Financial Institutions Tax

The financial institutions that were subject to the now repealed corporation franchise tax became subject to the financial institutions tax (FIT) for tax years commencing on or after Jan. 1, 2014. Nonbank financial organizations that were subject to the commercial activity tax (CAT) also became subject to the FIT, but are now excluded persons for purposes of the CAT. In fiscal year 2015, a total of $182.1 million of FIT revenue was deposited into the state's general revenue fund, as shown in Table 1 below.

Table 1			
Financial Institutions Tax Revenue for Fiscal Years 2014-2015 (dollars in millions)			
Fiscal Year	**Gross Revenue**	**Refunds**	**Total GRF**
2014	$197.8	$0.1	$197.9
2015	182.1	32.8	215.0
Source: Office of Budget and Management fiscal reports.			

Taxpayer

(Ohio Revised Code 5726.01, 5726.02)

The FIT is imposed on financial institutions for the privilege of doing business in the state. For purposes of the FIT, a financial institution is a bank organization, a holding company of a bank organization, or a nonbank financial organization except when one of the following applies: if two or more such entities are consolidated for purposes of filing a FR Y-9, then the financial institution means the group consisting of all entities that are included in the FR Y-9. If two or more such entities are not included in such a group but are consolidated for the purposes of filing a call report, financial institution means the group of all entities that are included in the call report. If a bank organization is owned directly by a grandfathered unitary savings and loan holding company or directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on Jan. 1, 2012, the financial institution consists only of that bank organization and the entities included in that bank organization's call report.

Tax Base

(R.C. 5726.01, 5726.04, 5726.05)

The amount of tax due is equal to the greater of the minimum tax, equal to $1,000, or the amount by which the calculated tax exceeds any credits allowed against the tax. The calculated tax is determined by multiplying total Ohio equity capital of the financial institution by the appropriate tax rate. Total Ohio equity capital is equal to the product of multiplying total equity capital of the financial institution by an Ohio apportionment factor. Total equity capital means the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. Total equity capital excludes any non-controlling (minority) interests as reported on an FRY-9 or call report, unless such interests are in a bank organization or a bank holding company.

Apportionment factor (R.C. 5726.05)

The apportionment factor is a fraction, the numerator of which is the total gross receipts of the financial institution in Ohio during the taxable year and the denominator of which is the total gross receipts of the financial institution everywhere during the taxable year. Gross receipts generated by a financial institution are sitused to Ohio in the proportion that the customers' benefit in Ohio with respect to the services received bears to the customers' benefit everywhere with respect to the services received. The physical location where the customer ultimately uses or receives the benefit of what was received shall be paramount in determining the proportion of the benefit in Ohio to the benefit everywhere. The method of calculating gross receipts for purposes of the denominator shall be the same as the method used in determining gross receipts for purposes of the numerator. A few examples of gross receipts to be included in the numerator are as follows: receipts from the lease/sub-lease/rental/sub-rental of real property or tangible property to the extent such property is used in Ohio; interest, fees, penalties, or any other charge received from loans secured by real property located within Ohio or if the borrower is located in Ohio, and loan servicing fees derived from loans secured by real property or borrowers located in Ohio.

Ohio-qualified real estate investment trusts (R.C. 5726.041)

In computing total Ohio equity capital, a temporary deduction is allowed for an Ohio-qualified real estate investment trust. When computing total equity capital, a financial institution may deduct the following:

- tax year 2014: 80 percent of the amount that was invested in an Ohio-qualified real estate investment trust as of Jan. 1, 2012.
- tax year 2015: 60 percent.
- tax year 2016: 40 percent.
- tax year 2017: 20 percent.
- tax year 2018 and thereafter: No deduction.

For purposes of calculating the financial institution's apportionment factor for tax years 2014-2017, the act requires a similar phase-in for the institution's gross receipts from an Ohio-qualified real estate investment trust.

Rates

(R.C. 5726.04)

The tax has a three-tiered rate structure:

- 8 mills on the first $200 million of total Ohio equity capital.
- 4 mills for each dollar of total Ohio equity capital of greater than $200 million and less than $1.3 billion.
- 2.5 mills for each dollar of total Ohio equity capital equal to or greater than $1.3 billion.

A minimum tax of $1,000 applies.

Exemptions

(R.C. 5726.01, Ohio Adm. Code 5703-33-04)

A financial institution does not include a diversified savings and loan holding company, a grandfathered unitary savings and loan holding company, any entity that was a grandfathered unitary savings and loan holding company on Jan. 1, 2012, or any entity that is not a bank organization or owned by a bank organization and that is owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on Jan. 1, 2012.

