Texas franchise tax report 2018 instructions

To properly file the Texas franchise tax report, you'll need to complete these steps: Determine expiration date and filing fees. Complete the online report or download a paper form. Submit your report to the Texas Comptroller of Public Accounts. Texas Franchise Tax Report Expiration Dates and Fees The tax rate for your Texas Franchise Tax Report will be determined by your company's total revenue and/or the type of business you own. Most companies don't owe taxes - YAY! However, you will still be required to file a tax return. The chart below breaks down the tax rates and modules you need into an easy-to-read guide. Business Type Total Revenue Tax Tax Form All companies $1,180,000 or less No tax due Texas Franchise Tax No Tax Due Report (05-163) All companies over $1.1.y 180,000 but less than $20 million 0.331% of your total revenue EZ calculation ratio (05-169) retail or wholesale above $2 0.375% Of Total Texas Franchise Tax Report Revenue (05-158-A) - Long-form companies other than retail or wholesale Over $20 million 0.75% of total Texas Franchise Tax Report (05-158-A) - Long form Regardless of form that files, texas franchise tax report is scheduled for May 15 each year. The report can be archived online or with a paper form. Online filings will be charged a $1 service fee. Archive late? Texas will charge a $50 penalty for all reports filed late. If your tax payment is 1-30 days late, you will be charged 5% of the total tax due. If your tax payment is more than 30 days late, you will be charged an additional 10% of the total tax due. Deposit of the Annual Texas Franchise Tax Report The Annual Texas Franchise Tax Report can be sent online or by mail. Either way, you'll need to visit the Texas Comptroller website. On the status website, go to the Franchising Setup page. If you want to present files online, click Webfile eSystems Login. If you want to present a file by mail, click Forms. For online files: Enter your username and password. You can create an account by clicking Sign up. After you are successfully logged in, click WebFile/Pay taxes and fees. Enter your 11-digit Texas taxpayer number. Then, click continue. If you need to find your taxpayer number, you can find it by searching the Texas Comptroller Business Database. Under the title Available Taxes/Fees, click Set Franchise. You will then be prompted to enter the web file number. This number will be listed on all correspondence that the controller sends to the agent registered in Texas. It will start with the letters XT followed by six numbers. Or, you can call the Texas Comptroller (1-800-442-3453) to get your number. Select Accept on the Access Disclaimer page, and you'll start the archiving process immediately. For files by mail: Under the title Downloadable Report Forms, click the link for the year for which you want to submit. The current year will be listed first. Click the PDF for the appropriate tax return. Here is a list of information that to be included in the texas franchise tax report: corporate taxpayer number. Reference year and expiration date. The name of the company and postal address. Texas Secretary of State file number. You can find this number by searching the Texas Comptroller Business Database. It will be listed under the title Texas SOS File Number. The start and end date of the fiscal year. Standard Industrial Classification (SIC) code and North American Industry Classification System (NAICS) code. Both codes are used by the United States to classify companies by their industry. Tax information. The rest of the form will be used to calculate the total franchise tax due. You'll need to know the total revenue for the previous fiscal year. If you store online, you can pay all taxes due with a credit card or electronic check. Online payments also result in an additional service fee of $1. If you choose to archive by mail, you must include a Texas franchise tax payment form and a check or return payment order that can be paid to Texas Comptroller. You must also write the taxpayer number and the year the entity is declared on the check. Rather not face the hassle of depositing? Or worried you're going to forget to introduce? Avoid incurring late fees and penalties when hiring northwest registered agents to submit your annual Texas franchise fee for you. In 2006, a special legislative session ordered by the Texas governor approved House Bill 3 (2006 TX H.B. 3), also known as a revised franchise tax or margin tax, which made radical changes to the corporate tax structure in Texas. A current evolution of state tax is the introduction of gross income or a modified gross income tax instead of net income tax. For example, Ohio, Kentucky and New Jersey have all enacted some form of gross income tax this decade. Joining this select crowd, Texas changed its old franchise tax, which was based on the capital or surplus earned of limited liability companies and companies (LLCs) conducting business in Texas. Under the new law, franchising tax is based on a taxpayer's margin, which is calculated as total revenue minus the largest number of three deductions, as voted by the taxpayer on an annual basis (tax code TX §171.101(d)). The three deductions are the cost of the goods sold, the compensation and benefits and 30% of the revenue (the margin may not exceed 70% of the total revenue) (tax code TX §171.101(a)(1)). In addition, taxable