Commercial Activity Tax

The commercial activity tax (CAT) is a tax imposed on the privilege of doing business in Ohio, measured by gross receipts. The CAT is paid either quarterly or annually and applies to most business types that operate in Ohio, regardless of whether such business is located within Ohio. The tax was enacted by the Ohio General Assembly in 2005 as part of House Bill 66, legislation that also gradually phased out the tangible personal property tax and corporation franchise tax for the vast majority of Ohio businesses.

In fiscal year 2011, the CAT produced $1,451.6 million in total revenue. Of the amount remaining after 0.85 percent was deposited in the tax reform administration fund, $1,005.9 million, or 70 percent, was deposited in the School District Property Tax Replacement Fund and $431.1 million, or 30 percent, was placed in the Local Government Property Tax Replacement Fund. No revenue was deposited into the General Revenue Fund.

The returns due and filed during fiscal year 2011 show that manufacturing taxpayers accounted for the largest share of tax liability, reporting $349.3 million or 26.6 percent of the total while accounting for 10.1 percent of all taxpayers. The retail sector represented the largest group of taxpayers – 12.9 percent – and represented 19.3 percent of total liability. Taxpayers with taxable gross receipts over $100 million accounted for more than half (58 percent) of total CAT liability and just 0.5 percent of the overall taxpayer population. In contrast, taxpayers whose receipts were $1 million or less represented just 1.0 percent of total tax liability but made up 70.5 percent of all taxpayers.

Taxpayer

(Ohio Revised Code 5751.01)

The CAT is paid by any person with taxable gross receipts of $150,000 or more in a calendar year. The term "person" includes sole proprietors, partnerships and corporations. It also applies to service providers such as medical professionals, attorneys, and accountants. The tax also applies to all businesses that either:

- have at least $500,000 in taxable gross receipts in Ohio;
- have at least $50,000 in property in Ohio;
- expend at least $50,000 in payroll for work in Ohio;
- have at least 25 percent of their total property, payroll, or gross receipts in Ohio; or
- are domiciled in Ohio.

The tax does not apply to entities that are deemed "excluded persons" such as nonprofit organizations or certain types of entities that are liable for another Ohio tax, including:

- financial institutions and certain affiliates of financial institutions, which pay the corporation franchise tax;
- insurance companies, which pay the Ohio insurance premiums tax, and certain affiliates of insurance companies; and
- dealers in intangibles, which pay the Ohio dealers in intangibles tax.

The tax also does not apply to certain receipts by public utilities that are subject to the public utility excise tax.

Tax Base

(R.C. 5751.001(F))

The CAT is a business privilege tax measured by gross receipts sitused to Ohio. "Gross receipts" means the total amount realized, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income. Examples of gross receipts include sales, performance of services, and rentals or leases. The method of accounting for gross receipts for the CAT is the same as for federal income tax purposes (that is, accrual or cash basis).

Rates

(R.C. 5751.03 and 5751.031)

Generally, businesses with annual taxable gross receipts of $150,000 or less are not subject to the CAT.

Businesses with annual taxable gross receipts of more than $150,000 are subject to an annual minimum tax of $150.

Businesses with annual taxable gross receipts in excess of $1 million are subject to the annual minimum tax of $150 plus apply an effective rate of .26% on receipts above $1 million on a quarterly basis (with a $250,000 quarterly exclusion).

Credits

(R.C. 5751.51 – 5751.53, 5751.98)

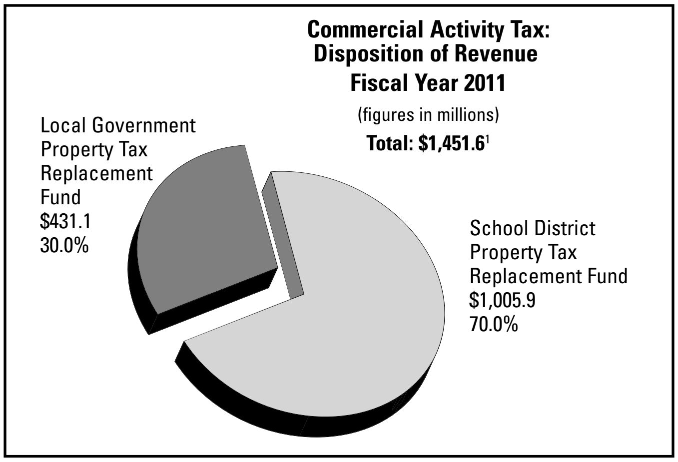
Eligible taxpayers began accumulating one or all of the following credits against their CAT liability beginning Jan. 1, 2008, and were able to claim these credits beginning July 1, 2008 (on the return due Nov. 9, 2008):

- job creation tax credit.
- job retention tax credit.
- credit for qualified research expenses.
- credit for research and development loan payments.

In addition, a credit for unused franchise tax net operating loss deductions became available starting with the 2010 calendar year.

For more information about these credits, see the **Business Tax Credits** chapter.

