

By: Dale

H.B. No. 803

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a temporary exemption from the sales and use tax and the  
3 franchise tax for certain businesses engaged in space flight  
4 activities.

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

6 SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended  
7 by adding Section 151.362 to read as follows:

8 Sec. 151.362. TAXABLE ITEMS USED BY BUSINESSES ENGAGED IN  
9 SPACE FLIGHT ACTIVITIES; TEMPORARY EXEMPTION. (a) In this  
10 section:

11 (1) "Qualifying business entity" means a person who is  
12 a business that is:

13 (A) primarily engaged in space flight  
14 activities; and

15 (B) first located and begins doing business in  
16 this state on or after January 1, 2018.

17 (2) "Space flight activities" has the meaning assigned  
18 by Section 100A.001, Civil Practice and Remedies Code.

19 (b) The sale to or storage, use, or other consumption by a  
20 qualifying business entity of a taxable item that will be directly  
21 used or consumed by the entity is exempted from the taxes imposed by  
22 this chapter.

23 (c) To claim an exemption under this section, a registration  
24 number issued by the comptroller must be stated on the exemption

1 certificate provided by the purchaser of the item.

2 (d) Subject to Subsection (e), a person may apply to the  
3 comptroller for issuance of a registration number by the  
4 comptroller. The application must be made on a form prescribed by  
5 the comptroller and include the information required by the  
6 comptroller to establish that the person is a qualifying business  
7 entity.

8 (e) A person who meets the requirements of a qualifying  
9 business entity must apply for a registration number not later than  
10 the first anniversary of the date the person begins doing business  
11 in this state. The comptroller shall deny an application received  
12 after that date.

13 (f) A registration number issued under this section expires  
14 on the 10th anniversary of the date of issuance, unless revoked at  
15 an earlier time by the comptroller as provided by Subsection (g).  
16 The registration number may not be renewed.

17 (g) The comptroller shall revoke and may not reinstate a  
18 registration number issued to a person if the person ceases to meet  
19 the requirements of a qualifying business entity. A person whose  
20 registration number is revoked is liable for payment of the taxes  
21 imposed under this chapter on the sales price of each taxable item  
22 for which the person claimed an exemption under this section on or  
23 after the date the registration number was revoked.

24 (h) The comptroller shall adopt rules necessary to  
25 implement this section, including rules relating to the:

26 (1) qualification of a person for an exemption under  
27 this section;

1           (2) issuance and revocation of a registration number  
2 issued under this section; and

3           (3) reporting and other procedures necessary to ensure  
4 that a person to whom a registration number is issued under this  
5 section complies with this section and remains entitled to the  
6 exemption authorized by this section.

7           SECTION 2. Section 171.0001(4), Tax Code, as effective  
8 until January 1, 2020, is amended to read as follows:

9           (4) "Beginning date" means:

10           (A) except as provided by Paragraph (B) or (C):

11           (i) for a taxable entity chartered or  
12 organized in this state, the date on which the taxable entity's  
13 charter or organization takes effect; and

14           (ii) for any other taxable entity, the date  
15 on which the taxable entity begins doing business in this state;  
16 [~~or~~]

17           (B) for a taxable entity that qualifies as a new  
18 veteran-owned business as defined by Section 171.0005, the earlier  
19 of:

20           (i) the fifth anniversary of the date on  
21 which the taxable entity begins doing business in this state; or

22           (ii) the date the taxable entity ceases to  
23 qualify as a new veteran-owned business as defined by Section  
24 171.0005; or

25           (C) for a taxable entity that meets the  
26 requirements of a qualifying business entity under Section 151.362,  
27 the earlier of:

1                   (i) the 10th anniversary of the date on  
2 which the taxable entity begins doing business in this state; or

3                   (ii) the date the taxable entity ceases to  
4 comply with the requirements of a qualifying business entity under  
5 that section.

