

least 90 percent of the entity's federal gross income (as reported on the entity's federal income tax return), for the period upon which the tax is based, is from the following sources:

- dividends, interest, foreign currency exchange gain, periodic and nonperiodic payments with respect to notional principal contracts, option premiums, cash settlements or termination payments with respect to a financial instrument, and income from a limited liability company;
- distributive shares of partnership income to the extent that those distributive shares of income are greater than zero, excluding rental income;
- net capital gains from the sale of real property, net gains from the sale of commodities traded on a commodities exchange and net gains from the sale of securities; and
- royalties from mineral properties, bonuses from mineral properties, delay rental income from mineral properties and income from other nonoperating mineral interests including nonoperating working interests.

Passive income does not include rent, rental income that flows from a partnership to a partner, or income received by a nonoperator from mineral properties under a joint operating agreement, if the nonoperator is a member of an affiliated group and another member of that group is the operator under the same joint operating agreement.

Once an entity has filed as a passive entity, the entity will not have a subsequent franchise tax filing requirement until the entity no longer qualifies as passive. See the passive entity section of these instructions for more information.

Item 2. This entity's annualized total revenue is below the no tax due threshold.

If annualized total revenue is less than or equal to \$1 million, the entity qualifies to file the No Tax Due Information Report. See the annualized total revenue section of these instructions for more information.

Item 3. This entity has zero Texas gross receipts.

The apportionment factor of an entity with zero Texas gross receipts is zero; therefore, no tax is due. See the instructions for Item 23 of Form 05-158-B for additional information on computing Texas gross receipts.

Item 4. This entity is a Real Estate Investment Trust (REIT) that meets the qualifications specified in 171.0002(c)(4).

A real estate investment trust (REIT) that meets the qualifications of Texas Tax Code Sec.171.0002(c)(4) is not a taxable entity for the year upon which the report is based. The REIT must establish its non-taxable status by filing a No Tax Due Information Report for the period upon which the report is based.

A REIT or its qualified REIT subsidiary entities are not considered taxable entities if:

- the REIT holds interests in limited partnerships or other entities that are taxable entities and that directly hold real estate; and
- the REIT does not directly hold real estate, other than real estate it occupies for business purposes.

An information report must be submitted by each REIT or qualified REIT subsidiary:

- a Public Information Report (Form 05-102) for each REIT legally organized as a corporation or LLC and
- an Ownership Information Report (Form 05-167) for each REIT legally organized as a partnership, trust or association.

Item 5a. Accounting year begin date

See the accounting period beginning and ending date requirements in the annual, initial and/or final report sections.

Item 5b. Accounting year end date

See the accounting period ending date requirements in the annual, initial and/or final report sections.

Item 6. Total Revenue

Enter the amount of total revenue using the instructions for Items 1-10 of Form 05-158-A. A passive entity or a REIT may leave this blank.

Signature Block:

Report may be signed by an officer, director or other authorized person. This includes a paid preparer authorized to sign the report.

**FORM 05-164
TEXAS FRANCHISE TAX EXTENSION
REQUEST**

Filing Requirements: Any entity (including a combined group) that cannot file its annual (including the first annual), initial or final report by the original due date may request an extension of time to file on or before the due date. A combined group must also file an Extension Affiliate List (Form 05-165) when they request an extension.

An extension for an annual, non-EFT filer will be through November 15, 2010. When submitting the extension request, the taxable entity must remit at least 90 percent of the tax that will be due with this year's report or 100 percent of the tax reported as due for the previous calendar year (provided that the report due in the previous calendar year was filed on or before May 14, 2010) in order for the extension to be granted.

A taxable entity that became subject to the franchise tax on or after October 4, 2009, filing its first annual report, may not use the 100% extension option.

A separate entity that was included in a 2009 combined group report may not use the 100% extension option.

INITIAL AND FINAL REPORTS:

A taxable entity may request a 45 day extension and must remit with the extension request at least 90 percent of the tax that will be due with the initial or final report.

