

By: Perry

S.B. No. 138

A BILL TO BE ENTITLED

AN ACT

relating to the phaseout and repeal of the franchise tax; lowering the rates of the tax.

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

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

SECTION 2. (a) Effective January 1, 2017, 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, 2017.

1 SECTION 3. (a) Effective January 1, 2018, Sections
2 171.002(a) and (b), Tax Code, are amended to read as follows:

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

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

9 (b) This section applies only to a report originally due on
10 or after January 1, 2018.

11 SECTION 4. (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 0.43 [~~0.575~~] percent.

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

25 SECTION 5. (a) Effective January 1, 2017, Section
26 171.1016(b), Tax Code, is amended to read as follows:

27 (b) The amount of the tax for which a taxable entity that

1 elects to pay the tax as provided by this section is liable is
2 computed by:

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

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

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

10 (b) This section applies only to a report originally due on
11 or after January 1, 2017.

12 SECTION 6. (a) Effective January 1, 2018, Section
13 171.1016(b), Tax Code, is amended to read as follows:

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

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

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

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

24 (b) This section applies only to a report originally due on
25 or after January 1, 2018.

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

1 (f) In addition to any other penalty authorized by this
2 section, a taxable entity that owes a tax for a reporting period and
3 ~~[who]~~ fails to file a report for the reporting period as required by
4 this chapter shall pay a penalty of \$50. The penalty provided by
5 this subsection is assessed without regard to whether the taxable
6 entity subsequently files the report ~~[or whether any taxes were due~~
7 ~~from the taxable entity for the reporting period under the required~~
8 ~~report]~~.

9 SECTION 8. (a) Chapter 171, Tax Code, is repealed.

10 (b) A taxable entity that is subject to the franchise tax
11 imposed under Chapter 171, Tax Code, on December 31, 2018, shall
12 file a final franchise tax return and pay a transitional tax as
13 required by this subsection on or before May 15, 2019. The
14 transitional tax is equal to the tax the taxable entity would have
15 paid in 2019 under Chapter 171, Tax Code, if Chapter 171, Tax Code,
16 had not been repealed. The provisions of Chapter 171, Tax Code,
17 relating to the computation and payment of the franchise tax remain
18 in effect after the repeal of Chapter 171, Tax Code, by this section
19 for the purposes of computing and paying the transitional tax
20 required by this subsection.

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

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

27 (1) the status of a taxable entity that has had its

1 corporate privileges, certificate of authority, certificate of
2 organization, certificate of limited partnership, corporate
3 charter, or registration revoked, suit filed against it, or a
4 receiver appointed under Subchapter F, G, or H of that chapter;

5 (2) the ability of the comptroller, secretary of
6 state, or attorney general to take action against a taxable entity
7 under Subchapter F, G, or H of that chapter for actions that took
8 place before the repeal; or

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

12 (e) This section takes effect January 1, 2019.

13 SECTION 9. Except as otherwise provided by this Act, this
14 Act applies only to a report originally due on or after the
15 effective date of this Act.

16 SECTION 10. Except as otherwise provided by this Act, this
17 Act takes effect January 1, 2016.