Chart



Filing and Payment Dates

(R.C. 5751.051)

All businesses liable for the CAT must register prior to filing a return. All taxpayers are subject to the annual minimum tax of $150, which is due by May 10 of each year.

Taxpayers with taxable gross receipts greater than $1 million must file quarterly returns. Quarterly returns must be filed electronically through the Ohio Business Gateway. Quarterly returns are due on the tenth day of the second month after the end of each calendar quarter (May 10, Aug. 10, Nov. 10, and Feb. 10).

Taxpayers with taxable gross receipts less than $1 million may file annual returns. The annual return may also be filed electronically but electronic filing is not mandatory as it is with the quarterly return. The annual return is due on or before May 10 of each year. The annual return reports the prior year's taxable gross receipts and pays the annual minimum tax for the current (privilege) year.

Disposition of Revenue

(R.C. 5751.20)

From the total CAT revenue 0.85 percent is dedicated to the Tax Reform System Implementation Fund. A portion of all state tax revenues collected by the Attorney General are put into the Attorney General's Claims Fund as prescribed by law. These are required and one is outlined above. It is essentially an administrative fund for the Attorney General's office. Of the remaining revenue, during the 2011 fiscal year:

- 70 percent of the revenue generated by the CAT was dedicated to the School District Property Tax Replacement Fund.
- 30 percent of the revenue generated by the CAT was dedicated to the Local Government Property Tax Relacement Fund.

These funding shares change beginning in fiscal year 2012. In that year, the revenue distribution shifts to provide 25% to the GRF, 52.5% to the school district property tax replacement fund and 22.5 percent to the local government property tax replacement fund. These values change again in 2013 and stablize for all years thereafter to 50%, 35% and 15%, respectively.

Administration

The Tax Commissioner administers the CAT and distributes the revenue to the various funds.

Ohio Revised Code Citations

Chapter 5751.

Recent Court Cases

Ohio Grocers Association v. Levin, 123 Ohio St.3d 303, 2009-Ohio-4872:

The Ohio Supreme Court reversed the decision made by the Tenth District Court of Appeals in Ohio Grocers Assoc., et. al. v. Wilkins, 897 N.E.2d188 (Ohio App. 10th Dist., Sept. 2, 2008). In its opinion, the Court decided that the CAT "is not a tax on the sale or purchase of food and therefore does not violate the Ohio Constitution." The Court further clarified that the CAT "is a tax on the privilege of doing business" and the "fact that the tax is measured by gross receipts that include proceeds from the sale of food does not affect the constitutionality of [the CAT]."

1 Includes $12.9 million for the Attorney General Claims Fund and Tax Reform System Implemetation Fund. From total CAT revenue, 0.85 percent is dedicated to the Tax Reform System Implementation Fund. Additionally, a portion of all state tax revenues collected by the Attorney General is deposited into the Attorney General Claims Fund as prescribed by law.

Table 1

Fiscal Year 2011 Commercial Activity Tax Returns, Number of Returns and Reported Financial Data, by Industrial Classification[1]

(Dollar amounts are in thousands)

Industrial Classification	NAICS Code Ranges	Number of Taxpayers	Taxable Gross Receipts	Exclusion[2]	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax[3]	Tax Before Credits	Non-refundable Tax Credits	Refundable Tax Credits	Total Tax Due: 0.26% Tax and Minimum Tax
Agriculture, Forestry, and Fishing	111100-115310	5,867	$5,814,984	$2,629,826	$3,185,158	$8,281	$880	$9,161	$0	$4	$9,157
Mining	211110-213110	730	5,558,688	422,267	5,136,422	13,355	110	13,464	16	123	13,325
Utilities (excluding telecommunications)	221100-221300	139	17,108,192	87,306	17,020,887	44,254	21	44,275	0	562	43,713
Construction	236110-238900	14,547	27,785,374	7,223,560	20,561,814	53,461	2,182	55,643	110	0	55,533
Manufacturing	311110-339900	15,576	171,250,450	10,555,417	160,695,033	417,807	2,336	420,143	23,492	17,315	379,337
Wholesale Trade	423100-425120	8,712	94,232,316	5,835,579	88,396,737	229,832	1,307	231,138	733	982	229,424
Retail Trade	441110-454390	19,900	124,086,664	11,525,144	112,561,519	292,660	2,985	295,645	646	20,758	274,241
Transportation and Warehousing	481000-493100	4,218	14,449,097	2,280,717	12,168,380	31,638	633	32,270	89	1,067	31,114
Information (including telecommunications)	511110-519100	1,556	26,053,417	917,610	25,135,807	65,353	233	65,586	1,906	726	62,954
Finance and Insurance	522110-525990	5,578	9,790,384	1,956,308	7,834,075	20,369	837	21,205	0	793	20,412
Real Estate, and Rental & Leasing of Property	531110-533110	12,835	15,104,501	5,541,611	9,562,890	24,864	1,925	26,789	9	0	26,780
Professional, Scientific and Technical Services	541110-541990	14,266	35,624,433	7,136,215	28,488,217	74,069	2,140	76,209	455	1,865	73,889
Management of Companies (Holding Companies)	551111-551112	880	32,358,049	666,957	31,691,092	82,397	132	82,529	1,322	6,310	74,897
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	3,825	8,731,646	1,910,161	6,821,485	17,736	574	18,310	155	310	17,844
Education, Health Care and Social Assistance	611000-624410	12,035	24,452,613	7,056,470	17,396,143	45,230	1,805	47,035	86	0	46,949
Arts, Entertainment, and Recreation	711100-713900	1,498	2,489,089	694,056	1,795,032	4,667	225	4,892	0	0	4,892
Accomodation and Food Services	721110-722410	8,335	14,433,018	4,529,381	9,903,637	25,749	1,250	27,000	153	0	26,847
Other Services	811110-812990	7,835	7,324,039	3,504,176	3,819,863	9,932	1,175	11,107	0	42	11,065
Unclassified	n/a	16,067	13,215,702	5,989,717	7,225,985	18,788	2,410	21,198	17	140	21,041
TOTAL		**154,399**	**$649,862,655**	**$80,462,479**	**$569,400,176**	**$1,480,440**	**$23,160**	**$1,503,600**	**$29,189**	**$50,999**	**$1,423,412**

