

By: Morrison

H.B. No. 2611

Substitute the following for H.B. No. 2611:

By: Bohac

C.S.H.B. No. 2611

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the treatment of certain limited liability companies as
3 passive entities for purposes of the franchise tax.

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

5 SECTION 1. Section 171.0003(a), Tax Code, is amended to
6 read as follows:

7 (a) An entity is a passive entity only if:

8 (1) the entity is a general or limited partnership, a
9 limited liability company, or a trust, other than a business trust;

10 (2) during the period on which margin is based, the
11 entity's federal gross income consists of at least 90 percent of the
12 following income:

13 (A) dividends, interest, foreign currency
14 exchange gain, periodic and nonperiodic payments with respect to
15 notional principal contracts, option premiums, cash settlement or
16 termination payments with respect to a financial instrument, and
17 income from a limited liability company;

18 (B) distributive shares of partnership income to
19 the extent that those distributive shares of income are greater
20 than zero;

21 (C) capital gains from the sale of real property,
22 gains from the sale of commodities traded on a commodities
23 exchange, and gains from the sale of securities; and

24 (D) royalties, bonuses, or delay rental income

1 from mineral properties and income from other nonoperating mineral
2 interests; and

3 (3) the entity does not receive more than 10 percent of
4 its federal gross income from conducting an active trade or
5 business.

6 SECTION 2. This Act applies only to a report originally due
7 on or after the effective date of this Act.

8 SECTION 3. This Act takes effect January 1, 2020.