

House Bill 32
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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

(a) Subject to Sections 171.003, 171.004, 171.007, 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, 171.004, 171.007, and 171.1016, the rate of the franchise tax is 0.375 ~~[0.5]~~ percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

SECTION 2. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.004 to read as follows:

Sec. 171.004. ADJUSTMENT OF TAX RATES. (a) Beginning in 2018, on January 1 of each even numbered year for which the comptroller's most recent certification estimate projects state tax collections not dedicated by the constitution will exceed the limit on appropriations in effect for the current biennium under Section 22(a), Article VIII, Texas Constitution:

(1) the rate of the franchise tax under Section 171.002(a) is adjusted by subtracting 0.15 from the rate in effect on December 31 of the previous year;

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SECTION 1. (a) TITLE. This Act shall be known as the Franchise Tax Repeal Act of 2015.

(b) PURPOSE AND FINDINGS. The legislature finds that the tax imposed by Texas Tax Code Chapter 171 has not provided sufficient reliability for property tax relief. It is the intent of the legislature to promote economic growth by repealing the franchise tax.

SECTION 2. 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 0.375 ~~[0.5]~~ percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

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(2) the rate of the franchise tax under Section 171.002(b) is adjusted by subtracting 0.075 from the rate in effect on December 31 of the previous year; and

(3) the rate of the franchise tax under Section 171.1016(b)(3) is adjusted by subtracting 0.0662 from the rate in effect on December 31 of the previous year.

(b) The tax rates determined under Subsection (a) apply to a report originally due on or after the date the determination is made.

(c) Notwithstanding Subsection (a), if an adjustment otherwise required by Subsection (a) would reduce a rate of the franchise tax to less than zero, the rate is instead reduced to zero.

(d) Notwithstanding any other law, if the rates of the franchise tax are reduced to zero under Subsection (a) or (c), a taxable entity does not owe any tax and is not required to file a report that would otherwise be originally due on or after the date the rates are reduced to zero.

(e) The comptroller shall make the determination required by Subsection (a) and may adopt rules related to making that determination. The comptroller shall publish the franchise tax rates determined under this section in the Texas Register and on the comptroller's Internet website not later than January 15 of each year.

(f) A determination by the comptroller under this section is final and may not be appealed.

SECTION 3. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.007 to read as follows:
Sec. 171.007. COMPTROLLER TAX RATE ADJUSTMENT. (a) On the date the comptroller makes the transfer of any unencumbered positive balance of general

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revenues from a preceding biennium to the economic stabilization fund as described by Section 49-g(b), Article III, Texas Constitution, the comptroller shall:

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

(2) estimate the amount of revenue attributable to the tax imposed under this chapter that would be received by the comptroller during the current state fiscal biennium if the tax were imposed at the rates under Sections 171.002(a) and (b) and Section 171.1016 in effect on the date the estimate is made; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Sections 171.1016(a), (b), and (e), Tax Code, are amended to read as follows:

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

(b) Subject to Section 171.004, the [~~The~~] amount of the tax for which a taxable entity that elects to pay the tax as provided by this section is liable is computed by:

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

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

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

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- (1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;
 - (2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and
 - (3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 [~~0.575~~] percent or, if applicable, the adjusted tax rate adopted by the comptroller under Section 171.007.
- (e) A reference in this chapter or other law to the rate of the franchise tax means, as appropriate:
- (1) [~~;~~] the rate under Section 171.002 or, for a taxable entity that elects to pay the tax as provided by this section, the rate under this section; or
 - (2) the adjusted rates under Section 171.007.

SECTION 5. Chapter 171, Tax Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. EXPIRATION

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

SECTION 6. (a) Chapter 171, Tax Code, and Subtitle B, Title 2, Tax Code, continue to apply to audits, deficiencies, redeterminations, and refunds of any tax due or collected under Chapter 171 until barred by limitations.

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

- (1) the status of a taxable entity that has had its corporate privileges, certificate of authority, certificate of organization, certificate of limited partnership, corporate charter, or

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- (1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;
- (2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and
- (3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 [~~0.575~~] percent.

No equivalent provision.

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registration revoked, suit filed against it, or a receiver appointed under Subchapter F, G, or H of that chapter;

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

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

SECTION 7. The comptroller of public accounts shall study and report to the legislature on the impact of this Act on the rate of the franchise tax and what further reductions in the rate of that tax may be made following a review of existing exemptions and credits from the franchise tax. The comptroller shall provide the report to the legislature not later than December 31, 2016.

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

No equivalent provision.

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

SENATE VERSION (CS)

No equivalent provision.

SECTION 4. Same as House version.

SECTION 5. The comptroller of public accounts shall conduct a comprehensive study, no later than September 30th, 2016, to identify the effects of economic growth on future state revenues. The results of the study shall be reported to the governor and the Legislative Budget Board. The report should identify revenue growth allocation options to promote efficiency and sustainability in meeting the revenue needs of this state, including revenues allocated by Tax Code 171.4011, upon repeal of the franchise tax.

SECTION 6. Same as House version.

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