1 The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2011. This is because table reflects reported tax liability, not actual payments made. In addition, the table reflects information from tax returns on the computer system as of the dates when the August 2010, November 2010, February 2011 and May 2011 return data was extracted; any subsequently filed tax returns or subsequent corrections made to previously-filed tax returns are not reflected in this table.

2 Each quarter a taxpayer's first $250,000 in taxable gross receipts is excluded from the 0.26% tax, resulting in an annual exclusion of $1 million per taxpayer.

3 The annual minimum tax is $150. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax.

Table 2

Fiscal Year 2011 Commercial Activity Tax Returns,
Number of Returns and Reported Financial Data by Size of Taxable Gross Receipts[1]
(Dollar amounts are in thousands)

Size of FY 2011 Taxable Gross Receipts[2]	Number of Taxpayers	Taxable Gross Receipts	Exclusion[3]	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax[4]	Tax Before Credits	Non-refundable Tax Credits[5]	Refundable Tax Credits[6]	Total Tax Due: 0.26% Tax and Minimum Tax
Less than $1,000,000	108,901	$36,059,348	$35,551,808	$507,540	$1,320	$16,335	$17,655	$0	$2,213	$15,441
$1,000,000 - $1,999,999	18,662	26,585,915	18,425,730	8,160,185	21,216	2,799	24,016	23	753	23,240
$2,000,000 - $2,999,999	7,812	19,050,137	7,720,844	11,329,293	29,456	1,172	30,628	51	3,085	27,492
$3,000,000 - $3,999,999	4,149	14,342,804	4,083,887	10,258,917	26,673	622	27,296	38	21	27,237
$4,000,000 - $4,999,999	2,564	11,475,694	2,514,495	8,961,199	23,299	385	23,684	32	15	23,637
$5,000,000 - $9,999,999	5,511	38,577,840	5,420,438	33,157,402	86,209	827	87,036	154	884	85,998
$10,000,000 - $24,999,999	3,742	57,510,311	3,684,555	53,825,757	139,947	561	140,508	718	2,253	137,538
$25,000,000 - $49,999,999	1,470	50,997,765	1,456,284	49,541,481	128,808	221	129,028	842	2,255	125,932
$50,000,000 - $99,999,999	778	54,354,450	773,271	53,581,179	139,311	117	139,428	2,051	12,539	124,838
$100,000,000 - $499,999,999	680	143,482,986	701,167	142,781,819	371,233	102	371,335	6,638	11,290	353,407
$500,000,000 - $999,999,999	72	48,379,411	72,000	48,307,411	125,599	11	125,610	1,406	3,532	120,671
$1 billion and above	58	149,045,994	58,000	148,987,994	387,369	9	387,377	17,236	12,160	357,981
TOTAL	**154,399**	**$649,862,655**	**$80,462,479**	**$569,400,176**	**$1,480,440**	**$23,160**	**$1,503,600**	**$29,189**	**$50,999**	**$1,423,412**

1 The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2011. This is because the table reflects reported tax liability, not actual payments made. In addition, the table reflects information from tax returns on the computer system as of the dates when the August 2010, November 2010, February 2011 and May 2011 return data was extracted; any subsequently filed tax returns or subsequent corrections made to previously filed tax returns are not reflected in this table.

2 These categories reflect aggregate taxable gross receipts (before exclusion) as reported by taxpayers on returns that were due and filed during fiscal year 2011. For example, a taxpayer whose taxable gross receipts were $5 million, $6 million, $4 million, and $7 million, on returns filed in August 2010, November 2010, February 2011 and May 2011, respectively, would have total fiscal year 2011 taxable gross receipts of $22 million, and thereby would be included within the $10-$25 mllion category.

3 On a quarterly basis, each taxpayer's first $250,000 in taxable gross receipts is excluded from the 0.26% tax, resulting in an annual exclusion of $1 million per taxpayer.

