

By: Parker, et al.

S.B. No. 5

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from ad valorem taxation of a portion of the appraised value of tangible personal property a person owns that is held or used for the production of income and a franchise tax credit for the payment of certain related ad valorem taxes.

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

ARTICLE 1. INCOME-PRODUCING TANGIBLE PERSONAL PROPERTY AD VALOREM
TAX EXEMPTION

SECTION 1.01. The heading to Section 11.145, Tax Code, is amended to read as follows:

Sec. 11.145. INCOME-PRODUCING TANGIBLE PERSONAL PROPERTY
~~[HAVING VALUE OF LESS THAN \$2,500].~~

SECTION 1.02. Section 11.145(a), Tax Code, is amended to read as follows:

(a) A person is entitled to an exemption from taxation of \$25,000 of the appraised value of tangible personal property the person owns that is held or used for the production of income ~~[if that property has a taxable value of less than \$2,500].~~

SECTION 1.03. Section 22.01, Tax Code, is amended by adding Subsection (j-1) to read as follows:

(j-1) A person is required to render tangible personal property the person owns that is held or used for the production of income only if, in the person's opinion, the aggregate market value of the property in at least one taxing unit that participates in the

1 appraisal district is greater than the amount exempted under
2 Section 11.145(a). A person required to render property for
3 taxation under this subsection must render all tangible personal
4 property the person owns that is held or used for the production of
5 income and has taxable situs in the appraisal district. This
6 subsection does not apply to property exempt from taxation under a
7 provision of law other than Section 11.145.

8 SECTION 1.04. This article applies only to ad valorem taxes
9 imposed for a tax year that begins on or after the effective date of
10 this article.

11 SECTION 1.05. This article takes effect January 1, 2024,
12 but only if the constitutional amendment proposed by the 88th
13 Legislature, Regular Session, 2023, to authorize the legislature to
14 exempt from ad valorem taxation a portion of the market value of
15 tangible personal property a person owns that is held or used for
16 the production of income is approved by the voters. If that
17 amendment is not approved by the voters, this article has no effect.

18 ARTICLE 2. FRANCHISE TAX CREDIT FOR INVENTORY AD VALOREM TAX
19 LIABILITY

20 SECTION 2.01. Chapter 171, Tax Code, is amended by adding
21 Subchapter N to read as follows:

22 SUBCHAPTER N. TAX CREDIT FOR INVENTORY TAX LIABILITY

23 Sec. 171.701. DEFINITION. In this subchapter, "inventory"
24 means:

25 (1) a finished good held for sale or resale,

26 including:

27 (A) a dealer's motor vehicle inventory, as

1 defined by Section 23.121;

2 (B) a dealer's vessel and outboard motor
3 inventory, as defined by Section 23.124;

4 (C) a dealer's heavy equipment inventory, as
5 defined by Section 23.1241; or

6 (D) retail manufactured housing inventory, as
7 defined by Section 23.127;

8 (2) a raw or finished material held to be incorporated
9 into or attached to tangible personal property to create a finished
10 good; or

11 (3) residential real property inventory described by
12 Section 23.12(a).

13 Sec. 171.702. ELIGIBILITY FOR CREDIT. A taxable entity is
14 entitled to a credit in the amount and under the conditions provided
15 by this subchapter against the tax imposed under this chapter.

16 Sec. 171.703. AMOUNT OF CREDIT; LIMITATIONS. (a) Subject
17 to Subsections (b) and (c), the amount of a taxable entity's credit
18 for a report is equal to 20 percent of the amount of ad valorem taxes
19 paid by the entity during the period on which the report is based
20 that are derived from the taxable value of the inventory owned by
21 the entity and located in this state.

22 (b) The total credit claimed on a report, including the
23 amount of any carryforward under Section 171.704, may not exceed 20
24 percent of the amount of franchise tax due for the report after
25 applying all other applicable credits.

26 (c) The total amount of credits that may be awarded under
27 Subsection (a) in a state fiscal year may not exceed \$400 million.

1 (d) The comptroller by rule shall prescribe procedures by
2 which the comptroller will allocate the amount of credits available
3 under Subsection (c). The procedures must provide that credits are
4 allocated to taxable entities on a first-come, first-served basis,
5 based on the date the entity applies for the credit.

6 Sec. 171.704. CARRYFORWARD. (a) If a taxable entity is
7 eligible for a credit that exceeds the limitation under Section
8 171.703(b), the entity may carry the unused credit forward for not
9 more than five consecutive reports.

10 (b) A carryforward is considered the remaining portion of a
11 credit that cannot be claimed in the current year because of the
12 limitation under Section 171.703(b).

13 (c) Credits, including a carryforward, are considered to be
14 used in the following order:

- 15 (1) a carryforward under this subchapter; and
16 (2) a current year credit.

17 Sec. 171.705. APPLICATION FOR CREDIT. (a) A taxable entity
18 must apply for the credit under this subchapter on or with the
19 report for the period for which the credit is claimed.

20 (b) The comptroller shall prescribe the form and method for
21 applying for a credit under this subchapter. A taxable entity must
22 use the form in applying for the credit.

23 (c) The comptroller may require the taxable entity to
24 include any other information the comptroller determines is
25 necessary to demonstrate:

- 26 (1) whether the entity is eligible for the credit; and
27 (2) the amount of the credit.

1 (d) The burden of establishing eligibility for and the
2 amount of the credit is on the taxable entity.

3 (e) The comptroller may request permission to examine the
4 books and records of a taxable entity as necessary to determine
5 whether the entity is entitled to a credit under this subchapter and
6 the amount of the credit. The comptroller may disallow the credit
7 if the taxable entity refuses to allow the comptroller to examine
8 the books and records.

9 Sec. 171.706. SALE OR ASSIGNMENT PROHIBITED. A taxable
10 entity that earns a credit under this subchapter may not sell or
11 assign any part of the credit.

12 Sec. 171.707. RULES. The comptroller shall adopt rules as
13 necessary to implement and administer this subchapter.

14 SECTION 2.02. Subchapter N, Chapter 171, Tax Code, as added
15 by this article, applies only to a report originally due on or after
16 the effective date of this article.

17 SECTION 2.03. This article takes effect January 1, 2024.