

## Corporation Franchise Tax

Legislation enacted during 2003 includes the following key franchise tax provisions applicable to taxable years ending after June 25, 2003 (a summary of the franchise tax portion of the legislation is found at the end of this chapter):

- Enacts business/nonbusiness income treatment;
- Business income is apportioned, nonbusiness income is allocated;
- Internal Revenue Code (I.R.C.) section 179 depreciation adjustment;
- Revision of sham transaction statute;
- Increase of minimum fee for certain large corporations; and
- Net worth apportionment ratio may differ from the net income apportionment ratio.

The Ohio corporation franchise tax came into effect in 1902 at a one-mill (0.1 percent) rate on the value of capital stock (net worth) in Ohio. The tax rate remained at one mill until 1959 when it was increased to three mills, followed by one-mill increases in 1967 and 1969, respectively. In 1971, the five-mill net worth tax was complemented by a new tax based on net income in Ohio. With the enactment of this new tax base, taxpayers were required to compute both the net worth tax and the net income tax, and to pay the higher of the two tax calculations.

During the 1980s and 1990s many changes were made to the corporation franchise tax rates, and the litter tax and a (now repealed) surtax were enacted. However, from 1988 to 1998 the franchise tax rates remained constant, with a 5.82 mill net worth tax rate and a 5.1 percent rate on the first \$50,000 of net income, and an 8.9 percent rate on remaining net income.

In 1999, major changes were made to the tax, including reductions in the net worth tax rate (to four mills) and the top net income tax rate (to 8.5 percent). Among the many other changes that took effect in 1999 was the imposition of a \$150,000 cap on the net worth tax and the replacement of the two-factor net worth apportionment formula with the three-factor net income apportionment formula (see **Exhibits 1 and 2** for further details on the apportionment formula).

Financial institutions are treated in a different manner than general corporations under the corporation franchise tax. Financial institutions are subject to a 13-mill net worth tax (net income tax and litter tax do not apply) and have different apportionment provisions than those for general corporations.

In FY 2003, the corporation franchise tax generated just under \$808.3 million in total (all funds) revenue. The franchise tax produces the third highest amount of revenue among the taxes that support Ohio's General Revenue Fund.

Of this total, 5.1 percent or \$41.5 million was distributed to the Local Government Fund, 0.7 percent or \$5.9 million to the Local Government

Revenue Assistance Fund, and 92.5 percent or \$747.2 million was distributed to the General Revenue Fund. This distribution was in accordance with the provisions of H.B. 94, the FY 2002/2003 Biennial Budget Bill.

The tables in this chapter provide tax year 2002 data on the distribution of the corporation franchise tax among the alternative tax bases for various industrial classifications and tax liability levels. The data were taken from franchise tax reports that were due in 2002, with the bulk of the taxes collected between January and May 2002 (FY 2002).

For all corporation franchise taxpayers except financial institutions, the reported liability before credits, not including Tier I and Tier II litter taxes, was \$763.7 million, but tax credits reduced the liability to \$621.5 million.

About 21 percent of the corporations paid the tax on net income and that 21 percent paid about 75 percent of the total tax liability before credits. In addition, 33 percent of the corporations paid the tax based on net worth, and another 46 percent paid the minimum tax. These data exclude the reports of financial institutions, which are shown in the final table.

Financial institutions reported a total tax liability before credits of \$157.9 million for tax year 2002. Banks filed 60 percent of the financial institution returns and paid 76 percent of the total tax liability reported by financial institutions. Savings and loans filed 28 percent of these returns, but paid only 22 percent of the total tax liability. Other financial institutions accounted for the balance of these returns and tax liability.

### **TAX BASE (R.C. 5709.50, 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. Generally a taxpayer corporation must determine the value of its issued and outstanding shares of stock under both the net income base and the net worth base, and pay the tax on the base that produces the greater tax. However, different rules apply to financial institutions, qualifying holding companies and certain high-tech start-up companies:

- Financial institutions are not subject to the tax on the net income base but are subject to the tax on the net worth base at a higher rate than other taxpayers;
- Qualifying holding companies and certain high-tech start-up companies are not subject to the tax on the net worth base but are subject to the tax on the net income base.

**1. Net Worth Base (R.C. 5733.05(C)):**

The net worth base value of issued and outstanding shares of stock is determined from the books of the corporation as of the beginning of the taxpayer's annual accounting period that includes the first day of January of the tax year. Net worth is determined by subtracting from book net worth those items excluded by statute (see **Exemptions and Exclusions** section). For taxpayers other than financial institutions, qualifying holding companies and high-tech start-up companies, the tax on the net worth base is calculated by multiplying the corporation's adjusted net worth by the corporation's net worth apportionment ratio by the net worth tax rate for general taxpayers. For financial institutions, the tax is determined by multiplying the taxpayer's adjusted net worth by the taxpayer's Ohio apportionment ratio by the net worth rate for financial institutions. Qualifying holding companies and certain high-tech start-up companies are not subject to tax on the net worth base (see **Exhibit 1**).

**2. 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 before net operating loss deductions and special deductions for the taxable year (see **Exemptions and Exclusions** section). The adjusted income is then allocated or apportioned within and outside of Ohio, depending on its source. The net income base does not apply to financial institutions.

**Allocable Income (for taxable years ending before June 26, 2003) (R.C. 5733.051) –**

Income from the sources listed below is allocable regardless of whether that income is business income or nonbusiness income. Ohio franchise tax law makes no distinction between business and nonbusiness income for taxable years ending prior to June 26, 2003. Unless the Tax Commissioner requires an alternative method of allocation or unless the Tax Commissioner approves the taxpayer's requested alternative method, income from the following sources is allocated in or outside Ohio as listed below:

- a) Net rents and royalties from real property and tangible personal property;
- b) Capital gains and losses from the sale or other disposition of real property, tangible personal property, and dividend producing intangible property;
- c) Dividends;
- d) Net patent and copyright royalties (not representing principal source of gross receipts);
- e) Technical assistance fees (not representing principal source of gross receipts); and
- f) State lottery income.

**Allocable Income (for taxable years ending after June 25, 2003) (R.C. 5733.051) –**

Unless the Tax Commissioner requires an alternative method of allocation or unless the Tax Commissioner approves the taxpayer's requested alternative method, only nonbusiness income is allocated in and outside Ohio.

**Apportionable Income (for taxable years ending before June 26, 2003) –**

Unless the Tax Commissioner approves or requires an alternative method of apportionment, income from all non-allocable sources is apportioned to Ohio according to a weighted three-factor property,

payroll and sales formula. The formula and the three weighted factors are shown in **Exhibit 2**.

**Apportionable Income (for taxable years ending after June 25, 2003) –**

Unless the Tax Commissioner approves or requires an alternative method of apportionment, business income is apportioned to Ohio according to a weighted three-factor property, payroll and sales formula. The formula and the three weighted factors are shown in **Exhibit 2**.

**Net Income –**

The sum of the income allocated and apportioned to Ohio less Ohio net operating losses carried forward from an earlier year equals Ohio taxable income to which the net income tax rate is applied.

**TAX RATES (R.C. 5733.06):****1. Franchise Tax Rates:**

Taxpayers must determine the value of issued and outstanding shares of stock under both the net income base and the net worth base and pay the tax on the base that produces the greater tax. The net income base does not apply to financial institutions and the net worth base does not apply to qualifying holding companies and high tech start-up companies.

**Net Worth –**

Net worth taxable value is taxed at the rate of 4.00 mills (.004). The maximum tax on the net worth base is \$150,000 per taxpayer.

**Net Income –**

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.

**Minimum fee –**

- For taxable years ending before June 26, 2003, the minimum tax liability for each taxpayer is \$50.
- For taxable years ending after June 25, 2003, the minimum tax liability for certain large taxpayers is \$1,000.

**2. Litter Tax Rates (R.C. 5733.065 and 5733.066):**

Tier I litter tax applies to all corporations except family farm corporations and financial institutions. The rates are:

**Net Worth** – 0.14 mills (.00014) on the taxable value of the corporation, or

**Net Income** – 0.11 percent on the first \$50,000 of Ohio taxable income plus 0.22 percent on Ohio taxable income in excess of \$50,000.

