

BILL ANALYSIS

Senate Research Center
85R32 ADM-D

S.B. 142
By: Taylor, Van
Finance
2/23/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' franchise tax was amended in 2006 to allow businesses to use one of three methods for calculating their taxable margin. Those methods include: determining 70 percent of the entity's total business revenues; subtracting the amount of compensation paid from the entity's total revenues; or subtracting the cost of goods sold from the entity's total revenues. Businesses with gross receipts of \$1 million or less are exempt from the franchise tax.

Interested parties observe that the methods prescribed for determining a taxable margin using the cost of goods sold basis is unnecessarily complex and time consuming. These parties further observe that calculating franchise taxes using the cost of goods sold method oftentimes requires greater effort than determining the cost of goods sold reportable for federal income tax purposes. In some instances, the compliance costs for determining the taxable margin using the cost of goods sold basis equals or exceeds the amount of franchise tax due.

S.B. 142 proposes to provide Texas businesses using the cost of goods sold basis for determining their taxable margin with a choice on how to determine that basis. As introduced, the bill allows businesses to use the existing method or, in the alternative, use those cost of goods sold figures reportable for federal income tax purposes. Interested parties observe that the federal method for calculating cost of goods sold is less time consuming and complicated than Texas' requirements. Providing businesses with the option to use a simpler method for computing the cost of goods sold would help lower entities' compliance costs for determining their taxable margin using this method.

As proposed, S.B. 142 amends current law relating to the determination of cost of goods sold for purposes of computing the franchise tax.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 3 (Section 171.10121, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.101(a), Tax Code, to include Section 171.10121, which is added by this Act, as one of the sections used in determining the cost of goods sold in order to compute the taxable margin of a taxable entity.

SECTION 2. Amends Section 171.1011(v), Tax Code, to make a conforming change.

SECTION 3. Amends Subchapter C, Chapter 171, Tax Code, by adding Section 171.10121, as follows:

Sec. 171.10121. ALTERNATIVE DETERMINATION OF COST OF GOODS SOLD. Authorizes a taxable entity that elects to subtract cost of goods sold for the purpose of computing its taxable margin, in lieu of determining cost of goods sold as provided by Section 171.1012 (Determination of Cost of Goods Sold) and subject to Section 171.1014 (Combined Reporting; Affiliated Group Engaged in Unitary Business), to determine the amount of that cost of goods sold in a certain manner.

SECTION 4. Amends Section 171.1014, Tax Code, by amending Subsection (e) and adding Subsection (e-1), as follows:

(e) Requires a combined group that elects to subtract costs of goods sold to determine that amount, among certain other factors, by determining the cost of goods sold for each of its members as provided by Section 171.1012 or 171.10121 as if the member were an individual taxable entity.

(e-1) Authorizes each member of a combined group, for purposes of Subsection (e), to elect to determine its cost of goods sold under either Section 171.1012 or 171.10121.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: January 1, 2018.