

By: Huffines

S.B. No. 112

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  
17 section, "maximum general revenue fund appropriations" means for a  
18 state fiscal biennium the sum of:

19 (1) the maximum amount of state tax revenues not  
20 dedicated by the constitution that may be appropriated under  
21 Sections 22(a) and (c), Article VIII, Texas Constitution, for that  
22 biennium; and

23 (2) the estimated amount of anticipated revenue to be  
24 deposited to the credit of the general revenue fund during that

1 biennium that is not subject to the limit on appropriations under  
2 Section 22(a), Article VIII, Texas Constitution, as specified in  
3 the estimate prepared by the comptroller as required by Section  
4 49a(a), Article III, Texas Constitution.

5 (b) Beginning in 2020, on January 1 of each year if the  
6 comptroller determines that the maximum general revenue fund  
7 appropriations for the state fiscal biennium during which that date  
8 occurs is at least \$110 billion:

9 (1) the rate of the franchise tax under Section  
10 171.002(a) is adjusted by subtracting 0.15 from the rate in effect  
11 on December 31 of the previous year; and

12 (2) the rate of the franchise tax under Section  
13 171.002(b) is adjusted by subtracting 0.075 from the rate in effect  
14 on December 31 of the previous year.

15 (c) The tax rates determined under Subsection (b):

16 (1) apply to a report originally due on or after the  
17 date the determination is made; and

18 (2) are considered for purposes of this chapter to be  
19 the rates provided by and imposed under Section 171.002.

20 (d) Notwithstanding Subsection (b), if an adjustment  
21 otherwise required by Subsection (b) 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 (b) 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 the rates are reduced to zero.

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

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

10 (1) this chapter expires as provided by Section  
11 171.9121; and

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

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

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

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

21 SECTION 3. Chapter 171, Tax Code, is amended by adding  
22 Subchapter Z to read as follows:

23 SUBCHAPTER Z. EXPIRATION

24 Sec. 171.9121. EXPIRATION. This chapter expires on  
25 December 31 of the year in which the rates of the franchise tax are  
26 reduced to zero under Section 171.004(b) or (d).

27 SECTION 4. (a) Chapter 171, Tax Code, and Subtitle B,

1 Title 2, Tax Code, continue to apply to audits, deficiencies,  
2 redeterminations, and refunds of any tax due or collected under  
3 Chapter 171 until barred by limitations.

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

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

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

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

18 SECTION 5. This Act applies only to a report originally due  
19 on or after January 1, 2020.

20 SECTION 6. This Act takes effect January 1, 2018.