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

Tier II litter tax applies to taxpayers that manufacture or sell litter stream products in Ohio. The Tier II litter tax rates are:

**Net Worth** – 0.14 mills (.00014) on the taxable value of the corporation, or

**Net Income** – 0.22 percent on the Ohio taxable income in excess of \$50,000.

The Tier II tax charged any taxpayer or group of combined taxpayers is limited to \$5,000.

Litter stream products include general beverages, beverage containers and packaging, take-out food packaging, tobacco products, candy, and gum.

**3. Financial Institutions Rate (R.C. 5733.06):**

Financial institutions are subject to tax on the net worth base at a rate of 13 mills (.013). Financial institutions are not subject to tax on the net income base.

**EXEMPTIONS, EXCLUSIONS, DEDUCTIONS AND ADDITIONS:**

**1. Corporations not Subject to the Franchise Tax (R.C. 1733.43, 5733.01, 5733.04, 5733.06, 5733.09, and 5733.10):**

- a) Nonprofit corporations (except certain agricultural and consumer cooperatives);
- b) Municipal corporations;
- c) Public utilities subject to public utility excise tax;
- d) Credit unions;
- e) Dealers in intangibles;
- f) Corporations required to file annual reports with the Superintendent of Insurance;
- g) "Real estate investment trusts," "regulated investment companies,"

**Exhibit 1 – Corporation Franchise Tax  
Net Worth Tax Base**

**Ohio Taxable = Net Value of Stock\* X [(Property factor x .20) + (Payroll Factor x .20) + (Sales Factor x .60)]**

\*Excludes value of pollution control, coal conversion, and energy conversion facilities property, qualified property in an enterprise zone, and land devoted exclusively to agriculture. See Exhibit 2 for explanation of factors.

**Exhibit 2 – Corporation Franchise Tax  
Net Income Tax Base (does not apply to financial institutions)**

**Ohio Taxable Income\* = Allocable Income Within Ohio + Ohio Apportioned Net Income – Ohio Net Operating Loss Deduction**

\* Also includes income (or deducts a loss) from a transferor corporation and includes positive adjustments (or deducts negative adjustments) for related entities and related members.

1. Net Income Apportionment Formula:

**Ohio Apportioned Net Income = Apportionable Income x [(Property Factor x.20) + (Payroll Factor x.20) + (Sales Factor x.60)]**

2. The factors are computed as follows\*:

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

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

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

\* The net income base factors do not include property, payroll or sales relating to nonbusiness income for taxable years ending after June 25, 2003. For all taxable years, proceeds from the sale or exchange or other disposition of capital assets and I.R.C. section 1231 assets are not included in the sales factor for either base.

\*\* The cost of pollution control, coal conversion, solid waste energy conversion, thermal efficiency improvement, and energy conversion facilities; property that generates rental income; and property used exclusively for qualified research in Ohio is excluded from the numerator and denominator only. The cost of qualifying improvements to property in an enterprise zone is excluded from the numerator only.

\*\*\* Excludes compensation to certain employees at a qualified facility in an enterprise zone, and compensation to employees engaged in qualified research in Ohio.

\*\*\*\* For sales of tangible personal property, sales inside and outside of Ohio are determined by the final destination of the property sold; other sales are situated according to where the income-producing activity takes place. Sales derived from allocable income are not included in this factor.

and “real estate mortgage investment conduits” as defined in the I.R.C.;

- h) Corporations electing treatment as an “S” corporation under the I.R.C. and their Qualified Subchapter S Subsidiaries (QSSS);
- i) Limited Liability Companies (LLCs), if treated as a partnership for federal tax purposes; and
- j) Corporations in Chapter 7 bankruptcy proceedings are not subject to the franchise tax except for the portion of the current tax year such corporation had the power to exercise its corporate franchise unimpaired by such proceedings.

## 2. Deductions in Determining Net Worth

**(R.C. 5709.25, 5709.35, 5709.50, 5709.65, 5915.29, 6111.36 and 5733.056):**

- a) Certified Ohio pollution control facilities;
- b) Certain facilities designed to convert coal into other fuels or to desulfurize coal (applies only to financial institutions and assets excluded only for 30 years);
- c) Certified Ohio civil defense structures;
- d) Certified Ohio energy conversion, thermal efficiency improvement, and solid waste energy conversion facilities for years ending prior to June 26, 2003;
- e) Qualified improvements to property located in an enterprise zone (applies only to financial institutions);
- f) Land in Ohio devoted exclusively to agriculture; and
- g) Appreciation and goodwill (applies only to financial institutions).

## 3. Adjustments in Determining Ohio Net Income (R.C.

**5709.35, 5733.04, 5733.042, 5733.053, 5733.054, 5733.055, and 5733.058):**

- a) Deduct certain income from sources outside the United States;
- b) Deduct I.R.C. section 243 dividends received deduction;
- c) To the extent not otherwise deducted, deduct dividends received from public utilities, insurance companies and financial institutions in which the taxpayer has the ownership interests as described by statute (receipts from these companies are eliminated in determining the sales factor for apportioning net income and net worth);
- d) Deduct gains and add 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;
- e) Deduct net income arising from facilities designed to convert coal into other fuels, to desulfurize coal, or as a coal research and development project (except for 30 years);
- f) Deduct 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);
- g) Deduct wage and salary expense not otherwise deducted for federal tax purposes because of the targeted jobs tax credit and/or the work opportunity tax credit;
- h) Deduct net interest income on federal government obligations;
- i) Deduct Ohio net operating loss carried forward from the prior 20 years (there is no Ohio net operating loss carry-back provision);
- j) Deduct amounts contributed to an individual development account program;
- k) Deduct 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);

- l) Add 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;
- m) Add interest and intangibles expense paid to certain related members;
- n) Add income (and deduct losses) earned by a transferor corporation that merges into the taxpayer in a tax-free reorganization; and
- o) Add (and later deduct) depreciation expense adjustment for I.R.C. section 168(k) bonus depreciation and additional I.R.C. section 179 depreciation.

## CREDITS:

### 1. Credit for Recycling and Litter Prevention Donations (R.C. 5733.064):

Taxpayers may claim a 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 the litter tax rates.

### 2. Enterprise Zone Day Care and Training Credits (R.C. 5709.65 (A)):

Taxpayers that locate in an enterprise zone and hold a tax incentive qualification certificate issued by the Department of Development may claim a credit equal to:

- a) The amount reimbursed to specified employees for the cost of day care services up to a maximum of \$300 per child;
- b) The amount reimbursed to specified employees for training costs up to a maximum of \$1,000 per employee.

### 3. Credit for Savings and Loan Association Fees (R.C. 5733.063):

Savings and loan associations are permitted a credit against the total tax due equal to the amount of the annual assessment the association paid during the taxable year 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 in the case of a savings and loan association not insured by the Federal Savings and Loan Insurance Corporation, the amount it would have paid if insured.

### 4. Credit for Taxes Paid by a Qualifying Pass-Through Entity (R.C. 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.

### 5. Export Sales Credit (R.C. 5733.069):

For tax years prior to 2001, corporations that increased export sales and increased Ohio payroll or property were allowed a credit. For tax years 2001 through 2005, only unused amounts carried forward from prior years are allowed.

### 6. New Jobs Credit (R.C. 5733.0610):

A taxpayer may claim a refundable credit for new jobs created pursuant to an agreement with the Tax Credit Authority created under R.C. 122.17. The credit equals a designated percentage of the total amount of Ohio income tax withheld from new employees during the taxable year. The percentage is established by agreement between the taxpayer and the Tax Credit Authority. The credit is permitted for a period of up to 10 years.

**7. Credit for Grape Production Property (R.C. 5733.32):**

A taxpayer may claim a credit equal to 10 percent of the cost of purchasing and installing or constructing qualifying property used to produce grapes in Ohio.

**8. Credit for Eligible New Employees in an Enterprise Zone (R.C. 5709.66):**

A taxpayer that is issued a tax credit certificate for an eligible employee may claim a \$1,000 nonrefundable credit for each taxable year covered under the enterprise zone agreement during which the eligible employee is employed by the taxpayer.

**9. Edison Center Credit for Research and Development Investors (R.C. 5733.35):**

Investors that provide capital to certain qualifying small, Ohio-based research and development or technology transfer companies may be eligible for a nonrefundable credit equal to 25 percent of the taxpayer's at-risk investment. The credit must be approved by the State Industrial Technology and Enterprise Board. The maximum cumulative value of credits granted to all taxpayers cannot exceed \$10 million.

