Financial Institutions Tax

The financial institutions tax (FIT), for the most part, is a successor tax to the corporation franchise tax for financial institutions. Financial institutions that were subject to the now repealed corporation franchise tax became subject to the FIT for tax years commencing on or after Jan. 1, 2014. Non-bank financial organizations that were subject to the commercial activities tax (CAT) also became subject to the FIT but are excluded persons for purposes of the CAT. In fiscal year 2014, a total of $197.8 million of FIT revenue was deposited into the state's general revenue fund.

Taxpayer

(Ohio R.C. 5726.01, 5726.02)

The FIT is imposed on financial institutions. Financial institutions include a bank organization, a holding company of a bank organization, or a non-bank financial organization unless exempted under the law. Financial institutions do not include a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company, an institution organized under the "Federal Farm Loan Act" or a successor institution, an insurance company, a credit union, a captive finance company, or a pawn shop/pawnbroker.

Tax Base

(R.C. 5726.01 et seq.)

The FIT is a business privilege tax. 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 Ohio equity capital of the financial institution by the appropriate tax rate. Ohio equity capital is equal to the product of multiplying total equity capital of the financial institution by an Ohio apportionment ratio. 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 FR Y-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 shall be 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 this state 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.
- Tax year 2015: 60 percent.
- Tax year 2016: 40 percent.
- Tax year 2017 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.

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 up to $1.3 billion.
- 2.5 mills for each dollar of total Ohio equity capital in excess of $1.3 billion.

The tax rates are subject to rate adjustment mechanisms after the first and third year depending on whether the tax collections exceed or fall below 10% of the target tax revenue of $200 million for 2014 or 1.06% of any adjusted amount for 2016. In January 2015, the Tax Commissioner calculates whether tax year 2014 collections were greater than 110 percent or less than 90 percent of the target tax amount of $200 million. If the Tax Commissioner's calculations were to show collections greater than 110 percent of the target tax amount, the Tax Commissioner must decrease the tax rates by an equal percentage across all three tiers for tax year 2015 and thereafter. If less than 90 percent, then the 2.5 mill third-tier rate for Ohio equity capital in excess of $1.3 billion would be adjusted upward for tax year 2015 and thereafter. In January 2017, the Tax Commissioner makes a second calculation where the targeted amount is $212 million (or 1.06 times the adjusted amount from 2014). The same adjustment mechanism is to occur with the same results for 2017 and thereafter. A minimum tax of $1,000 applies.

Exemptions

(R.C. 5726.01)

Entities excluded from the FIT include:

- Pawn shops/brokers (excluded as a small dollar lender);
- Credit unions;
- Diversified savings and loans holding companies;
- Grandfathered unitary savings and loan holding companies;
- Institutions organized under the "Federal Farm Loan Act" or a successor of such an institution;
- Insurance companies; and
- Captive finance companies.

Ohio qualified real estate investment trusts (R.C. 5726.041)
See Tax Base for 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 non-refundable credit equal to the sum of the annual assessments bank organizations paid during the taxable to the division of financial institutions of the Department of Commerce under Title XI of the Revised Code.

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

For tax year 2014 only, there is allowed to each financial institution a non-refundable dealers in intangibles credit for financial institutions. The amount of the credit is 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 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%. The credit is to offset the dealers in intangibles tax paid in 2015 because these dealers in intangibles also must pay the FIT tax for tax year 2014.

Special Provisions

Consolidated Group Filing (R.C. 5726.01, 5726.03).

If two or more entities are related by ownership or control in such a way that they are required to be included in the same FR-Y9 report or call report, they must file the FIT annual report and pay the tax as a consolidated group composed of all such institutions. If an entity is included in both an FR-Y9 for a holding company and a call report, look to the report filed by the highest tier parent in the consolidated group

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 institution'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)

The FIT is an annual tax 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. Taxpayers may be relieved of this requirement if they can show good cause to the Tax Commissioner.

Annual and estimated report and tax due dates are:

- By Jan. 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 (return FIT 10) 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

H.B. 510 (129th General Assembly)

Replaced the corporation franchise tax on financial institutions with a new business privilege tax on financial institutions commencing with tax year 2014.

History of Major Changes

2012	Financial institutions tax eastablished, beginning tax year 2014

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%.
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% for tax years beginning after December 31, 2013 and before January 1, 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%.
Michigan	Michigan imposes a financial institution franchise tax on net capital under its corporate income tax after allocation and apportionment to Michigan at the rate of 0.29%.
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 taxable income.
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 1%.
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 7% effective for tax years starting on or after January 1, 2013 and before January 1, 2014, and 6.5% effective for tax years starting after January 1, 2014.

Table 1			
Financial Institutions Tax **Revenue for Fiscal Year 2014** **(dollars in millions)**			
Fiscal Year	**General Revenue Fund**	**Refunds**	**Total**
2014	$197.8	$0.1	$197.9
Source: Office of Budget and Management fiscal reports.			