4 The annual minimum tax is $150. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax.

Corporation Franchise Tax

The corporation franchise tax is a business privilege tax that dates back to 1902. For most taxpayers, Ohio has completed the process of phasing out the corporation franchise tax in favor of the new commercial activity tax (CAT). The 2009 franchise tax report (based on the taxable year ending in 2008) was the last report that most taxpayers will file.

For report years 2011 and thereafter, the franchise tax applies only to financial institutions and a relatively small number of other corporations described in Ohio Revised Code 5733.01(G)(1)(b). These corporations were not subject to the phase out and do not pay the CAT.

Financial institutions pay a 13 mill tax measured by net worth. Other taxpayers compute the tax on both net worth and net income and pay on the base that produces the higher tax. The net worth tax rate for other taxpayers is 4 mills; the net income rate is 5.1 percent on the first $50,000 of net income and 8.5 percent on remaining net income. These latter corporations are also subject to a litter tax based on either net worth or net income.

During fiscal year 2011, the corporation franchise tax generated about $237.2 million in total revenue. The tables in this chapter provide data from reports due and filed in 2010.

Data on financial institutions are reported separately from general corporations and are shown in the final table. Financial institutions reported tax liability before credits of $175.6 million for the 2011 report year.

Of the total tax liability before credits for general corporations, about 72 percent came from taxpayers that paid on a net income basis. Of the general corporation franchise taxpayers, approximately 10 percent paid tax on net income, 22 percent paid tax on net worth, and the remaining 58 percent paid the minimum tax.

Of financial institutions, banks filed 67 percent of all returns and paid 83 percent of the total tax liability. Savings and loans filed 24 percent of returns and paid 17 percent of the total liability. Other types of financial institutions accounted for the balance of returns and tax liability.

Taxpayer

(Ohio Revised Code 5733.01)

The Ohio corporation franchise tax is imposed on certain domestic and foreign corporations for the privilege of doing business in Ohio. Starting with report year 2010, the tax is limited to financial institutions as well as the following entities identified in R.C. 5733.01(G)(1)(b):

- certain financial holding companies, bank holding companies and savings and loan holding companies;
- certain affiliates of these holding companies and certain affiliates of financial institutions;
- certain affiliates of insurance companies; and
- securitization companies.

The tax applies to the corporations described above as long as they:

- are organized for-profit;
- own capital or property in Ohio;
- hold a charter or certificate of compliance authorizing business operations in Ohio; or
- have nexus with Ohio.

Tax Base

(R.C. 5709.65, 5733.04, 5733.05, 5733.051, 5733.056)

The franchise tax is levied on the value of a corporation's issued and outstanding shares of stock.

Financial institutions pay tax based on their net worth. Other taxpayers determine the value of their stock under both a net income base and a net worth base, and pay on the base that produces the greater tax. For examples of calculations of the tax for non-financial institutions, see the exhibit.

Qualifying holding companies pay tax on the net income base only.

Net Worth Base (R.C. 5733.05(C))

The net worth base value of issued and outstanding shares of stock is determined by subtracting from book net worth items excluded by statute; see **Exemptions, Exclusions, Deductions and Additions** for details. For financial institutions, the tax is determined by multiplying the taxpayer's adjusted net worth by the taxpayer's Ohio apportionment ratio and by the net worth rate of 13 mills (1.3 percent). For other corporations, the tax is calculated by multiplying this adjusted net worth by the net worth apportionment ratio and by the net worth tax rate of four mills (0.4 percent). See this chapter's exhibit for more information.

The net worth tax for financial institutions differs substantially from the net worth tax for other corporations.

Net Income Base (R.C. 5733.05(B))

The net income base value of issued and outstanding shares is calculated by making certain deductions from and additions to federal taxable income, then applying net operating loss deductions and special deductions for the taxable year (see Exemptions, Exclusions, Deductions and Additions). The adjusted income is then either allocated (in the case of nonbusiness income) or apportioned (in the case of business income) in and outside of Ohio as follows:

- **Allocable Income** – Unless the Tax Commissioner requires an alternative method of allocation or approves the taxpayer's requested alternative method, only nonbusiness income is allocated in and outside Ohio (R.C. 5733.051).

- **Apportionable Income** – All income is presumed to be apportionable business income unless the taxpayer shows otherwise or the Tax Commissioner approves or requires an alternative method of apportionment. Business income is apportioned to Ohio according to a weighted three-factor formula: property, payroll, and sales (see the exhibit for details).

Ohio taxable (net) income is equal to the sum of nonbusiness income allocated to Ohio and business income apportioned to Ohio less Ohio net operating losses carried forward from an earlier year.

Rates

(R.C. 5733.06)

Financial institutions rate

Financial institutions are subject to tax on their net worth at a rate of 13 mills (1.3 percent).

Rates for other entities

The other franchise taxpayers (described in R.C. 5733.01(G)(1)(b)) compute the tax on both a net worth and a net income basis and pay on the base that produces the higher tax. These corporations are also subject to a litter tax based on either net worth or net income.