**10. Credit for Eligible Costs Associated with a Voluntary Action (R.C. 5733.34):**

Taxpayers may claim a nonrefundable credit for costs incurred in completing a voluntary clean-up of a contaminated site pursuant to an agreement with the state Director of Development. The credit is aimed at restoring contaminated industrial sites. The credit equals the lesser of \$500,000 or 10 percent of the eligible costs incurred in performing the voluntary clean-up. If the clean-up action is undertaken in certain "economically disadvantaged" areas, the credit equals the lesser of \$750,000 or 15 percent of the eligible costs. The maximum cumulative value of credits granted to all taxpayers cannot exceed \$30 million.

**11. Credit for Purchases of New Manufacturing Machinery and Equipment – 7.5 Percent/13.5 Percent Credit (R.C. 5733.33):**

New manufacturing machinery and equipment purchased by manufacturers between July 1, 1995 and December 31, 2005 for installation in Ohio is eligible for an investment tax credit. The credit equals 7.5 percent of the amount by which the cost of qualifying equipment purchased during a calendar year qualifying period for use in an Ohio county exceeds the taxpayer's "base investment" for that county. The credit rate for investments in certain eligible areas (inner city areas, distressed areas, labor surplus areas, and situational distress areas) is 13.5 percent (rather than 7.5 percent). One-seventh of the credit may be claimed in each of the seven tax years following the purchase year.

**12. Day Care Credits (R.C. 5733.36, 5733.37 and 5733.38):**

Three separate tax credits are available for tax years 1999 through 2003 for costs associated with child day care. One of these credits equals 50 percent of the payments made by the taxpayer to support a qualified day care center that may be used by the taxpayer's employees. Another credit equals 50 percent of the start-up expenses of a day care center established on the taxpayer's site and used by the taxpayer's employees (the maximum credit is \$100,000). The final credit equals 50 percent of the reimbursements made by a taxpayer to its employees for day care expenses of dependents, with a maximum \$750 annual credit per child. Unused credits with respect to establishing on-site day care centers can be carried forward for five tax years. The other

two day care credits have no carry-forward period and thus have expired.

**13. Credit for Qualifying Affiliated Groups (R.C. 5733.068):**

If as a result of the related entity and related member adjustments, an affiliated group will 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 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).

**14. Job Training Credit (R.C. 5733.42):** This temporary credit applies to franchise taxpayers for tax years 2004, 2005 and 2006 that incurred "eligible training costs" and received a tax credit certificate from the state Director of Job and Family Services with respect to an "eligible training program" for "eligible employees." The Director may not issue tax credit certificates which in total exceed \$20 million per calendar year. The Director will review job training credit applications and authorize credits to qualified applicants in the order in which the applicants submit complete and accurate applications.

**15. Credit for Maintaining Railroad Crossing Warning Devices (R.C. 5733.43):**

Railroad companies can claim a credit for maintaining signs, signals, gates and other electrical warning devices at public highway-railway crossings in Ohio at common grade. The credit equals 10 percent of the sum of the annual maintenance expenditures for each active grade crossing warning device in Ohio for which such expenditures were made during the taxable year. The credit may not exceed \$200 for each device in Ohio for which such expenditures were made during the taxable year.

**16. Job Retention Credit (R.C. 5733.0610(B)):**

This credit applies to taxpayer-manufacturers that make a capital investment of at least \$200 million (or under certain conditions \$100 million, see **Recent Legislation**) at a single Ohio project site during three consecutive calendar years in the period January 1, 2002 and ending December 31, 2006. As a prerequisite, the taxpayer must employ an average of 1,000 full-time employees at the project site during each of the twelve months preceding application. In addition, the taxpayer must retain at least 1,000 full-time employees at the project site for the entire term of the credit agreement. The credit equals a percentage of the Ohio income tax withheld from the taxpayer's employees at the project site as set forth in the agreement between the taxpayer and the Ohio Tax Credit Authority. The credit begins in tax year 2003 and is limited to a term of 10 years.

**17. Ethanol Plant Investment Credit (R.C. 5733.46 and 901.13):**

This nonrefundable credit equals 50 percent of the amount of money that the taxpayer invests in R.C. 901.13 certified ethanol plants in the calendar year preceding the tax year. The credit is limited to \$5,000 per taxpayer per certified ethanol plant regardless of the number of years in which the taxpayer makes such investments. The credit applies to tax years 2003 through 2013.

**18. Credit for Qualified Research Expense (R.C. 5733.351):**

For years 2004 and thereafter the credit equals 7 percent of the amount by which the taxpayer's "qualified research expense"

incurred in Ohio during the taxable year exceeds the taxpayer's average annual qualified research expenses incurred in Ohio for the three preceding taxable years. The term "qualified research expense" has the same meaning as in section 41 of the I.R.C.

**19. Lottery Commission Withholding Credit (R.C.**

**5747.062(B)(2)):**

A refundable credit is available in that amount equal to the amount the Ohio Lottery Commission withheld from payments to the taxpayer.

**20. Coal Credit for Electric Companies (R.C. 5733.39):**

Beginning in tax year 2003, an electric company may claim a nonrefundable credit for Ohio coal used in any part of its coal-fired electric generating units after April 30, 2002 but before January 1, 2005. The credit is computed at the rate of \$3 per ton of Ohio coal burned in a coal-fired electric generating unit.

**SPECIAL PROVISIONS:**

1. Although a corporation that dissolves its Ohio charter or surrenders its license to conduct business in Ohio prior to January 1 of the tax year is not subject to the franchise tax, the corporation may be subject to an "exit tax" on its unreported Ohio net income. Any income earned by an exiting corporation in the two calendar years prior to the tax year (to the extent that such income was not previously included on a franchise tax report) is subject to the exit tax. The exit tax is not computed on the net worth base and does not apply to financial institutions (see R.C. 5733.06(H)).
2. A transferee corporation that receives substantially all the assets of a transferor 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 (see R.C. 5733.053).
3. A corporation that claims the credit for its proportionate share of taxes paid by a qualifying pass-through entity must add to federal taxable income the amount claimed as a credit, to the extent such amount was deducted or excluded from the corporation's federal taxable income (see R.C. 5733.04(I)(14)).
4. Qualifying pass-through entities (partnerships, S corporations, and LLCs treated as a partnership for federal income tax purposes) that are doing business in Ohio or otherwise have nexus with Ohio are required to pay tax on the qualifying investors' share of the pass-through entity's Ohio profits. Among the investors excluded from the definition of "qualifying investors" are individual investors who are Ohio residents; nonresident individuals on whose behalf the entity files Ohio Form IT-4708; investment pass-through entities; and corporate investors that submit a statement to the qualifying pass-through entity agreeing that the investor is subject to Ohio corporation franchise tax on its distributive share of income from the entity. The pass-through entity is subject to a 5 percent withholding tax on the sum of qualifying individual investors' distributive shares of the entity's Ohio income and gain. For qualifying investors that are not individuals, the entity is subject to an 8.5 percent tax on the sum of such investors' distributive shares of Ohio income and gain. No tax is due if Ohio income and gain do not exceed \$1,000 (see R.C. 5733.40, 5733.41, 5733.04(I)(14) and 5733.0611, and R.C. income tax sections 5747.41 through 5747.453, 5747.01(A)(16), and 5747.059).
5. Companies defined as "financial institutions" under R.C. 5725.01 are subject to a net worth based franchise tax that differs substantially from the net worth base tax for regular corporations (see R.C. 5733.056).
6. Each taxpayer must include in its adjusted qualifying amounts, allocable income or loss, 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 (see R.C. 5733.057).
7. If more than half of the capital stock, with voting rights, of the taxpayer is owned or controlled by another corporation or related interests, the Tax Commissioner may permit or require the combining of net income for purposes of calculating the tax base. In addition, two or more corporations subject to the tax that meet the above ownership requirements may elect to file a combined report if each of the corporations has nondividend income from sources within Ohio. Once made, this election may not be changed by the taxpayer without the Tax Commissioner's consent. The combination provisions apply only to the net income base, not the net worth base (see R.C. 5733.052).
8. Intangible expenses and costs paid to certain related members are added to income (see R.C. 5733.042).

