

By: Nelson

S.B. No. 17

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) In this section:

17 (1) "Biennial revenue estimate" means the estimate of  
18 anticipated revenue to this state for the succeeding biennium that  
19 the comptroller prepares in accordance with Section 49a(a), Article  
20 III, Texas Constitution.

21 (2) "Current biennium" means the state fiscal biennium  
22 in which a biennial revenue estimate is submitted to the governor  
23 and legislature.

24 (3) "Succeeding biennium" means the state fiscal

1 biennium beginning after the current biennium.

2 (b) The comptroller shall determine and include with the  
3 biennial revenue estimate the percentage change from the current  
4 biennium to the succeeding biennium in total general  
5 revenue-related funds available for certification.

6 (c) If the percentage change determined under Subsection  
7 (b) is greater than five percent, the comptroller shall determine  
8 the amount of revenue available for franchise tax reduction, which  
9 is computed as follows:

$$10 \quad \text{FTR} = 0.5 \times (\text{SBGR} - (\text{CBGR} \times 1.05))$$

11 where:

12 "FTR" is the amount of revenue available for franchise tax  
13 reduction;

14 "SBGR" is the amount of total general revenue-related funds  
15 available for certification for the succeeding biennium, as  
16 provided by the biennial revenue estimate; and

17 "CBGR" is the amount of total general revenue-related funds  
18 available for certification for the current biennium, as provided  
19 by the biennial revenue estimate.

20 (d) This subsection applies only if the percentage change  
21 determined under Subsection (b) is greater than five percent. Not  
22 later than the last day of a state fiscal biennium, the comptroller  
23 shall determine the rates for purposes of Sections 171.002(a) and  
24 (b) and Section 171.1016 that, if effective beginning January 1 of  
25 the even-numbered year occurring during the succeeding biennium,  
26 are estimated to reduce the amount of revenue collected under this  
27 chapter for the succeeding biennium, as compared to the amount of

1 revenue that would be collected if the rates then in effect remained  
2 in effect, by the amount of revenue available for franchise tax  
3 reduction determined under Subsection (c). In determining the  
4 rates under this subsection, the comptroller shall proportionally  
5 reduce the rates under Sections 171.002(a) and (b) and Section  
6 171.1016 that are in effect on the date the comptroller makes the  
7 determination.

8 (e) Not later than the last day of a state fiscal biennium,  
9 the comptroller shall:

10 (1) adopt the adjusted tax rates determined under  
11 Subsection (d), if applicable;

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

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

16 (f) The tax rates adopted under Subsection (e):

17 (1) apply to a report originally due on or after  
18 January 1 of the even-numbered year described by Subsection (d);  
19 and

20 (2) are considered for purposes of this chapter to be  
21 the rates provided by and imposed under Section 171.002 or  
22 171.1016, as applicable.

23 (g) If the percentage change determined under Subsection  
24 (b) is not greater than five percent, the rates of the franchise tax  
25 in effect when the biennial revenue estimate is submitted to the  
26 governor and legislature remain in effect for the succeeding  
27 biennium unless modified by other law.

1       (h) Notwithstanding Subsection (d), if an adjustment  
2 otherwise required by that subsection would reduce a rate of the  
3 franchise tax to less than zero, the rate is instead reduced to  
4 zero.

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

10       (j) The comptroller may adopt rules related to making the  
11 determinations required by this section.

12       (k) In the state fiscal year in which the rates of the  
13 franchise tax are reduced to zero under Subsection (d) or (h):

14               (1) this chapter expires as provided by Section  
15 171.9321; and

16               (2) not later than January 15 of that year the  
17 comptroller shall:

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

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

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

25       SECTION 3. Sections 171.1016(b) and (e), Tax Code, are  
26 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 0.331 percent or, if applicable, an adjusted tax  
10 rate determined under Section 171.004.

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

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

16 (2) the adjusted rates under Section 171.004.

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

19 SUBCHAPTER Z. EXPIRATION

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

24 SECTION 5. (a) After Chapter 171, Tax Code, expires as  
25 provided by Subchapter Z, Chapter 171, Tax Code, as added by this  
26 Act, Chapter 171 and Subtitle B, Title 2, Tax Code, continue to  
27 apply to audits, deficiencies, redeterminations, and refunds of any

1 tax due or collected under Chapter 171 until barred by limitations.

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

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

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

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

16 SECTION 6. This Act applies only to a report originally due  
17 on or after January 1, 2020.

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