Net worth rate – Net worth taxable value is taxed at the rate of four mills (0.4 percent). The maximum tax on the net worth base for taxpayers other than financial institutions is $150,000 per taxpayer.

Net income rates – Net income is taxed at the rate of 5.1 percent on the first $50,000 of Ohio taxable income and 8.5 percent on Ohio taxable income in excess of $50,000. Corporations that meet the ownership requirements to file a combined report must share the $0 to $50,000 tax bracket to which the 5.1 percent rate applies, regardless of whether or not they actually file a combined return.

Litter Tax Rates (R.C. 5733.066 and 5733.065) – In addition to the general franchise tax calculation rate, tier 1 litter tax applies to taxpayers other than financial institutions.

Tier I litter tax – The Tier I litter tax is a base litter tax computed on both the net income base and net worth base and paid on the base that produces the greater tax. The rates are:

- Net Worth – 0.14 mills (0.014 percent) on the taxable value (adjusted net worth) of the corporation, or
- Net Income – 0.11 percent on the first $50,000 of Ohio taxable income plus 0.22 percent on taxable income in excess of $50,000.

The maximum Tier I litter tax charged any taxpayer or group of combined taxpayers is $5,000.

Minimum fee

For taxable years ending after June 25, 2003, the minimum tax liability for certain large taxpayers is $1,000. For taxpayers other than large taxpayers, the minimum fee is $50.

Exemptions, Exclusions, Deductions and Additions

Exempt Corporations (R.C. 1733.43, 5733.01, 5733.04, 5733.06, 5733.09, and 5733.10)

Entities not subject to the franchise tax include:

- nonprofit corporations;
- credit unions;
- subject to certain restrictions, "real estate investment trusts," "regulated investment companies," and "real estate mortgage investment conduits" as defined in the Internal Revenue Code (I.R.C.);
- corporations electing to be treated as an "S" corporation under the I.R.C., as well as their qualified subchapter S subsidiaries (QSSS);
- limited liability companies (LLCs), if treated as a partnership for federal tax purposes; and
- corporations in Chapter 7 bankruptcy proceedings (except for the portion of the current tax year such corporation had the power to exercise its corporate franchise unimpaired by such proceedings).

Additions and Deductions in Determining Net Worth (R.C. 5709.25, 5709.65, 5915.29, 6111.36 and 5733.056)

In determining net worth, entities other than financial institutions add to book net worth (assets minus liabilities) the "qualifying amount" as defined by R.C. 5733.05(D)(1).

In determining net worth, entities deduct from book net worth:

- certified Ohio civil defense structures;
- land in Ohio devoted exclusively to agriculture;
- qualified improvements to property located in an enterprise zone (generally does not apply to financial institutions); and
- appreciation and goodwill (applies only to financial institutions).

Adjustments in Determining Ohio Net Income (R.C. 5709.35, 5733.04, 5733.042, 5733.053, 5733.054, 5733.055, and 5733.058)

In determining Ohio net income, corporations start with federal taxable income. Corporations then make a number of adjustments, including:

- deduction of certain income from sources outside the United States;
- deduction of the "dividends received" deduction provided by section 243 of the I.R.C.;
- to the extent not otherwise deducted, deduction of dividends received from public utilities, insurance companies, and financial institutions in which the taxpayer has the ownership interests as described by statute. (In addition, receipts from these companies are eliminated in determining the sales factor for apportioning net income and net worth);
- deduction of gains and addition of losses from the sale of capital assets and I.R.C. section 1231 assets to the extent such gains and losses occurred prior to becoming a taxpayer;

- deduction of interest on Ohio public and purchase obligations and gains from the sale of;
- Ohio public obligations (losses from sales of Ohio public obligations are added to net income);
- deduction of wage and salary expenses not otherwise deducted for federal tax purposes because of the targeted jobs tax credit and/or the work opportunity tax credit;
- deduction of net interest income on federal government obligations;
- deduction of Ohio net operating losses carried forward from the prior 20 years (there is no Ohio net operating loss carry back provision);
- deduction of amounts contributed to an individual development account program;
- deduction of net income attributable to an "exempted investment" in a public utility (net loss from exempted investment in a public utility is added to net income);
- deduction of taxable temporary differences in connection with the commercial activity tax credit for franchise tax net operating losses;
- addition of the amount claimed as a credit for taxes paid by a qualifying pass-through entity to the extent that the amount was deducted or excluded from the corporation's federal taxable income;
- addition of interest and intangibles expense paid to certain related members;
- addition of income (and deduction of losses) earned by a transferor corporation that merges into the taxpayer in a tax-free reorganization;
- addition of depreciation expense adjustment for I.R.C. section 168(k) bonus depreciation and additional I.R.C. section 179 depreciation and miscellaneous federal tax adjustments as required. Deduct one-fifth of this add back in each of the five subsequent years. Deduct any miscellaneous federal tax adjustments as required;
- addition of distributive or proportionate share of pass-through entity expenses paid to, losses incurred from transactions with, and excess inventory costs paid to related members; and
- addition of deductible temporary differences in connection with the commercial activity tax credit for franchise tax net operating losses.