**TAXPAYER (R.C. 5733.01):**

The Ohio corporation franchise tax is imposed on both domestic and foreign corporations organized for profit for the privilege of doing business in Ohio, owning capital or property in Ohio, holding a charter or certificate of compliance authorizing the corporation to do business in Ohio, or otherwise having nexus with Ohio during the calendar year in which the tax is payable.

Unless an exemption applies, each for profit domestic corporation (a corporation organized for profit under the laws of Ohio) and each Chapter 1729 corporation (agricultural cooperative) organized not for profit under the laws of Ohio, is subject to the Ohio franchise tax. In addition, unless an exemption applies, each foreign corporation (a corporation organized under the laws of another state, a possession or instrumentality of the United States, or a foreign country) organized for profit, and each not for profit foreign agricultural cooperative organized or operating in the same or similar manner as a Chapter 1729 agricultural cooperative, for the privilege of doing business in Ohio, owning or using part or all of its capital or property in Ohio, holding a certificate of compliance with the laws of Ohio authorizing it to do business in Ohio, or otherwise having nexus with Ohio under the Constitution of the United States, is subject to the franchise tax. Business trusts defined in R.C. 1746.01 having nexus with Ohio are also subject to the corporation franchise tax.

**FILING AND PAYMENT DATES (R.C. 5733.02, 5733.021, 5733.022 and 5733.13):**

**January 31 —**

If by this date the corporation does not file the annual report and make full payment of the tax due, then the corporation must file an estimated report and pay one-third of that estimated liability. If the estimated tax liability is the minimum fee, the corporation must make full payment by January 31.

**March 31 —**

By this date the corporation must either file its franchise tax report and

pay the remaining tax due or the corporation must file a request for extension and pay the second one-third of its estimated tax liability.

#### May 31 —

By this date, a corporation which by March 31 filed a request for extension and paid the second one-third of its estimated tax due, must either file the annual report and pay the remaining tax due or file a request for additional extension and pay the remaining one-third of its estimated franchise tax liability. A corporation receiving 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.

The interest rate on both underpayments and overpayments is based on the average federal short-term rate in effect in July of the previous year plus three percentage points. For calendar year 2003, the rate is 6 percent. The rate will decrease to 4 percent in calendar year 2004.

### DISPOSITION OF REVENUE (R.C. 4981.09, 5733.12, 5733.122):

After making any necessary deposits to the Attorney General Claims Fund, the Litter Control Tax Administration Fund, and the Recycling and Litter Prevention Fund, the Local Government Fund receives 4.2 percent, the Local Government Revenue Assistance Fund receives 0.6 percent, and the General Revenue Fund receives 95.2 percent of collections. H.B. 94, 124th General Assembly, FY 2002/2003 Biennial Budget Bill, temporarily replaced the revenue distribution described above.

During each month of the July 2001 – May 2002 period and the July 2002 – May 2003 period, the Local Government Fund and Local Government Revenue Assistance Fund received the same amount they received during the corresponding month of the July 2000 – May 2001 period. For June 2002 and June 2003 the funds received the same amount they received in June 2000.

The amount appropriated annually for administration of the litter tax is credited to the Litter Control Tax Administration Fund. The annual amount credited to the Recycling and Litter Prevention Fund equals the litter tax liability in the second preceding year.

### OHIO REVISED CODE CITATIONS:

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

### ADMINISTRATION:

The corporation franchise tax is administered by the Department of Taxation. However, certain franchise tax credits are administered by the Department of Development. Tax payments are payable to the Treasurer of State but are received by the Department of Taxation. Certain large taxpayers are required to pay by Electronic Funds Transfer (EFT). Taxpayers that are required to pay by EFT must register through the Treasurer of State.

### RECENT LEGISLATION:

**Am. Sub. H.B. 95, 125<sup>th</sup> General Assembly (effective June 26, 2003). Effective for taxable years ending on or after June 26,**

### 2003, Am. Sub. H.B. 95 enacts significant franchise tax amendments pertaining to the apportionment and allocation of income to Ohio.

This new law distinguishes business income from nonbusiness income and defines those terms —

- **Business income** means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. 'Business income' includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill (see R.C. 5733.04(Q) as enacted by Am. Sub. H.B. 95, 125<sup>th</sup> General Assembly);
- **Nonbusiness income** means all income other than business income (see R.C. 5733.04(R) as enacted by Am. Sub. H.B. 95, 125<sup>th</sup> General Assembly).

The new law requires the apportionment of all business income and the allocation of nonbusiness income.

In addition to amending the law regarding whether income is apportionable business income or allocable nonbusiness income, the new law amends how certain nonbusiness income is allocated. Every item of net nonbusiness income from sources other than those specified in R.C. 5733.051 is allocated entirely to Ohio except to the extent the allocation of such item of net nonbusiness income entirely to Ohio is not within the taxing power of this state under the Constitution of the United States. To the extent such allocation entirely to Ohio is not within the taxing power of this state under the Constitution of the United States such nonbusiness income is apportionable.

### Property, payroll and sales factor provisions —

- **Net income base apportionment.** For taxable years ending on or after June 26, 2003 the numerator and the denominator of the net income base property, payroll and sales factors specifically **exclude** the portion of property, payroll, and sales otherwise includable in the factors to the extent that the portion relates to, or is used in connection with, the production of nonbusiness income allocable under R.C. 5733.051 (see R.C. 5733.05(B)(2)).
- **Property factor.** For taxable years ending on or after June 26, 2003 the numerator and the denominator of the property factor specifically **include** real property and tangible personal property that the corporation rents, subrents, leases, or subleases to others if the income or loss from such rentals, subrentals, leases, or subleases is business income.
- **Net worth base apportionment.** For taxable years ending on or after June 26, 2003 the numerator and the denominator of the net income base property, payroll and sales factors must be adjusted to include the portion of any real and tangible personal property, payroll, and sales, respectively, relating to, or used in connection with the production of, nonbusiness income allocated under R.C. 5733.051. For example, real property that generates nonbusiness rental income allocated to Ohio is excluded from the numerator and the denominator of the net income base property factor but for the net worth base the property factor is adjusted to include such property.

- **5/6 – 1/5 adjustment for I.R.C. section 179 expense.** In determining Ohio taxable income taxpayers must add to Ohio taxable income 5/6 of the “qualifying section 179 depreciation expense” deducted in determining federal taxable income for the taxable year. “Qualifying section 179 depreciation expense” means the difference between (1) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the I.R.C., and (2) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the I.R.C. as that section existed on December 31, 2002 (see R.C. 5733.04(l)(17)(a)(ii) as enacted by Am. Sub. H.B. 95, 125<sup>th</sup> General Assembly). Then, for each of the succeeding five tax years (2005 through 2009) the taxpayer must deduct 1/5 of the amount previously added back.
- **Minimum fee increased to \$1,000 for larger corporations.** For taxable years ending on or after June 26, 2003 the minimum franchise tax fee is \$1,000 if (1) the sum of the taxpayer’s gross receipts from its activities within and without Ohio during the taxable year equals or exceeds \$5 million, or (2) the total number of the taxpayer’s employees within and without Ohio at any time during the taxable year equals or exceeds 300. For all other taxpayers the minimum fee remains \$50.
- **Telephone Companies.** A telephone company that no longer pays an excise tax under R.C. 5727.30 on its gross receipts billed after June 30, 2004, is subject to franchise tax for tax years 2005 and thereafter. For tax year 2005, a telephone company with a taxable year ending in 2004 must compute its Chapter 5733 franchise tax by multiplying by 50 percent of the tax otherwise due, net of all nonrefundable credits, and must compute the net operating loss carried forward from tax year 2005 to a future year by multiplying by 50 percent the net operating loss otherwise computed for the taxable year ending in 2004.
- **Telecommunications Companies.** R.C. 5733.05(B)(2)(e) provides that the Tax Commissioner may adopt rules providing for alternative allocation and apportionment methods, and alternative calculations of a corporation’s base, that apply to corporations engaged in telecommunications.