6           SECTION 3. Section 171.0001(4), Tax Code, as effective  
7 January 1, 2020, is amended to read as follows:

8                   (4) "Beginning date" means:

9                           (A) except as provided by Paragraph (B):

10                               (i) for a taxable entity chartered or  
11 organized in this state, the date on which the taxable entity's  
12 charter or organization takes effect; and

13                               (ii) [~~(B)~~] for any other taxable entity,  
14 the date on which the taxable entity begins doing business in this  
15 state; or

16                               (B) for a taxable entity that meets the  
17 requirements of a qualifying business entity under Section 151.362,  
18 the earlier of:

19                                       (i) the 10th anniversary of the date on  
20 which the taxable entity begins doing business in this state; or

21                                       (ii) the date the taxable entity ceases to  
22 comply with the requirements of a qualifying business entity under  
23 that section.

24           SECTION 4. Section 171.001, Tax Code, is amended by adding  
25 Subsection (e) to read as follows:

26                   (e) Notwithstanding Subsection (a), the tax imposed under  
27 this chapter is not imposed on a taxable entity that meets the

1 requirements of a qualifying business entity under Section 151.362  
2 until the earlier of:

3 (1) the 10th anniversary of the date on which the  
4 taxable entity begins doing business in this state; or

5 (2) the date the taxable entity ceases to comply with  
6 the requirements of a qualifying business entity under that  
7 section.

8 SECTION 5. Section 171.063(g), Tax Code, as effective until  
9 January 1, 2020, is amended to read as follows:

10 (g) If a corporation's federal tax exemption is withdrawn by  
11 the Internal Revenue Service for failure of the corporation to  
12 qualify or maintain its qualification for the exemption, the  
13 corporation's exemption under this section ends on the effective  
14 date of that withdrawal by the Internal Revenue Service. The  
15 effective date of the withdrawal is considered the corporation's  
16 beginning date for purposes of determining the corporation's  
17 privilege periods and for all other purposes of this chapter,  
18 except that if the corporation would have been subject to Section  
19 171.001(d) or (e) in the absence of the federal tax exemption, and  
20 the effective date of the withdrawal is a date earlier than the date  
21 the corporation would have become subject to the franchise tax as  
22 provided by Section 171.001(d) or (e), as applicable, the date the  
23 corporation would have become subject to the franchise tax under  
24 Section 171.001(d) or (e) [~~that section~~] is considered the  
25 corporation's beginning date for those purposes.

26 SECTION 6. Section 171.063(g), Tax Code, as effective  
27 January 1, 2020, is amended to read as follows:

1 (g) If a corporation's federal tax exemption is withdrawn by  
2 the Internal Revenue Service for failure of the corporation to  
3 qualify or maintain its qualification for the exemption, the  
4 corporation's exemption under this section ends on the effective  
5 date of that withdrawal by the Internal Revenue Service. The  
6 effective date of the withdrawal is considered the corporation's  
7 beginning date for purposes of determining the corporation's  
8 privilege periods and for all other purposes of this chapter,  
9 except that if the corporation would have been subject to Section  
10 171.001(e) in the absence of the federal tax exemption, and the  
11 effective date of the withdrawal is a date earlier than the date the  
12 corporation would have become subject to the franchise tax as  
13 provided by Section 171.001(e), the date the corporation would have  
14 become subject to the franchise tax under that section is  
15 considered the corporation's beginning date for those purposes.

16 SECTION 7. Section 171.204, Tax Code, is amended by adding  
17 Subsection (e) to read as follows:

18 (e) The comptroller may require a taxable entity on which  
19 the tax imposed under this chapter is not imposed solely because of  
20 the application of Section 171.001(e) to file an information report  
21 stating the taxable entity's beginning date as determined under  
22 Section 171.0001 and any other information the comptroller  
23 determines necessary. The comptroller may not require the taxable  
24 entity to report or compute its margin.

25 SECTION 8. Not later than December 1, 2017, the comptroller  
26 of public accounts shall adopt rules as required by Section  
27 151.362(h), Tax Code, as added by this Act.

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1           SECTION 9. Except as otherwise provided by this Act, this  
2 Act takes effect September 1, 2017.