

By: Morrison

H.B. No. 2704

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

(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, 2022.