**Am. Sub. S.B. 180, 124<sup>th</sup> General Assembly (effective April 9, 2003). Job Retention Tax Credit amendments, R.C. 122.171 and 5733.0610(B) –**

Under prior law (as enacted by Am. Sub. H.B. 405, 124<sup>th</sup> General Assembly, effective December 13, 2001) a taxpayer could claim a credit as provided in an agreement between the taxpayer and the Ohio Tax Credit Authority if pursuant to the agreement and during three consecutive calendar years in the period beginning January 1, 2002 and ending December 31, 2006, the taxpayer made an investment in physical plant of at least \$200 million toward the taxpayer’s approved project at the taxpayer’s approved project site and the taxpayer employed at least 1,000 full-time employees at the project site. For each of the years set out in the agreement the amount of the credit equaled a percentage (as specified in the agreement, but not to exceed 75 percent) of the Ohio individual income tax withheld from the taxpayer’s employees at the project site. The purpose of the credit was to encourage large employers to maintain jobs in Ohio.

This law lessened the requirements for credit eligibility as follows:

- At the taxpayer’s project site to which the credit applied a taxpayer could perform “significant corporate administrative functions.” Under prior law the taxpayer’s primary operations at the project site were limited to manufacturing.
- If the average wage of all full-time employment positions at the project site was greater than 400 percent of the federal minimum wage, then the company was required to make payment toward the project of only \$100 million over the three consecutive calendar year investment period. Prior law required an investment of \$200 million regardless of the average wage. Current law continues to require a \$200 million investment if the 400 percent federal minimum wage standard is not met.
- The taxpayer’s investment project could include the capitalized costs of basic research and new product development determined in accordance with Generally Accepted Accounting Principles (GAAP). Prior law required that the investment be entirely in physical plant.
- The project site could include an integrated complex of facilities located within a 15-mile radius. Prior law required that those facilities be within a five-mile radius.

**Credit for losses on loans made to the Ohio Venture Capital Program, R.C. 150.01 to 150.10, 5733.49, 5733.98, 5747.80 and 5747.98 –**

The law established the Ohio Venture Capital (OVC) program for the purpose of increasing the amount of private investment capital available to both (1) Ohio-based business enterprises in the seed or early stages of business development that require initial or early stage funding, and (2) established Ohio-based business enterprises that require funding for developing new methods or technologies. The law also established a franchise tax credit and an individual income tax credit to provide OVC lenders and investors some security against losses on their loans to the OVC program. Although the Ohio Tax Credit Authority may authorize tax credits any time after the Authority establishes its investment policy, a taxpayer may not claim those credits during the first four years of the OVC program (measured by the date the Authority establishes its investment policy). Therefore, this credit does not appear on the 2004 Ohio franchise tax report.

**Sub. S.B. 200 (Taxpayer Services II), 124<sup>th</sup> General Assembly (effective September 6, 2002). This law enacted several provisions in various Revised Code sections –**

• **Uniform application for refund procedure (R.C. 5703.70).**

Established the following uniform application for refund procedure applicable to franchise tax and various other taxes: (1) if the Tax Commissioner determines that the amount of the refund to which the applicant is entitled is less than the amount claimed, the Commissioner must notify the applicant in writing of the lesser refund amount; (2) the applicant has 60 days from the date the Commissioner mails the notice to provide additional information or to request a hearing; (3) if within the 60-day period the applicant neither requests a hearing nor provides additional information, the Commissioner will take no further action, and the amount denied becomes final; (4) if within the 60-day period the applicant requests a hearing, the Commissioner must assign a time and place for the hearing. After the hearing, the Commissioner may adjust the refund and must issue a final determination; (5) if within the 60-day period the applicant does not request a hearing, but provides additional information, the Commissioner will review the information, make such adjustments to the refund as the Commissioner finds proper and issue a final determination; (6) the taxpayer may appeal the Commissioner’s final determination to the Board of Tax Appeals pursuant to R.C. 5717.02.

• **Uniform petition for reassessment procedure (R.C. 5703.60).**

Established a uniform petition for reassessment procedure and a

uniform assessment correction procedure applicable to franchise tax and various other taxes. If the taxpayer has properly filed a franchise tax petition for reassessment, this law permits the Tax Commissioner, upon receipt of additional information from the taxpayer, to correct an assessment without issuing a final determination and without a hearing. In addition, this law permits the Commissioner to correct an assessment even if the taxpayer has not filed a petition for reassessment or has not filed a proper petition for reassessment.

- **Late payment penalty (R.C. 5733.28 and 5733.021 (C)).** If a taxpayer fails to pay the amount of tax required by the date prescribed, the Tax Commissioner may impose a penalty not to exceed 15 percent of the delinquent payment. Under prior law the R.C. 5733.28(A)(2) penalty for late payment could not exceed twice the interest charged under R.C. 5733.26(A).
- **Penalty safe-harbor for estimated payments (R.C. 5733.021 (C)).**
  - For purposes of determining the R.C. 5733.28(A)(2) failure to pay penalty for any period of delinquency ending prior to the first day of June of the tax year, the Tax Commissioner may charge a penalty on the delinquent portion of the estimated tax. Estimated tax means the lesser of 100 percent of last year's tax or 90 percent of this year's tax.
  - For purposes of determining the R.C. 5733.28(A)(2) failure to pay penalty for any period of delinquency commencing the first day of June of the tax year and concluding on the extended due date, the Commissioner may charge a penalty on the delinquent portion of the estimated tax. Estimated tax means 90 percent of this year's tax.
- **Ohio net operating losses (R.C. 5733.04(I) (1)).** For Ohio net operating losses incurred in taxable years beginning on or after August 6, 1997, the designated carry-over period is 20 consecutive taxable years following the taxable year in which the net operating loss occurs. Ohio net operating losses may not be carried back.
- **Refund statute of limitations (R.C. 5733.12).** For purposes of the refund statute of limitations, payments made before the due date or extended due date for filing the report to which the payment relates, are deemed to have been made on the due date or extended due date.

**Am. Sub. S.B. 261, 124th General Assembly (effective June 5, 2002). This law enacted franchise tax changes in several sections of the Revised Code –**

- **Bonus depreciation (R.C. 5733.04(I) (17) and (I) (18)).** Taxpayers whose taxable year ended on or after June 5, 2002 are required to add back 5/6 of their I.R.C. section 168(k) bonus depreciation. Then, for each of the succeeding five tax years the taxpayer must deduct 1/5 of the amount previously added back (the Department of Taxation refers to this provision as the 5/6 – 1/5 rule). Taxpayers that claimed bonus depreciation for the taxable year ending before June 5, 2002 must apply one of two options for that year:
  - Option A** – Elect to apply the 5/6 – 1/5 rule to assets acquired during the taxable year ending after September 10, 2001 and before June 5, 2002.
  - Option B** – Recompute federal depreciation expense as it would have been without enactment of I.R.C. section 168(k) and add to federal taxable income the difference between the taxpayer's depreciation expense actually deducted for the taxable year and the recomputed depreciation expense.

- **Disregarded entities (R.C. 5733.01 (F)).** For purposes of the franchise tax, the term “disregarded entity” means an entity that for its taxable year is by default, or has elected to be, disregarded as an entity separate from its owner pursuant to 26 Code of Federal Regulations 301.7701-3. A corporation's ownership interest in a disregarded entity is treated as ownership of the assets and liabilities of the disregarded entity itself and a disregarded entity's income, including gains or losses, is included in the owner's Chapter 5733 net income. Any sale or other disposition of an interest in a disregarded entity is treated as a sale or other disposition of the disregarded entity's underlying assets and liabilities and the gain or loss from such sales is included in the corporation's Chapter 5733 net income. A disregarded entity's property, payroll and sales are included in the owner's property, payroll and sales. If the disregarded entity has nexus with Ohio, then the corporate owner has nexus with Ohio.

**RECENT SIGNIFICANT COURT DECISIONS:**

***LSDHC Corp. v. Zaino* (2003), 98 Ohio St.3d 450 .**

*Issue:* Is the federal protection from the franchise tax net income base afforded by Public Law (P.L.) 86-272 Section 381, Title 15 U.S. Code determined by the taxpayer's business activities during the tax year, the calendar year for which the tax is imposed, or, instead by the taxpayer's business activities during the taxable year by which the net income is measured?

