September 1, 2015.