persons include not only companies and LLCs, but in general any entity with limited liability protection. Also introduced for the first time in Texas is the idea of a unitary, something very foreign to Texans. The only things that haven't changed are the tax expiration date, May 15 each year, and the rules of the tax accounting period. Incredibly, H.B. 3 was approved by both the Texas House and Senate on its first draft. However, the passed law caused confusion and introduced contradictory language into the statutes. The legislature in its next normal legislative session approved a (2007 TX H.B. 3928). H.B. 3928 was unrolled back and forth between the House and Senate, with heavy changes required by both sides. At the time of adoption of the amendment, margin tax had three possible rates: 0.575% according to the E-Z calculation method, 0.5% for wholesalers and retailers and 1% for all others. On December 11, 2007, the Texas controller's office adopted 15 agency rules regarding the new margin calculation (34 TX Admin. Code §§3.581–3.595). These rules (and the new tax) entered into force on 1 January 2008. Some of the rules reaffirm the statutory language of H.B. 3 and H.B. 3928, while others differ substantially from the legal language. The actual forms for reporting the new fee were released on March 31, 2008. Due to the late release of the forms and the complexity of the tax, the controller's office extended the expiration date of the franchise tax for both initial and annual filers from May 15 to June 16. The tax is still technically due on May 15, but the penalty is lifted for this one-month period. Entities subject to tax Essentially, any entity that has limited liability protection and conducts business in Texas is subject to the revised tax. Previously, the only taxable entities were companies and LLCs. The new tax now applies to companies (both S and C), partnerships, limited liability companies, LLCs (including member LLCs), professional associations and professional companies, corporate trusts, joint ventures, holding companies and other legal entities (Tax Code TX §171.0002(a)). Non-taxable entities include individual businesses, natural persons companies wholly owned by natural persons, tax entities defined by Texas law, grantee trusts, property of natural persons, and escrow (Tax Code TX §171.0002(b)). For the purposes of Texas, the grantees' trusts are defined in paragraphs 671 and 7701(a)(30)(E). The term natural persons does not include trusts (tax code TX §171.0001(11-a)). One of the most important exemptions for the Texas franchise tax is the passive exempt entity. Exempt passive entities will be required to submit annual information statements to verify that the entity's passive qualifications are met, but will have zero fees. To qualify as a passive entity, three factors must be met under tax code TX §171.0003: the type of entity must be a limited liability company, a limited liability company (which includes limited liability companies), or a trust (other than a corporate trust); At least 90% of the entity's federal gross income must be derived from specified passive sources; and no more than 10% of income entity may be derived from the conduct of an active trade or activity. Passive income includes items such as dividends and interest; income from LLC; distribution share of partnership income; gains from the sale of real estate, gains from the sale of raw materials traded on raw materials and gains from the sale of securities; and royalties, bonuses, or or rental income from mining property and income from non-operating mineral interest (tax code TX §171.0003(a)(2)). The most unstable part of the passive entity test is the active income test. An active asset or activity is conducted if the assets include one or more active transactions that are part of the income or profit gain process and the entity performs active operational and management functions (Tax Code TX §171.0004(a)). A potential problem arises for holding companies whose active trade or activity is the receipt of passive sources of income. Without a clear explanation from the controller, there is a tax exposure for this type of entity. Tip for practice: For companies selling real estate, a strategic plan is to form the entity as a partnership in order to gain passive entity status. Real estate entities should be passive entities as long as the sale of real estate results in a capital gain. Note that entities that receive real estate rental income should also be people's companies in case the property is sold for a capital gain. If a rental property is sold, it should be sold at the beginning of the year so that rental income does not exceed 90% of total passive income for the fiscal year. Decisive margin The revised tax base is the margin of the taxable amount. The margin is determined by calculating total revenues and subtracting as many of three possible deductions as possible: (1) cost of goods sold, (2) compensation, or (3) 30% of total income (tax code TX §171,101(a)). Revenue calculation No tax is due if total revenue after revenue exclusions is less than $300,000 (TX tax code §171,002(d)). Due to the interaction between the small business discount and the E-Z calculation, a taxable person will have zero taxes with reportable income of $434,782 or less. Total revenue is determined by extracting revenue from specific lines in federal income tax forms (tax code TX §171.1011(c)(1)(A)). Subsequently, total revenue is reduced by exclusions applicable to the detriment of Texas law. Exclusions tend to be industry-based, such as medical, legal, staff leasing companies and management companies (Tax Code TX §171.1011). Other exclusions include ISI credits, income attributable to an ignored entity, and net distribution income from partnerships, and flows through partnerships (tax code TX §171.1011(c)(1)(B)). Note that to exclude net distributive income (i.e. passthrough income), it must be by a taxable person treated as a partnership or an S company for the purposes of federal income tax. Passthrough income from an exempt entity (including passive entities) cannot typically be excluded from total revenues. the reason for this special exclusion is to prevent double taxation. Flow-through funds taxed by law to be distributed to other entities (e.g. sales tax collected) are excluded from total revenue. The following flowthrough funds are also excluded from revenue, to be distributed by contract to other entities: sales commissions including paid real estate fees; basis of assessment of subscribed securities; and subcontracting payments managed by the taxable entity to provide services, labor or materials in relation to actual design, construction, renovation or repair or proposed improvements on real estate or the location of real estate boundaries (tax code TX §171.1011(g)). Intercompany revenues of affiliated entities are excluded from total revenues if entities are part of a unit deposit group (tax code TX §171.1014(c)). Note that you may need to make a corresponding deduction in the cost of goods sold (COGS) deduction or compensation deduction if the income is directly related to those costs. Staff leasing services, including temporary staff services, exclude payments received from a client company for wages, payroll taxes on those wages, employee benefits, and employee compensation benefits for the client company's assigned employees (tax code TX §171.1011(k)). Similarly, a management company may exclude reimbursements of specified costs incurred in its conduct of the active trade or business of a managed entity, including wages and compensation (Tax Code TX §171.1014(m-1)). Texas Cost of Goods Sold When comparing allowed deductions, it becomes apparent that franchise tax is favored by the industry based on the COGS deduction. Contains items not included in compensation, such as payments made to independent contractors and payroll taxes (Administrative Code 34 TX §3,588(d)(1)). The cost of goods sold for texas franchise tax purposes is not the same as the cost of goods sold for federal tax purposes. The controller has stated several times that the federal COGS will never match Texas COGS (although this is not entirely true). A taxpayer using the COGS deduction must be aware of about 40 specific Texas rules detailing the composition of the deduction (TX Tax Code §171.1012). These rules are divided into categories of direct costs, other costs, indirect costs and prohibited costs. For Texas purposes, COGS includes the costs of acquiring or producing goods. In addition, the taxpayer must sell real or tangible personal assets in the ordinary course of business and not intangible assets. Services are specifically excluded from COGS. A company generally has to own the goods to use the COGS deduction. Production includes construction, installation, production, development, mining, mining, improvement, creation, growth and growth (Tax Code TX §171.1012(a)(2)). A taxable person may, as COGS, subtract indirect or administrative overheads which are attributable to the acquisition or production of These indirect costs are limited to only 4% of total overheads (tax code TX §171.1012(f)). Examples of such costs include security services, legal services, data processing services, accounting services, personnel operations, and overheads of financial planning and financial management. Financial. costs not allowed as COGS are costs of renting or leasing equipment, facilities or real estate that are not used for the production of goods; sales costs; outbound transport; advertising costs; interest; income taxes and income-based franchise taxes; and compensation for officers. A taxable person subject to 263A, 460, 471 or 472 may choose to capitalize on or distribute the costs allowed for the franchise tax return in the calculation of COGS (Tax Code TX §171.1012(g); 34 TX Admin. Administrative Code §3,588(c)(2)). The election to capitalize or expense is made by presenting the tax report in franchises using one method or another and is effective for the entire period on which the report is based; may not be changed after the expiration date of the report. A taxable person who chooses to capitalize on eligible costs for COGS must capitalize on all eligible costs for the franchise tax return that they have capitalized on for federal tax purposes. All eligible costs for the franchise tax return that have not been capitalized for federal tax purposes must be used in the elaboration of COGS. Any costs not allowed by tax code TX §171.1012 cannot be included in COGS even if the entity has capitalized the cost for federal tax purposes. The rules also allow for a few small exceptions to texas general COGS. First, if an entity qualifies as a credit institution, that taxable person may choose to use as COGS an amount equal to his interest expense (tax code TX §171.1012(k)). Some rental companies are also entitled to the Texas COGS deduction: a rental or leasing company that puts back a gross income tax imposed under the Texas Tax Code §152.026; rental or leasing company of heavy construction equipment; or rental or leasing company of rolling stock for railway wagons (tax code TX §171.1012(k-1)). Compensation An alternative to the COGS deduction is the compensation deduction (tax code TX §171.1013). The compensatory deduction is made up of wages and benefits. Wages are limited to $300,000 per individual and can only be paid to individuals (tax code TX §171.1013(c)). On the contrary, the deduction of benefits is not limited. Note that if an official or employee is employed by multiple entities that are members of a combined unit group, the total compensation paid to that individual is limited to $300,000. Payments made to undocumented workers are non-deductible (tax code TX §171.1013(c-1)). The cash wage and compensation deduction is determined by the amount entered in the Medicare Wages and Tips box on federal form W-2. Cash compensation includes wages, salaries, premiums and shares and net distribution shares of S companies, partnerships and LLCs. Compensation can be paid to officials, administrators, owners, partners and employees. If the compensation is shown on form 1099, it cannot typically be included in the compensation deduction (34 TX Admin. Code §3.589(d)). Benefits are permitted to the extent deductible for federal income tax purposes and include the cost of retirement by the employer employee health insurance and the cost of workers' compensation benefits (tax code TX §§171.1013(a)–(c)). The benefits do not include the amounts of working conditions provided so that employees can do their job. Examples include an employee's use of a company car for enterprises, work-related training provided to an employee, and travel reimbursement (Administrative Code 34 TX §3,589(c)(2)(D)). Tip for practice: A tax planner should also determine whether there are employees or workers provided to the taxable entity through a management agreement, a personnel leasing company, or a temporary services company. The managed entity (or entity that uses leased or temporary staff) includes in its salary deduction salaries to the extent included in the costs paid to management, staff leasing, or temporary service company for assigned employees. Note that payroll taxes and markup may not be included in the compensation deduction taken. In addition, if the entity is a management company or a staff leasing or temporary service company, the compensation deduction must be reduced for amounts paid to persons sent to work for their customers (tax code TX §§171.1013(c)). Unit groups Taxable entities that are part of an affiliated group engaged in a unit activity are required to submit a combined report (tax code TX §§171.0001 and 171.1014). An affiliated group is a group of one or more entities (with or without a connection in Texas) in which a controlling stake (more than 50%) is owned by a common owner (tax code TX §§171.0001(1) and (8)). A common owner may include a husband and wife, who are believed to have constructively owned each other's actions (Administrative Code 34 TX §3.590(4)(E)). There is a discrepancy between the statutory definition and the controller's rule on affiliated groups. The legal definition refers to common owners or owners (tax code TX §171.0001(1)), while the controller rule refers only to a common owner (Administrative Code 34 TX §3,590(b)(1)). Furthermore, there is no allocation rule within the meaning of the Statute. This gives a tax planner more choices about who is in a unit group and the ability to choose the most advantageous deposit. For example, two brothers who own a group of companies in the same way and who have intercompany income would most likely want to present a unit return based on the statutory definition with respect to the controller's rule, under which they could submit separate returns. A unitary enterprise is a single economic undertaking composed of separate parts of a single entity or group of sufficiently interdependent, integrated and interconnected through their activities, so as to provide synergy and mutual benefit that produce a sharing or exchange of value between them and a significant flow of value to the separate parts. (Tax code TX §171.0001(17).) Factors to be taken into account to determine a unit activity include whether member activities are (1) in the same general line of business, (2) phases in a structured business or process, or (3) functionally integrated through the exercise of strong centralized management. A positive result of the introduction of unit groups is the exclusion of intercompany revenue, which prevents the payment of taxes by entities that they previously reported on a separate basis. But there can also be harsh consequences for storage as a unitary group. For example, suppose Company A would benefit from the use of COGS, and Company B would benefit from using the compensation for their respective deductions. If COGS is elected as a deduction for the group, B loses the advantage of using the compensation deduction and must pay a higher tax based on COGS. Tiered Partnership: Comptroller rule §3,587 A tiered partnership agreement is a proprietary structure in which any of the interest in a taxable person treated as a company or