*Holding:* The Ohio Supreme Court reversed the earlier decision of the Board of Tax Appeals and held that the issue of whether or not P.L. 86-272, Section 381, Title 15 U.S. Code prohibits the imposition of franchise tax measured by the net income base is determined by the taxpayer's activities during the taxable year in which the taxpayer earned that income – not by the taxpayer's activities during the subsequent tax year or on January 1 of the tax year. If the taxpayer's activities in Ohio during the taxable year exceeded the activities protected by P.L. 86-272 but in the subsequent tax year the taxpayer's activities did not exceed the protected activities, then P.L. 86-272 offers no protection for the tax year, and for that tax year the corporation is subject to the franchise tax on the net income base. Conversely, if the taxpayer's activities in Ohio during the taxable year did not exceed the activities protected by P.L. 86-272 but in the subsequent tax year the taxpayer's activities did exceed the protected activities, P.L. 86-272 does offer protection for the tax year, and for that tax year the corporation is not subject to the franchise tax on the net income base.

***Duramed Pharmaceuticals, Inc. v. Zaino* (March 7, 2003) BTA No. 2002-V-164.**

*Issue:* Does the term “new manufacturing machinery and equipment,” as defined in R.C. 5733.33(A)(2), include manufacturing machinery and equipment that a manufacturer purchased during the qualifying purchase period if, prior to the purchase period for which the credit applies, the purchaser-manufacturer originally used the equipment in this state as a lessee? That is, if a taxpayer first used manufacturing machinery prior to the qualifying purchase period as a lessee, is the taxpayer entitled to the credit upon purchasing the equipment during the qualifying period?

*Facts:*

- Duramed leased manufacturing machinery and equipment from Ortho-McNeil Pharmaceuticals Corp. in 1994. Duramed installed the equipment in Ohio in late 1994 and first used the equipment to produce product in the first half of 1995.

- The lease contained a purchase option, which Duramed exercised in September 1997.
- The lease was apparently an operating lease (that is, the lease was not in substance a purchase by Duramed when entered into in 1994) because the Board of Tax Appeals found no evidence to suggest that the lease was considered a purchase for either federal income tax purposes or under GAAP.

*Statute:* R.C. 5733.33(A) "As used in this section: . . . (2) 'New manufacturing machinery and equipment' means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. . ."

*Holding:* The Board of Tax Appeals held that Duramed may claim the R.C. 5733.33 manufacturer's credit on manufacturing equipment whose original use in Ohio began with Duramed prior to the qualifying purchase period under a lease and which equipment the taxpayer purchased during the qualifying purchase period upon exercising an option in the lease agreement. Finding nothing in the record suggesting that the lease was treated as a purchase for federal income tax purposes or under GAAP,

the Board held that the existence of the lease does not operate to defeat the credit. The Board found that the definition of "new" machinery is unambiguous and requires only that the original use in Ohio begin with the taxpayer, and such original use is not restricted or limited to the qualifying purchase period.

### RECENT INFORMATION RELEASES:

**G 2002-01** — "Modified Appeal Procedures – Corrected Assessments," Dec. 16, 2002.

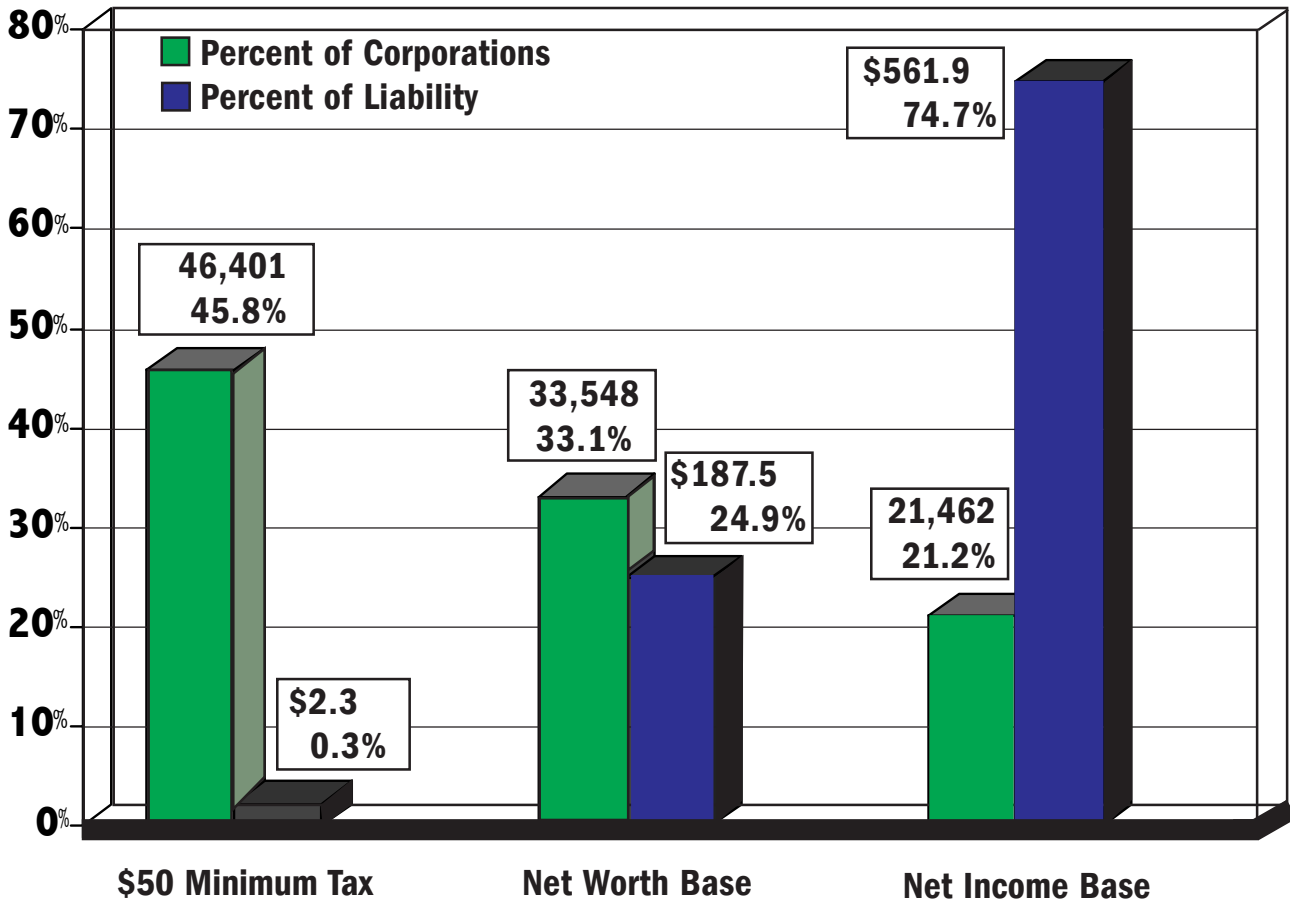
**PI & CFT 2002-02** — "Ohio Bonus Depreciation Adjustment and the Internal Revenue Code's Passive Activity Loss, Basis Limitation and At-Risk Rules," Nov. 7, 2002.

**PI & CFT 2002-01** — "Recently-Enacted Ohio Legislation Affects Depreciation Deductions for Taxable Years Ending in 2001 and Thereafter," July 31, 2002.

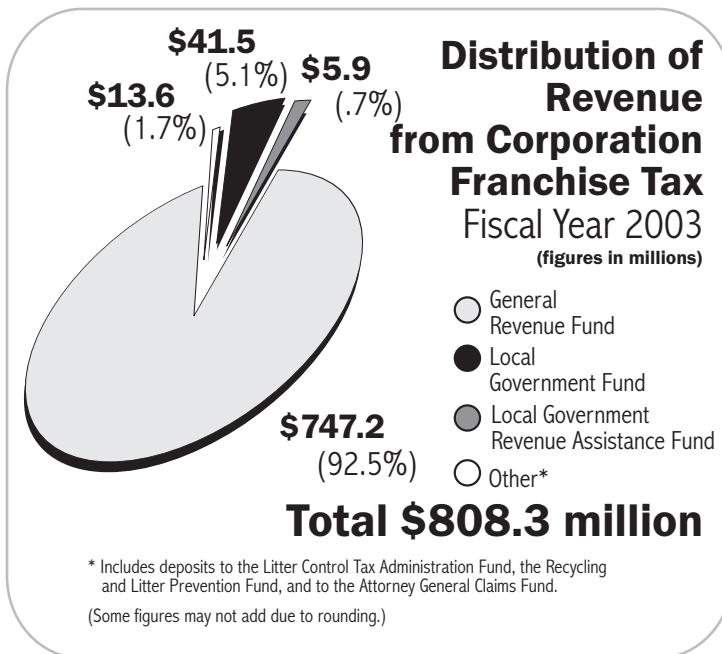
**PIT 2001-03** — "Pass-through Entity Tax: Certain Estimated Tax Payments Due September 16, 2002," July 3, 2002.

