By: Shapleigh S.B. No. 1378

A BILL TO BE ENTITLED

AN ACT

relating to the computation of the cost of goods sold for franchise tax purposes by certain taxable entities.

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

SECTION 1. Subchapter C, Chapter 171, Tax Code, is amended by adding Section 171.10125 to read as follows:

Sec. 171.10125. COMPUTATION OF COST OF GOODS SOLD BY TAXABLE ENTITY DOING BUSINESS NEAR BORDER. (a) In this section:

(1) "Border" means the border between this state and the United Mexican States.

(2) "Strategic investment area" means an area determined by the comptroller under Subsection (h) that is:

(A) a county in this state with above state average unemployment and below state average per capita income; or

(B) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community.

(b) This section applies only to a taxable entity that:

(1) has a business or facility located within a strategic investment area; and

(2) conducts at least 90 percent of the taxable entity's total business in the strategic investment area.

(c) In addition to Subsection (b), at least two of the following conditions must apply for this section to apply to a taxable entity:

(1) the taxable entity is licensed by the appropriate local, state, and federal agencies on both sides of the border to conduct border trade;

(2) the taxable entity is enrolled in the Customs-Trade Partnership Against Terrorism (C-TPAT) and Fast and Secure Trade (FAST) programs or is participating with companies that are enrolled;

(3) the taxable entity invests in and implements security, tracking, communication, and surveillance technology systems used on commercial vehicles that operate in the strategic investment area or in manufacturing and distribution plants located on this state's side of the border or makes investment expenditures specifically related to and incurs direct costs related to the implementation of advanced technologies that protect elements of the supply chain, including:

(A) secure trailers with intelligent locking devices and seals;

(B) systems that detect tampering or compromising of cargo;

(C) systems and protocols that provide instant alarms and response to cargo deviation;

(D) efforts required to collaborate with appropriate federal and state agencies on both sides of the border; and

(E) systems and software that allow for the tracking and monitoring of vehicles and manufacturing and logistics facilities engaged in border trade;

(4) the taxable entity makes direct expenditures related to a business that implements or operates security systems that conduct or share information with appropriate federal and state agencies relating to the assessment of drivers' dock personnel and other individuals who are fundamentally important to the border trade process;

(5) the taxable entity incurs direct costs of creating, and training personnel for, new jobs in specialized, highly skilled positions related to biotechnology, defense, medical, software, and other value-added manufacturing fields in the border region; or

(6) the taxable entity makes other direct investments in integrated supply chain transportation systems that incorporate sophisticated, embedded broadband communications technology that integrates with public sector disaster, hazardous materials transfer, congestion relief, vehicle tracking, or emergency management systems.

(d) Subject to Subsection (f), a taxable entity to which this section applies may subtract as a cost of goods sold under Section 171.1012 any expenditure made or cost incurred relating to an item or event listed in Subsection (c) that is not otherwise included as a cost of goods sold under Section 171.1012.

(e) An expenditure made or cost incurred relating to an item or event listed in Subsection (c) that is for not more than $150,000 must be subtracted or depreciated on the report for the period in which the expenditure is made or the cost incurred. An expenditure made or cost incurred that is for more than $150,000 may be subtracted or depreciated equally in three consecutive reports.

(f) The total amount that may be subtracted under this section by all taxable entities during a reporting period may not exceed $3 million. If the total amount subtracted as a cost of goods sold under this section will exceed $3 million during a reporting period, the comptroller shall allocate the $3 million that may be subtracted on a pro rata basis. The comptroller may require a taxable entity to notify the comptroller of the amount the taxable entity intends to subtract under this section before the due date of the report on which the taxable entity will subtract the amount.

(g) If the comptroller decreases the amount that a taxable entity may subtract under Subsection (f), the taxable entity may, subject to the limitation provided by Subsection (f), carry the difference in the amounts backward for not more than three consecutive reports or forward for not more than seven consecutive reports.

(h) Not later than September 1 each year, the comptroller shall determine areas that qualify as strategic investment areas using the most recently completed full calendar year data available on that date and, not later than October 1, shall publish a list and map of the designated areas. The designation is effective for the following calendar year for purposes of this section.

(i) A taxable entity may not establish a credit under this section on or after January 1, 2015.

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

SECTION 3. This Act takes effect January 1, 2008.