Note: Initial reports apply only to taxable entities that became subject to the tax before October 4, 2009.

ELECTRONIC FUNDS TRANSFER:

The conditions for requiring a taxable entity to pay via electronic funds transfer (EFT) are outlined in Rule 3.9 concerning electronic filing and electronic funds transfers. Information about the EFT requirements can be viewed at www.window.state.tx.us/webfile/req_franchise.html.

The extension rules for mandatory EFT filers are different from that of other taxpayers. In order to extend the due date of the report from May 17, 2010 to August 16, 2010, a taxable entity that is required to pay by EFT must make their extension payment online using tax type Code 13080 (Franchise Tax Extension) in a timely fashion that permits the payment to be posted on or before May 17, 2010. With the extension request, taxable entities must remit at least 90 percent of the amount of tax that will be due with this year's report or 100 percent of the tax reported as due for the previous calendar year on the report due in the previous calendar year. If the taxable entity elects to pay 100 percent of the tax reported as due for the previous calendar year, the previous year's report must be filed on or before May 14, 2010 in order for the extension to be granted.

Combined groups that are mandatory EFT filers must submit the required Extension Affiliate List (Form 05-165) by mail.

An EFT filer may request a second extension to November 15, 2010 to file the report by paying online before August 16, 2010 the balance of the amount of tax that will be reported as due on November 15, 2010 using tax type Code 13080 (Franchise Tax Extension) or by submitting a paper Form 05-164, Extension Request, if the entity has paid all of the tax due with its first extension. If an online extension payment is made, then the taxpayer should not submit a paper Form 05-164, Extension Request.

A combined group should not submit an Extension Affiliate List (Form 05-165) when requesting a second extension.

Note: See Form 96-590, TEXNET Payment Instruction Booklet, for additional information concerning requirements for electronic funds transfer payments.

Item 1. Blacken this circle if you will be using your 2008 Temporary Credit for Business Loss Carryforward for the report year for which you are requesting this extension.

See the instructions for Form 05-160, Texas Franchise Credits, and Rule 3.594 for additional information on this credit.

Item 2. Blacken this circle if you will begin using your 1992 Temporary Credit for the report year for which you are requesting this extension.

Texas Tax Code Section 171.111(a) (text of section effective until January 1, 2008) requires that a taxable entity elect to claim this credit on or before the original due date of any report due after January 1, 1992.

Item 3. Extension Payment

Enter the amount submitted with this request.

Combined Report Extensions

If the extension request is being made on behalf of a combined group, the reporting entity must also submit Form 05-165, Texas Franchise Tax Extension Affiliate List.

A combined group may only use the 100% extension option if the combined group has lost a member or if the members of the combined group are the same as they were on the last day of the period upon which the report due in the previous calendar year was based.

Signature Block:

Report may be signed by an officer, director or other authorized person. This includes a paid preparer authorized to sign the report.

FORM 05-165 TEXAS FRANCHISE TAX EXTENSION AFFILIATE LIST

Filing Requirements: A reporting entity filing an extension request on behalf of a combined group, must file the extension affiliate list along with the extension request Form 05-164. If the combined group is required to file using EFT and makes an extension payment via EFT, it is not required to file Form 05-164, but must submit Form 05-165. The filing of this list by itself does not constitute a valid extension. Attach as many forms as necessary to report all members of the combined group.

Column 1 – Legal name of affiliate

Enter the legal name of each affiliate in the combined group. Affiliates can be any type of taxable entity including corporations, LLCs, partnerships (general, limited and limited liability), business trusts, professional associations, etc.

Column 2 – Affiliate's Texas Taxpayer Number

Enter the assigned Texas taxpayer identification (ID) number of the affiliate. If the affiliate does not have a Texas ID number, enter the affiliate's federal employer identification number (FEIN). If the affiliate does not have an FEIN, leave blank.

Column 3 - Blacken this circle if affiliate does not have nexus in Texas

Blacken the circle as appropriate for each member of the affiliated group.