Credits

A number of business tax credits may be claimed against more than one tax. Information about these credits has been consolidated in the **Business Tax Credits** chapter of this annual report.

Several other credits primarily apply to franchise taxpayers. They include:

Qualifying affiliated groups (R.C. 5733.068)

If as a result of the related entity and related member adjustments, an affiliated group would pay over $3.5 million more franchise tax than the members of the group otherwise would have paid had the members of the group not made the related entity and related member adjustment, then the members of the affiliated group may claim a nonrefundable credit equal to the difference between the additional tax and $3.5 million. However, the credit is limited to $1.5 million for the affiliated group (even if the additional tax exceeds $5 million).

Recycling and litter prevention donations (R.C. 5733.064)

Taxpayers may claim a nonrefundable credit equal to 50 percent of cash donations for litter control made to municipalities, counties, and townships that qualify for grants from the litter control and recycling special account. This credit is limited to the lesser of cash donations or 50 percent of the additional tax liability from litter tax rates.

Savings and loan association fees (R.C. 5733.063)

Savings and loan associations are permitted a nonrefundable credit against the tax due that is equal to the annual assessment the association paid to the Division of Savings and Loan Associations under R.C. 1155.13, less the amount the association paid in supervisory fees during the taxable year to the Federal Savings and Loan Insurance Corporation (or the amount it would have paid if insured).

Taxes paid by a qualifying pass-through entity (R.C. 5733.04(I)(14), 5733.0611)

A corporation that is a qualifying investor in a qualifying pass-through entity can claim a nonrefundable credit equal to the corporation's proportionate share of the tax paid by the qualifying pass-through entity. However, corporation claiming this credit must add to federal taxable income the amount claimed as a credit, to the extent that the amount claimed was not included in the corporation's federal taxable income.

Special Provisions

Exit tax (R.C. 5733.06(H)).

Corporations ceasing business in Ohio may be subject to an "exit tax" on unreported Ohio net income recognized in the two calendar years prior to the tax year.

Ownership of pass-through entities (R.C. 5733.057).

Each franchise taxpayer must include in its adjusted qualifying amounts, allocable and apportionable income or loss, property, compensation, and sales, the taxpayer's proportionate or distributive share of such items for any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

Related members (R.C. 5733.042)

Intangible expenses and costs paid to certain related members are added to income.

Combining net incomes of corporations (R.C. 5733.052)

If more than half of a taxpayer's capital stock with voting rights is owned or controlled directly or indirectly by another corporation or by a related interest, the Tax Commissioner may permit or require the combining of net income to calculate the tax base. A qualifying controlled group of taxpayers may elect to file a combined report if each has non-dividend income from Ohio sources. This election may not be changed by the taxpayer without the Tax Commissioner's consent. (These combination provisions do not apply to the net worth base).

Transferee corporation subject to transferor's tax liability (R.C. 5733.053)

A transferee corporation in a tax-free reorganization is required to include in its income the income of the transferor if the transferor is not subject to the franchise tax.

Filing and Payment Dates

(R.C. 5733.02, 5733.021, 5733.022 and 5733.13)

Key filing and payment dates include:

- Jan. 31. If by Jan. 31 of the report year the corporation does not file the annual report and make full payment of the tax due, then by that date the corporation must file form FT 1120E and pay one-third of that estimated liability. If the estimated tax liability is the minimum fee, the corporation must make full payment by Jan. 31.
- March 31. By March 31 of the report year the corporation must either file its franchise tax report and pay the remaining tax due or file a request for extension (form FT 1120ER) and pay the second one-third of its estimated tax liability.
- May 31. By May 31 of the report year the corporation must either file the annual report and pay the remaining tax due or file a request for additional extension (form FT 1120EX) and pay the remaining one-third of its estimated tax liability. A corporation filing this extension must file its annual report and pay any remaining tax liability by the 15th day of the month following the extended due date for filing its federal corporation income tax return.

Interest

The interest rate on both underpayments and overpayments is based on the average federal short-term rate in effect for that calendar year, plus three percentage points, pursuant to R.C. 5703.47.

EFT

Taxpayers are required to pay by electronic funds transfer (EFT) if, for the second preceding tax year, the taxpayer's total franchise tax liability after reduction for nonrefundable credits exceeded $50,000. Taxpayers that are required to pay by EFT must register with the Treasurer of State.

Disposition of Revenue

(R.C. 4981.09, 5733.12, 5733.122)

In House Bill 119, the FY 2008-2009 biennium budget bill enacted in 2007, the General Assembly revised the formula and the revenue accounting associated with the local government funds. Starting in January 2008, all franchise tax revenue was directed to the General Revenue Fund after deposits with the Attorney General Claims Fund and the Litter Control Tax Administration Fund. For details on the local government fund changes, see the Local Government Funds chapter.

Administration

The corporation franchise tax is administered by the Department of Taxation. Some tax credits and grants are administered by the Ohio Department of Development. Tax payments are payable to the Treasurer of State but are received by the Department of Taxation.

