

By: Capriglione

H.B. No. 2942

A BILL TO BE ENTITLED

AN ACT

relating to passive entities for purposes of the franchise tax.

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

SECTION 1. Section 171.0003(a), Tax Code, is amended to read as follows:

(a) An entity is a passive entity only if:

(1) the entity is a general or limited partnership or a trust, other than a business trust; and

(2) during the period on which margin is based, the entity's federal gross income consists of at least 90 percent of the following income:

(A) dividends, interest, foreign currency exchange gain, periodic and nonperiodic payments with respect to notional principal contracts, option premiums, cash settlement or termination payments with respect to a financial instrument, and income from a limited liability company;

(B) distributive shares of partnership income to the extent that those distributive shares of income are greater than zero;

(C) net capital gain [~~capital gains~~] from the sale of real property, gains from the sale of commodities traded on a commodities exchange, and gains from the sale of securities; and

(D) royalties, bonuses, or delay rental income from mineral properties and income from other nonoperating mineral

1 interests [~~and~~

2 [~~(3) the entity does not receive more than 10 percent~~  
3 ~~of its federal gross income from conducting an active trade or~~  
4 ~~business].~~

5 SECTION 2. Sections 171.0003(a-1) and 171.0004, Tax Code,  
6 are repealed.

7 SECTION 3. This Act applies only to a report originally due  
8 on or after the effective date of this Act.

9 SECTION 4. This Act takes effect January 1, 2016.