### Percentage of Corporations and Tax Liability by Tax Base, Tax Year 2002

Total Number of Corporations — 101,411  
Total Reported Tax Liability — \$751.8 million  
(figures in millions)  
(excludes financial institutions)



(Some figures may not add due to rounding.)



**Table 1**  
**Corporation Franchise Tax Collections,**  
**Fiscal Years 1999 - 2003**

Fiscal Year	Gross Tax Collections		Net Tax Collections
		Refunds	
1999	\$1,333,022,664	\$182,696,830	\$1,150,325,834
2000	1,219,484,766	189,600,815	1,029,883,951
2001	1,158,910,767	185,943,569	972,967,198
2002	1,011,443,330	237,075,921	774,367,410
2003	1,015,027,341	206,770,271	808,257,070

**Table 2**  
**Corporation Franchise Tax —**  
**Number of Corporations by Tax Base and Industry**  
**Tax Year 2002**

Industry	Number of Corporations by Tax Base			
	Minimum	Net Worth	Net Income	Total
Agriculture & Forestry	322	466	314	1,102
Mining	260	306	133	699
Construction	2,398	2,783	1,719	6,900
Manufacturing	3,114	5,164	2,287	10,565
Transport, Communication, Utility	1,333	1,207	613	3,153
Wholesale Trade	1,750	2,861	1,612	6,223
Retail Trade	3,010	4,004	2,146	9,160
Finance, Insurance, Real Estate	3,804	3,015	1,982	8,801
Services	9,982	6,716	4,280	20,978
Unknown*	20,428	7,026	6,376	33,830
<b>TOTAL</b>	<b>46,401</b>	<b>33,548</b>	<b>21,462</b>	<b>101,411</b>

\*Industry classification was not indicated by the taxpayer.

**Table 3**  
**Corporation Franchise Tax —**  
**Number of Corporations By Tax Base and Tax Liability Level,**  
**Tax Year 2002**

Tax Liability Level		Number of Corporations by Tax Base			
		Minimum	Net Worth	Net Income	Total
	Minimum	46,401	—	—	46,401
\$51 -	1,000	—	19,412	8,292	27,704
1,001 -	2,000	—	4,753	3,476	8,229
2,001 -	3,000	—	2,323	2,046	4,369
3,001 -	4,000	—	1,306	963	2,269
4,001 -	5,000	—	822	747	1,569
5,001 -	10,000	—	1,800	1,904	3,704
10,001 -	15,000	—	746	859	1,605
15,001 -	20,000	—	446	530	976
20,001 -	25,000	—	288	380	668
25,001 -	30,000	—	219	252	471
30,001 -	35,000	—	150	229	379
35,001 -	50,000	—	324	447	771
50,001 -	100,000	—	447	588	1,035
100,001 -	200,000	—	512	325	837
200,001 -	500,000	—	—	268	268
500,001 -	1,000,000	—	—	89	89
	Over \$1,000,000	—	—	67	67
<b>TOTAL</b>		<b>46,401</b>	<b>33,548</b>	<b>21,462</b>	<b>101,411</b>



**Table 4  
Corporation Franchise Tax –  
Reported Tax Liability by Tax Base and Industry,  
Tax Year 2002**

Industry	Tax Liability Before Litter Tax and Credits by Tax Base			Litter Tax (a)	Liability Before Tax Credits	Tax Credits	Liability After Tax Credits
	Minimum	Net Worth	Net Income				
Agriculture & Forestry	\$16,100	\$817,691	\$1,244,832	\$2,078,623	\$47,175	\$90,490	\$2,035,308
Mining	13,000	2,926,638	3,540,463	6,480,101	154,211	1,565,751	5,068,561
Construction	119,900	5,468,926	21,231,205	26,820,031	527,046	190,146	27,156,931
Manufacturing	155,700	62,792,926	168,890,531	231,839,157	3,684,762	69,127,878	166,396,041
Transport, Communication, Utility	66,650	9,836,555	116,533,437	126,436,642	554,514	32,780,994	94,210,162
Wholesale Trade	87,500	15,385,793	50,758,045	66,231,338	1,124,879	7,269,277	60,086,940
Retail Trade	150,500	11,631,228	52,679,809	64,461,537	1,061,852	2,968,472	62,554,917
Finance, Insurance, Real Estate	190,200	16,730,909	28,087,315	45,008,424	926,853	6,733,730	39,201,547
Services	499,100	18,133,607	40,328,226	58,960,933	1,296,276	6,055,106	54,202,103
Unknown (b)	1,021,400	43,747,686	78,587,083	123,356,169	2,619,545	15,416,650	110,559,064
<b>Total</b>	<b>\$2,320,050</b>	<b>\$187,471,959</b>	<b>\$561,880,946</b>	<b>\$751,672,955</b>	<b>\$11,997,113</b>	<b>\$142,198,494</b>	<b>\$621,471,574</b>

(a) Combines Tier I litter tax, which is paid by all corporations, and Tier II litter tax, which is paid only by "litter stream" corporations.

(b) Industry classification was not indicated by taxpayer.

**Table 5**  
**Corporation Franchise Tax — Reported Tax Liability**  
**By Tax Base and Tax Liability Level, Tax Year 2002**

Tax Liability Level	Tax Liability Before Litter Tax and Credits By Tax Base			Litter Tax*	Liability Before Tax Credits		Liability After Tax Credits	
	Minimum	Net Worth	Net Income		Total	Tax Credits	Tax Credits	Tax Credits
Minimum	\$2,320,050	—	—	\$2,320,050	—	\$2,320,050	\$4,845,015	-\$2,524,965
\$51 - 1,000	—	\$6,872,232	\$3,484,500	10,356,732	\$309,251	10,665,983	167,599	10,498,384
1,001 - 2,000	—	6,769,249	5,072,782	11,842,031	343,250	12,185,281	1,679,602	10,505,679
2,001 - 3,000	—	5,719,070	4,919,788	10,638,858	306,491	10,945,349	556,227	10,389,122
3,001 - 4,000	—	4,352,817	3,275,087	7,627,904	224,316	7,852,220	1,444,593	7,407,627
4,001 - 5,000	—	3,556,043	3,278,004	6,834,047	199,204	7,033,251	1,429,330	5,603,921
5,001 - 10,000	—	12,375,043	13,144,677	25,519,720	740,274	26,259,994	2,196,438	24,063,556
10,001 - 15,000	—	8,994,169	10,258,236	19,252,405	558,936	19,811,341	1,632,324	18,179,017
15,001 - 20,000	—	7,406,886	9,023,417	16,430,303	468,317	16,898,620	1,757,414	15,141,206
20,001 - 25,000	—	6,196,102	8,256,765	14,452,867	415,385	14,868,252	1,634,018	13,234,234
25,001 - 30,000	—	5,925,079	6,753,937	12,679,016	350,070	13,029,086	1,670,135	11,358,951
30,001 - 35,000	—	4,690,551	7,269,413	11,959,964	350,621	12,310,585	1,132,260	11,178,325
35,001 - 50,000	—	13,223,276	18,348,517	31,571,793	885,900	32,457,693	5,529,237	26,928,456
50,001 - 100,000	—	30,067,768	40,317,160	70,384,928	1,924,479	72,309,407	9,482,942	62,826,465
100,001 - 200,000	—	71,323,674	44,111,263	115,434,937	2,992,659	118,427,596	34,378,891	84,048,705
200,001 - 500,000	—	—	79,688,392	79,688,392	1,233,287	80,921,679	13,192,044	67,729,635
500,001 - 1,000,000	—	—	60,209,695	60,209,695	390,865	60,600,560	10,041,753	50,558,807
Over \$1,000,000	—	—	244,469,313	244,469,313	303,808	244,773,121	50,428,672	194,344,449
<b>TOTAL</b>	<b>\$2,320,050</b>	<b>\$187,471,959</b>	<b>\$561,880,946</b>	<b>\$751,672,955</b>	<b>\$11,997,113</b>	<b>\$763,670,068</b>	<b>\$142,198,494</b>	<b>\$621,471,574</b>

\*Combines Tier I litter tax, which is paid by all corporations, and Tier II litter tax, which is paid only by "litter stream" corporations.