Ohio Revised Code Citations

Chapters 122, 1733, 4981, 5703, 5709, 5733, 5751 and 5915.

Recent Legislation

House Bill 1, 128th General Assembly (FY 2010-2011 biennium budget bill; budget provisions were effective July 17, 2009, other provisions have various effective dates).

Tax credits –The bill significantly restructured the job creation and job retention tax credits, made important changes to the historic building preservation and technology investment credits, and created a pair of new tax credits: a motion picture production tax credit and the new markets tax credit. For details, see the **Recent Legislation** section of the **Business Tax Credits** chapter.

House Bill 58, 129th General Assembly (Internal Revenue Code (I.R.C.) conformity)

–The bill amended the definition of "Internal Revenue Code as amended" found in R.C. 5701.11, thereby adopting the I.R.C. amendments enacted by Congress from Dec. 15, 2010 (the effective date of H.B. 495's amendment to R.C. 5701.11) through March 7, 2011 (the effective date of H.B. 58's amendment of R.C. 5701.11).

Exhibit

The purpose of this exhibit is to explain how the corporation franchise tax is calculated on either the net worth or net income base for taxpayers other than financial institutions.

Net worth base

The net worth tax base of the tax is calculated this way:

Ohio taxable value[1] = net value of stock × apportionment ratio

Net income base

The net income base of the tax is calculated this way:

Ohio Taxable Income[2]	=	Business Income Apportioned to Ohio	+	Nonbusiness Income Allocated to Ohio	–	Ohio Net Operating Loss Carry Forward Deduction

Apportionment ratios and factors

On either tax base, an apportionment ratio[3] is used to distinguish net income or worth in Ohio from net income or worth everywhere else. Apportionment ratios are calculated according to this weighting:

Apportionment ratio = (Property factor × 0.20) + (Payroll factor × 0.20) + (Sales factor × 0.60)

The individual factors are calculated this way:

$$\text{Property Factor} = \frac{\text{Average cost of owned or rented real and tangible personal property used in business in Ohio}}{\text{Average cost of such property used everywhere}}$$

$$\text{Payroll Factor} = \frac{\text{Total compensation paid in Ohio}}{\text{Total compensation paid everywhere}}$$

$$\text{Sales Factor} = \frac{\text{Sales in Ohio}}{\text{Sales everywhere}}$$

On the net income base of the franchise tax, the factors do not include property, payroll or sales relating to non-business income. On the net worth base of the tax, they do.

Also, for sales of tangible personal property, sales inside and outside Ohio are determined by the final destination of the property sold; other sales are sitused according to where the purchaser received the benefit of that which was purchased.

Specific adjustments apply to each factor, as follows:

Property – Neither the numerator nor the denominator include the original cost of property used exclusively for qualified research or property in Ohio for which the state has issued an Air Pollution, Noise Pollution, or an Industrial Water Pollution Control Certificate. Also, the numerator does not include the original cost of qualifying improvements to land or tangible personal property at an enterprise zone facility for which the taxpayer holds a Tax Incentive Qualification Certificate issued by the Ohio Department of Development.

Payroll – Neither the numerator or denominator include compensation paid in Ohio to employees engaged in qualified research. The numerator does not include compensation paid to certain new employees at an enterprise zone facility for which the taxpayer holds a Tax Incentive Qualification Certificate issued by the Ohio Department of Development.

Sales – Does not include sales derived from non-business allocable income. Also does not include interest and dividends.

1 The value of pollution control, coal conversion and energy conversion facilities property is excluded from the net value of stock. Also excluded: qualified property in an enterprise zone and land devoted exclusively to agriculture.

2 Taxable income also includes income or losses from a a transferor corporation and includes positive or negative adjustments for related entities and related members.

3 A different apportionment formula applies to financial institutions.

Table 1

Corporation Franchise Tax Collections
Fiscal Years 2007-2011

Fiscal Year	Gross Tax Collections	Refunds	Net Tax Collections
2007	$1,302,582,440	$176,928,156	$1,125,654,284
2008	963,244,229	208,611,265	754,632,965
2009	710,875,661	189,512,254	521,363,407
2010	367,982,261	225,664,540	142,317,721
2011	312,516,576	75,311,473	237,205,103

Table 2

Corporation Franchise Tax
Number of Corporations by Tax Base
Tax Year 2011

Industry	Minimum	Net Worth	Net Income	Total
Finance	241	101	55	397
Insurance	183	40	21	244
Real Estate	87	30	2	119
Rental & Leasing	19	28	8	55
Holding Companies	161	18	11	190
All Other Industries	29	20	6	55
TOTAL	**720**	**237**	**103**	**1,060**

Table 3

Corporation Franchise Tax
Number of Corporations by Tax Base and
Tax Liability Class:
Tax Year 2011