A bank organization does not include an institution organized under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a successor of such an institution, a company chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or a successor of such a company, an association formed pursuant to 12 U.S.C. 2279c-1, an insurance company, or a credit union.

A nonbank financial organization does not include an institution organized under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a successor of such an institution, an insurance company, a captive finance company, a credit union, an institution organized and operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or a person that facilitates or services one or more securitizations for a bank organization, a holding company of a bank organization, a captive finance company, or any member of the person's affiliated group.

A financial institution does not include pawn shops or pawnbrokers.

Also see the **Tax Base** section regarding the phase-in of the tax on Ohio-qualified real estate investment trusts.

Credits

(R.C. 5726.50 et seq.)

A number of business tax credits may be claimed against more than one tax (e.g., job creation and retention tax credits, historic building rehabilitation tax credits, Ohio venture capital tax credits, qualified equity investments tax credits, motion picture tax credits, qualified research expense tax credits). Information about these credits has been consolidated in the **Business Tax Credits** chapter of the Annual Report. Several business tax credits that remained unused under the corporate franchise tax for FIT taxpayers are allowed to be carried forward and claimed under the FIT.

Other credits that may be taken against this tax only are:

Tax Credit for Regulatory Assessments (R.C. 5726.51)

A nonrefundable credit equal to the sum of the annual assessments and the schedule of fees the bank organization paid during the taxable year to the Division of Financial Institutions under Title XI of the Revised Code.

Tax Credit for Qualifying Dealers in Intangibles (R.C. 5726.57)

For tax year 2014 only, a nonrefundable dealers in intangibles credit could be claimed against the FIT. The amount of the credit was the lesser of (a) the amount of the dealers in intangibles tax the dealer paid in the preceding calendar year minus refunds (but the amount may not be reduced below zero) or (b) the product of the following amounts: (i) the cost of the financial institution's direct investment in stock of the qualifying dealer calculated on the last day of the financial institution's taxable year immediately preceding the tax year, (ii) the ratio of capital employed by the dealer in Ohio (as measured under the now repealed dealers in intangibles tax),and (iii) the dealers in intangibles tax rate of 0.8%.

Special Provisions

Rate adjustment (R.C. 5726.04)

A rate adjustment may apply to the FIT tax rates if the amount of taxes collected in designated years fails to meet target tax amounts.

The tax rates for tax year 2015 and 2016 were not subject to a rate adjustment because tax year 2014 collections were within the target range of 90%-110% of the first target tax amount ($200 million).

The tax rates for tax year 2017 and thereafter will be subject to a rate adjustment if the amount of taxes collected for tax year 2016 is greater than 110% or less than 90% of the second target tax amount ($212 million).

Municipal Taxation (R.C. 715.013)

Municipal corporations may not levy a tax that is the same as or similar to the FIT.

Offsetting Personal Income Tax Credit (R.C. 5747.65)

An individual, estate, or trust that owns an interest in a financial institution that is a pass-through entity is allowed to claim a refundable credit against the personal income tax that offsets the owner's share of the financial institu tion's FIT tax due or paid by the pass-through entity for the pass-through entity's taxable year ending in the taxpayer's taxable year.

Filing and Payment Dates

(R.C.5726.03, 5726.06, Ohio Adm. Code 5703-33-01)

The FIT is reported on a calendar year basis with the annual report due on or before the 15th of each October. Taxpayers are required to file electronically and pay using electronic funds transfer through the Ohio Business Gateway or the Treasurer of State. The tax commissioner may excuse a taxpayer from this requirement for good cause.

Annual and estimated report and tax due dates are:

- By January 31: Taxpayers remit the greater of the minimum tax or one-third of the estimated liability for the tax year.
- By March 31: One-half of the amount by which the estimated tax exceeds the payment amount remitted in January.
- By May 31: The remaining one-half of the amount by which the estimated tax exceeds the payment amount remitted in January.
- By October 15: Each reporting person is to submit the annual report to the Tax Commissioner and remit any remaining payments.

Disposition of Revenue

(R.C. 5726.04)

All FIT revenue is deposited in the state's General Revenue Fund.

Administration

(R.C. 5726.10)

The tax commissioner administers the FIT.

Ohio Revised Code Citations

Chapter 5726.

Recent Legislation

Am.Sub.HB 64 (131st General Assembly)

The bill specifies that production credit associations and agricultural credit associations are not subject to the FIT, but rather to the commercial activity tax (CAT). This change applied retroactively to tax years beginning on and after Jan. 1, 2014.

