

By: Schofield

H.B. No. 599

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the decrease of the rates of the franchise tax under
3 certain circumstances and the expiration of that 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, 171.004, and 171.1016 and
8 except as provided by Subsection (b), the rate of the franchise tax
9 is 0.75 percent of taxable margin.

10 (b) Subject to Sections 171.003, 171.004, and 171.1016, the
11 rate of the franchise tax is 0.375 percent of taxable margin for
12 those taxable entities primarily engaged in retail or wholesale
13 trade.

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

16 Sec. 171.004. ADJUSTMENT OF TAX RATES. (a) Beginning in
17 2018, on January 1 of each even-numbered year occurring during a
18 state fiscal biennium for which the comptroller's certification
19 revenue estimate projects that the percent change from the previous
20 state fiscal biennium in total general revenue-related funds
21 available for certification will be at least six percent:

22 (1) the rate of the franchise tax under Section
23 171.002(a) is adjusted by subtracting 0.25 from the rate in effect
24 on December 31 of the previous year;

1 (2) the rate of the franchise tax under Section
2 171.002(b) is adjusted by subtracting 0.125 from the rate in effect
3 on December 31 of the previous year; and

4 (3) the rate of the franchise tax under Section
5 171.1016(b)(3) is adjusted by subtracting 0.111 from the rate in
6 effect on December 31 of the previous year.

7 (b) The tax rates determined under Subsection (a):

8 (1) apply to a report originally due on or after
9 January 1 of the even-numbered year described by Subsection (a);
10 and

11 (2) are considered for purposes of this chapter to be
12 the rates provided by and imposed under Section 171.002 or
13 171.1016, as applicable.

14 (c) If in an even-numbered year the comptroller determines
15 that the condition under Subsection (a) has not been met for the
16 state fiscal biennium during which that year occurs, the rates of
17 the franchise tax in effect on December 31 of the previous year
18 remain in effect until at least January 1 of the next even-numbered
19 year.

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

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

1 those rates are reduced to zero.

2 (f) The comptroller shall determine whether the condition
3 under Subsection (a) is met and determine the applicable franchise
4 tax rates under this section. The comptroller may adopt rules
5 related to making those determinations. The comptroller shall
6 publish the franchise tax rates in effect for a year in the Texas
7 Register and on the comptroller's Internet website not later than
8 January 15 of that year.

9 (g) In the state fiscal year in which the rates of the
10 franchise tax are reduced to zero under Subsection (a) or (d):

11 (1) this chapter expires as provided by Section
12 171.9321; and

13 (2) not later than January 15 of that year the
14 comptroller shall:

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

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

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

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

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

27 (1) determining the taxable entity's total revenue

1 from its entire business, as determined under Section 171.1011;

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

5 (3) multiplying the amount computed under Subdivision
6 (2) by the rate of 0.331 percent or, if applicable, an adjusted tax
7 rate determined under Section 171.004.

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

10 (1) [~~r~~] the rate under Section 171.002 or, for a
11 taxable entity that elects to pay the tax as provided by this
12 section, the rate under this section; or

13 (2) the adjusted rates under Section 171.004.

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

16 SUBCHAPTER Z. EXPIRATION

17 Sec. 171.9321. EXPIRATION. This chapter expires on
18 December 31 of the year in which the rates of the franchise tax
19 under Sections 171.002 and 171.1016 are reduced to zero under
20 Section 171.004(a) or (d).

21 SECTION 5. (a) After Chapter 171, Tax Code, expires as
22 provided by Subchapter Z, Chapter 171, Tax Code, as added by this
23 Act, Chapter 171 and Subtitle B, Title 2, Tax Code, continue to
24 apply to audits, deficiencies, redeterminations, and refunds of any
25 tax due or collected under Chapter 171 until barred by limitations.

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

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

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

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

13 SECTION 6. This Act applies only to a report originally due
14 on or after January 1, 2018.

15 SECTION 7. This Act takes effect September 1, 2017.