	Number of Corporations by Tax Base			
Tax Liability Class	Minimum	Net Worth	Net Income	Total
Minimum ($50 or $1,000)	720	--	--	720
$51 - $1,000	--	49	20	69
$1,000 - $5,000	--	71	21	92
5,001 - 10,000	--	36	11	47
10,001 - 25,000	--	27	13	40
25,001 - 50,000	--	13	11	24
50,001 - 100,000	--	17	11	28
100,001 - 500,000	--	24	9	33
500,001 - 1,000,000	--	0	4	4
Over $1,000,000	--	0	3	3
TOTAL	**720**	**237**	**103**	**1,060**

Table 4

Corporation Franchise Tax
Reported Tax Liability by Tax Base and Industry:
Tax Year 2011

Industry	Tax Liability Before Litter Tax and Credits By Tax Base: Minimum	Net Worth	Net Income	Total	Total Non-Refundable and Refundable Tax Credits	Tax Liability After Tax Credits
Finance	87,100	3,225,516	14,428,517	17,741,133	3,050,672	14,690,461
Insurance	74,700	498,993	581,898	1,155,591	402,604	752,987
Real Estate	11,000	348,127	29,926	389,053	6,560,741	(6,171,688)
Rental & Leasing	7,600	1,003,807	473,701	1,485,108	0	1,485,108
Holding Companies	38,450	452,819	405,145	896,414	222,992	673,422
All Other Industries	12,850	552,360	84,753	649,963	88,495	561,468
TOTAL	**$231,700**	**$6,081,622**	**$16,003,940**	**$22,317,262**	**$10,325,504**	**$11,991,758**

Table 5

Corporation Franchise Tax
Reported Tax Liability by Tax Base and Tax Liability Class:
Tax Year 2011

Tax Liability Class	Tax Liability Before Litter Tax and Credits By Tax Base: Net Minimum	Net Worth	Income	Total	Refundable Tax Credits	Total Non-Refundable and Tax Liability After Tax Credits
Minimum ($50 or $1,000)	$231,700	--	--	$231,700	$6,475,819	-$6,244,119
$51 - $1,000	--	$17,617	$5,895	23,512	1,009	22,503
$1,000 - $5,000	--	168,969	57,899	226,868	3,995	222,873
5,001 - 10,000	--	261,123	76,632	337,755	9,487	328,268
10,001 - 25,000	--	484,405	195,092	679,497	207,292	472,205
25,001 - 50,000	--	454,432	407,103	861,535	352,270	509,265
50,001 - 100,000	--	1,294,581	822,821	2,117,402	239,540	1,877,862
100,001 - 500,000	--	3,400,495	1,569,898	4,970,393	3,036,092	1,934,301
500,001 - 1,000,000	--	0	3,265,813	3,265,813	0	3,265,813
Over $1,000,000	--	0	9,602,787	9,602,787	0	9,602,787
TOTAL	**$231,700**	**$6,081,622**	**$16,003,940**	**$22,317,262**	**$10,325,504**	**$11,991,758**

Table 6

Corporation Franchise Tax
Number of Financial Institutions and Reported Tax Liability,
by Type of Institution:
Tax Year 2011

Tax Liability Class	Number of Corporations By Type: Banks	Savings & Loans	Other[1]	Total	Tax Liability Before Credits By Type: Banks	Savings & Loans	Other[1]	Total	Refundable & Nonrefundable Tax Credits
Minimum ($50 or $1000)	29	3	18	50	$14,750	$1,100	$8,500	$24,350	$0
$51 - 1,000	1	0	1	2	134	0	465	599	0
1,001 - 2,000	2	3	3	8	2,580	4,913	3,858	11,351	0
2,001 - 3,000	4	0	0	4	10,686	0	0	10,686	0
3,001 - 4,000	4	2	2	8	14,622	6,691	7,011	28,324	0
4,001 - 5,000	3	1	0	4	12,995	4,622	0	17,617	0
5,001 - 10,000	6	2	1	9	43,962	16,790	9,700	70,452	0
10,001 - 15,000	7	2	0	9	84,985	23,742	0	108,727	0
15,001 - 20,000	5	1	2	8	85,095	19,735	32,179	137,009	10,472
20,001 - 25,000	5	0	2	7	112,752	0	46,799	159,551	3,030
25,001 - 30,000	2	1	0	3	55,689	25,454	0	81,143	0
30,001 - 35,000	2	2	0	4	62,437	61,134	0	123,571	3,249
35,001 - 50,000	9	6	0	15	390,568	269,507	0	660,075	15,815
50,001 - 100,000	36	15	2	53	2,722,083	1,203,569	163,469	4,089,121	103,396
100,001 - 200,000	48	22	3	73	6,477,141	3,086,450	468,251	10,031,842	310,858
200,001 - 500,000	54	21	0	75	16,118,477	7,085,962	0	23,204,439	642,799
500,001 - 1,000,000	19	6	0	25	13,039,457	4,133,042	0	17,172,499	69,606
Over $1,000,000	18	6	0	24	105,696,173	13,938,957	0	119,635,130	8,293,958
TOTAL	**254**	**93**	**34**	**381**	**$144,944,586**	**$29,881,668**	**$740,232**	**$175,566,486**	**$9,453,183**

1 Primarily credit agencies that accept deposits.