Am.Sub. SB No. 243 (130th General Assembly)

The bill made clarifying and corrective changes to the FIT rate recalibration method. The method generally directs the tax commissioner to adjust FIT rates in 2015 and 2017 in cases where revenues in the prior year exceed or fall short of a target revenue amount by plus or minus 10%. The bill modified the definition of "amount of taxes collected" to include (add-back) the amount of the non-refundable dealers in intangibles credits claimed in 2014, and modified the definition of "financial institution" to exclude entities that were grandfathered unitary savings and loan holding companies on Jan. 1, 2012 and certain entities owned by such holding companies.

History of Major Changes

2012	The 129th General Assembly, enacts HB 510, replacing the corporation franchise tax on financial institutions with a new business privilege tax on financial institutions commencing with tax year 2014.
2015	The 131st General Assembly enacts HB 64, the budget bill, which includes a retroactive provision exempting production credit associations and agricultural credit associations from the FIT, and subjecting them to the commercial activity tax (CAT).

Comparison With Other States

Georgia	Georgia imposes a banking franchise tax on banks and savings associations measured by the gross receipts of depository financial institutions allocated and apportioned to Georgia at the rate of 0.25%. Georgia financial institutions also are subject to its corporate income and net worth taxes.
Indiana	Indiana imposes a financial institutions tax on any corporation transacting the business of a financial institution in Indiana measured by adjusted gross income or apportioned income at the rate of 8% in 2014 and 7.5% in 2015.
Kentucky	Kentucky imposes a financial institutions tax on any financial institution regularly engaged in business in Kentucky on net capital after allocation and apportionment to Kentucky at the rate of 1.1%.

Comparison With Other States - cont.

Michigan	In lieu of the corporate income and gross receipts taxes, financial institutions including subsidiaries are subject to a franchise tax on their net capital at the rate of 0.235%.
North Carolina	North Carolina levies a Bank Annual Privilege Tax on financial institutions equal to $30 per $1 million in total assets. Asset amounts are determined by averaging assets reported on quarterly reports in the prior year. The state also subjects financial institutions to a corporate franchise tax and a corporate income tax.
Pennsylvania	Pennsylvania levies a bank and trust company shares tax of 0.89% on bank equity capital as of each January 1. The tax is levied on banks that generate at least $100,000 in gross receipts that are apportionable to the state, even if the financial institution has no physical presence in the state. Pennsylvania also imposes a gross receipts tax on private bankers at a rate of 1% on gross receipts from commissions from loans; banking services; interest from bonds, mortgages, premiums and dividends; profits from the purchases and sales of securities; and many other related services.
Tennessee	Tennessee does not impose a tax specifically limited to financial institutions. Tennessee imposes a franchise and an excise tax on businesses organized or doing business in Tennessee. The franchise tax rate is 0.25% of the greater of net worth or real and tangible property, and the excise tax rate is 6.5% of Tennessee net earnings.
Texas	Texas does not impose a tax specifically limited to financial institutions. Texas imposes a franchise margin tax on each entity that does business in Texas or that is chartered or organized in Texas measured by taxable margin and taxed at a rate of 0.95% for most entities.
West Virginia	West Virginia does not impose a tax specifically limited to financial institutions. West Virginia imposes a corporate income tax with special income apportionment rules for financial organizations. The rate is 6.5% effective for tax years starting on or after Jan. 1, 2014.

Table 2

Tax Year 2014 Financial Institutions Tax Return Summary Data (dollars in millions, rounded[1])

Ohio Equity Capital Tier	Total	Tier 1 (above $1,300 million)	Tier 2 (above $200 million to $1,300 million)	Tier 3 ($200 million or less)
Number of filers	501	12	15	474
Total Equity Capital	$1,781,531.1	$958,891.1	$317,479.5	$505,160.5
REIT Deduction	($12,959.4)	($12,959.4)	0.0	0.0
Adjusted Total Equity Capital	$1,768,571.6	$945,931.7	$317,479.5	$505,160.5
Total Ohio Gross Receipts	$23,654.4	$14,435.1	$4,463.8	$4,755.5
Total Gross Receipts Everywhere	$985,317.4	$508,921.3	$226,989.3	$249,406.8
Apportionment Factor (aggregated)	2.40%	2.84%	1.97%	1.91%
Total Ohio Equity Capital	$42,149.3	$26,936.5	$6,304.3	$8,908.5
Total Tax Liability	$208.9	$100.3	$37.2	$71.3
Total Nonrefundable Credits	($25.0)	($14.9)	($3.7)	($6.5)
Total Refundable Credits	($10.1)	($9.8)	($0.1)	($0.1)
Total Tax Liability After Credits	$173.8	$75.6	$33.4	$64.7

[1]Figures may not add up due to rounding.

Source: Department of Taxation; Tax Year 2014 return data as of July 14, 2015.