company S for the purposes of federal income tax (a lower-level entity) is owned by one or more other taxable entities (a higher-level entity). This property scenario is typically seen in law and medical practices, but can also be found in real estate facilities. A lower-level entity may exclude from its total revenue any amount of total revenue reported to a higher-level entity, unless the higher-level entity is subject to franchise tax (Administrative Code 34 TX §3,587(c)(8)). Lower-level and higher-level entities must submit a report to the controller showing the amount of total revenue that each top-tier entity must include by calculating the higher-level entity's taxable margin, based on the property interests of the top-tier entity. There are some limits to tiered partnership elections. First, providing tiered partnerships is not available if the lower-level entity is included in a combined group. Second, thresholds, discounts, and the E-Z calculation method do not apply to a higher-level entity if, before any total revenue is attributied by an entity below a higher-level entity, the lower-level entity does not meet the criteria. Tip for practice: The election of the tiered partnership should be used when the taxable entity uses the compensation deduction. Because some of the owners are other taxable persons, the lower-level entity is unable to use the full compensation deduction through net distribution income. By conducting elections, the total tax paid by lower and higher entities decreases. In addition, higher-level entities can choose to use the deduction method or the Although the lower-level entity does not use the same method, which could further increase tax savings. This is based on the idea that elections should only be available at the lower level and not necessarily elected by the lower level entity. Breakdown When determining the taxable margin, a Texas taxable person applies a single gross revenue factor to allocate the taxable amount (Tax Code TX §§171.101(a)(2) and 171.106(a)). Le Le the revenue factor does not include revenue excluded from total turnover. In addition, the new tax law has replaced the rule of return to the past (tax code TX §171.103(1)). For unit combined returns, only Texas receipts from members who have a connection to Texas alone are included in the gross revenue factor numerator. The denominator includes receipts from all members of the group, regardless of whether or not they have a connection to Texas. The legislature considered changing Joyce's rule, under which entities are assessed on an autonomous basis rather than as a unitary business group (Appeal of Joyce, Inc., No. 066-SBE-069 (CA SBE 11/23/66)), but decided against the change, at least for this legislative session. Tax rate and method of calculation E-Z The tax rate with the deduction method is 0.5% for taxable persons engaged mainly in retail or wholesale trade and 1% for all other taxpayers and is effective for relationships due after 2007 (Tax Code TX §171.002). Wholesalers and retailers are described in Divisions F and G of the 1987 Standard Industrial Classification Manual, published by the Federal Office of Management and Budget (Administrative Code 34 TX §3,584(d)(2)). The additional rules for qualification as a wholesaler or retailer include: (1) the total income from activities in the retail or wholesale trade must be higher than the total income from activities in occupations other than the retail and wholesale trades; (2) less than 50% of the total revenue from retail or wholesale activities derives from the sale of products produced or produced by it by an entity belonging to an affiliated group to which the taxable entity also belongs; and (3) the taxable person does not provide retail or wholesale services, including telecommunications services and electricity or gas (tax code TX §171.002(c)). The tax rate according to the E-Z calculation is 0.575% (tax code TX §171.1016). To use the E-Z method, a taxable entity must have no more than $10 million in total revenue (after revenue exclusions) from the entire business. No deduction or credit is allowed with the E-Z method and the breakdown is the same factor as individual revenue. Like the deduction method, the E-Z method also uses the discount applicable to small businesses. In addition, a unit group can choose to use the E-Z (34 TX Admin) method. Code §3,584(d)(2)). After calculating the tax due on his taxable margin, a taxable person will use a tax discount if it is a small business (tax code TX §171.0021). A small business is a taxable entity with total annualized revenues of less than $900,000. Tiered discount is based on total revenue before the breakdown. If the tax due after the discount is less than $1,000, no tax is due (tax code TX §171.002(d)). Using the E-Z method and discounts, a taxable person will have zero taxes if revenue does not exceed $434,782. Conclusion The revised tax on the franchise has come a long way in the following two years 3 has been passed. It seems, however, that developments so far are only the tip of the iceberg. The immediate future should see more control decisions and political decisions. There may also be a constitutional challenge to the validity of the tax because the Texas Constitution (Art. VIII, §24(a)) does not allow income tax, which margin tax is probably. Texas taxable entities should expect further tax changes in the coming years. Years.