

By: Murphy

H.B. No. 388

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, 2018, 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 0.60 [~~0.75~~] percent of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the rate of the franchise tax is 0.30 [~~0.375~~] 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, 2018.

SECTION 2. (a) Effective January 1, 2019, 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 0.45 [~~0.75~~] percent of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the rate of the franchise tax is 0.225 [~~0.375~~] percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

1 (b) This section applies only to a report originally due on
2 or after January 1, 2019.

3 SECTION 3. (a) Effective January 1, 2020, Sections
4 171.002(a) and (b), Tax Code, are amended to read as follows:

5 (a) Subject to Sections 171.003 and 171.1016 and except as
6 provided by Subsection (b), the rate of the franchise tax is 0.30
7 [~~0.75~~] percent of taxable margin.

8 (b) Subject to Sections 171.003 and 171.1016, the rate of
9 the franchise tax is 0.15 [~~0.375~~] percent of taxable margin for
10 those taxable entities primarily engaged in retail or wholesale
11 trade.

12 (b) This section applies only to a report originally due on
13 or after January 1, 2020.

14 SECTION 4. (a) Effective January 1, 2021, Sections
15 171.002(a) and (b), Tax Code, are amended to read as follows:

16 (a) Subject to Sections 171.003 and 171.1016 and except as
17 provided by Subsection (b), the rate of the franchise tax is 0.15
18 [~~0.75~~] percent of taxable margin.

19 (b) Subject to Sections 171.003 and 171.1016, the rate of
20 the franchise tax is 0.075 [~~0.375~~] percent of taxable margin for
21 those taxable entities primarily engaged in retail or wholesale
22 trade.

23 (b) This section applies only to a report originally due on
24 or after January 1, 2021.

25 SECTION 5. (a) Effective January 1, 2018, 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 0.265 [~~0.331~~] percent.

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

12 SECTION 6. (a) Effective January 1, 2019, 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 0.199 [~~0.331~~] percent.

24 (b) This section applies only to a report originally due on
25 or after January 1, 2019.

26 SECTION 7. (a) Effective January 1, 2020, Section
27 171.1016(b), Tax Code, is amended to read as follows:

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

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

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

9 (3) multiplying the amount computed under Subdivision
10 (2) by the rate of 0.132 [~~0.331~~] percent.

11 (b) This section applies only to a report originally due on
12 or after January 1, 2020.

13 SECTION 8. (a) Effective January 1, 2021, Section
14 171.1016(b), Tax Code, is amended to read as follows:

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

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

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

23 (3) multiplying the amount computed under Subdivision
24 (2) by the rate of 0.066 [~~0.331~~] percent.

25 (b) This section applies only to a report originally due on
26 or after January 1, 2021.

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

1 (b) A taxable entity that is subject to the franchise tax
2 imposed under Chapter 171, Tax Code, on December 31, 2021, shall
3 file a final franchise tax report and pay a transitional tax as
4 required by this subsection on or before May 15, 2022. The
5 transitional tax is equal to the tax the taxable entity would have
6 paid in 2022 under Chapter 171, Tax Code, if Chapter 171, Tax Code,
7 had not been repealed. The provisions of Chapter 171, Tax Code,
8 relating to the computation and payment of the franchise tax and the
9 filing of a franchise tax report that are in effect on December 31,
10 2021, remain in effect after the repeal of Chapter 171, Tax Code, by
11 this section for the purposes of computing and paying the
12 transitional tax and filing a franchise tax report as required by
13 this subsection.

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

19 (d) The repeal of Chapter 171, Tax Code, does not 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 repeal; 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 (e) This section takes effect January 1, 2022.

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

9 SECTION 11. Except as otherwise provided by this Act, this
10 Act takes effect January 1, 2018.