**Table 6**  
**Corporation Franchise Tax —**  
**Number of Manufacturing Corporations**  
**By Tax Base and Industry**  
**Tax Year 2002**

Industry	Number of Manufacturing Corporations by Tax Base			
	Minimum	Net Worth	Net Income	Total
Food	153	221	165	539
Tobacco Manufacturers	6	3	5	14
Apparel and Other Textiles	86	107	48	241
Lumber and Wood Products	145	209	116	470
Paper	98	148	58	304
Printing and Publishing	270	384	161	815
Chemicals	225	370	169	764
Petroleum and Coal	34	40	21	95
Rubber and Plastics	205	323	147	675
Leather Products	9	14	3	26
Stone, Clay & Glass Products	120	209	133	462
Primary Metal	88	176	47	311
Fabricated Metal	601	1,262	520	2,383
Machinery (non-electrical)	351	599	214	1,164
Electrical Machinery	249	372	149	770
Transportation Equipment	114	164	72	350
Miscellaneous Manufacturing	<u>360</u>	<u>563</u>	<u>259</u>	<u>1,182</u>
<b>TOTAL</b>	<b>3,114</b>	<b>5,164</b>	<b>2,287</b>	<b>10,565</b>

**Table 7**  
**Corporation Franchise Tax —**  
**Number of Manufacturing Corporations**  
**By Tax Base and Tax Liability Level**  
**Tax Year 2002**

Tax Liability Level	Number of Manufacturing Corporations by Tax Base			
	Minimum	Net Worth	Net Income	Total
Minimum	3,114	—	—	3,114
\$51 - 1,000	—	1,949	439	2,388
1,001 - 2,000	—	812	275	1,087
2,001 - 3,000	—	433	180	613
3,001 - 4,000	—	268	94	362
4,001 - 5,000	—	190	94	284
5,001 - 10,000	—	492	229	721
10,001 - 15,000	—	190	146	336
15,001 - 20,000	—	141	98	239
20,001 - 25,000	—	94	88	182
25,001 - 30,000	—	51	43	94
30,001 - 35,000	—	54	47	101
35,001 - 50,000	—	121	108	229
50,001 - 100,000	—	164	170	334
100,001 - 200,000	—	205	104	309
200,001 - 500,000	—	—	102	102
500,001 - 1,000,000	—	—	41	41
Over \$1,000,000	—	—	29	29
<b>TOTAL</b>	<b>3,114</b>	<b>5,164</b>	<b>2,287</b>	<b>10,565</b>

**Table 8**  
**Corporation Franchise Tax — Reported Tax Liability for**  
**Manufacturing Corporations, by Tax Base and Industry Classification,**  
**Tax Year 2002**

Industry	Tax Liability Before Litter Tax and Credits By Tax Base			Litter Tax*	Liability Before Tax Credits	Tax Credits	Liability After Tax Credits
	Minimum	Net Worth	Net Income				
Food	\$7,650	\$3,740,401	\$24,379,356	\$28,127,407	\$343,751	\$5,892,776	\$22,578,382
Tobacco Manufacturers	300	12,595	13,694,812	13,707,707	38,362	—	13,746,069
Apparel and Other Textiles	4,300	660,202	1,240,529	1,905,031	47,147	183,127	1,769,051
Lumber and Wood Products	7,250	1,541,011	1,803,697	3,351,958	85,496	735,261	2,702,193
Paper	4,900	2,791,190	3,507,686	6,303,776	137,197	3,119,174	3,321,799
Printing and Publishing	13,500	2,731,608	9,520,609	12,265,717	217,531	2,523,601	9,959,647
Chemicals	11,250	8,752,376	21,578,663	30,342,289	425,583	5,804,508	24,963,364
Petroleum and Coal	1,700	1,132,877	2,770,780	3,905,357	61,176	1,470,343	2,496,190
Rubber and Plastics	10,250	3,040,418	5,966,434	9,017,102	199,281	3,063,936	6,152,447
Leather Products	450	226,623	34,536	261,609	8,791	1,181	269,219
Stone, Clay & Glass Products	6,000	2,967,352	4,423,866	7,397,218	164,933	2,932,812	4,629,339
Primary Metal	4,400	3,313,717	4,228,186	7,546,303	155,234	4,051,166	3,650,371
Fabricated Metal	30,050	7,841,021	20,277,732	28,148,803	541,008	9,060,707	19,629,104
Machinery (non-electrical)	17,550	4,905,892	6,819,456	11,742,898	279,772	2,502,896	9,519,774
Electrical Machinery	12,450	6,948,463	19,269,866	26,230,779	353,176	5,635,476	20,948,479
Transportation Equipment	5,700	5,068,955	16,227,109	21,301,764	250,746	17,982,303	3,570,207
Miscellaneous Manufacturing	18,000	7,118,225	13,147,214	20,283,439	375,578	4,168,611	16,490,406
<b>TOTAL</b>	<b>\$155,700</b>	<b>\$62,792,926</b>	<b>\$168,890,531</b>	<b>\$231,839,157</b>	<b>\$3,684,762</b>	<b>\$69,127,878</b>	<b>\$166,396,041</b>

\* Tier I litter tax is paid by all corporations. Tier II litter tax is paid only by "litter stream" corporations.

**Table 9**  
**Corporation Franchise Tax — Reported Tax Liability For Manufacturing Corporations,**  
**by Tax Base and Tax Liability Level, Tax Year 2002**

Tax Liability Level	Tax Liability Before Litter Tax and Credits By Tax Base			Litter Tax*	Liability Before Tax Credits	Tax Credits	Liability After Tax Credits
	Minimum	Net Worth	Net Income				
Minimum	\$155,700	—	—	—	\$155,700	\$943,408	-\$787,708
\$51 -	1,000	\$802,854	\$199,120	1,001,974	1,034,130	88,285	945,845
1,001 -	2,000	1,173,405	406,105	1,579,510	1,629,137	193,639	1,435,498
2,001 -	3,000	1,022,702	430,048	1,452,750	1,498,047	279,467	1,218,580
3,001 -	4,000	896,870	325,131	1,222,001	1,260,303	226,515	1,033,788
4,001 -	5,000	819,923	415,942	1,235,865	1,273,362	254,134	1,019,228
5,001 -	10,000	3,382,383	1,644,211	5,026,594	5,180,068	1,235,709	3,944,359
10,001 -	15,000	2,328,839	1,720,779	4,049,618	4,166,363	922,379	3,243,984
15,001 -	20,000	2,335,162	1,728,081	4,063,243	4,180,549	1,408,619	2,771,930
20,001 -	25,000	2,036,217	1,928,691	3,964,908	4,082,449	1,026,886	3,055,563
25,001 -	30,000	1,341,933	1,168,359	2,510,292	2,583,145	979,375	1,603,770
30,001 -	35,000	1,677,653	1,494,822	3,172,475	3,272,859	736,635	2,536,224
35,001 -	50,000	4,941,821	4,471,153	9,412,974	9,676,747	2,946,702	6,730,045
50,001 -	100,000	11,176,712	11,738,743	22,915,455	23,557,570	6,090,726	17,466,844
100,001 -	200,000	28,856,452	14,257,634	43,114,086	44,242,650	20,822,824	23,419,826
200,001 -	500,000	—	30,243,374	30,243,374	30,716,490	7,650,698	23,065,792
500,001 -	1,000,000	—	28,920,633	28,920,633	29,082,306	6,943,362	22,138,944
Over \$1,000,000	—	—	67,797,705	67,797,705	67,932,044	16,378,515	51,553,529
<b>TOTAL</b>	<b>\$155,700</b>	<b>\$62,792,926</b>	<b>\$168,890,531</b>	<b>\$231,839,157</b>	<b>\$3,684,762</b>	<b>\$69,127,878</b>	<b>\$166,396,041</b>

\*Combines Tier I litter tax, which is paid by all corporations, and Tier II litter tax, which is paid only by "litter stream" corporations.

**Table 10**  
**Corporation Franchise Tax —**  
**Number of Financial Institutions and Reported Tax Liability, By Type of Institution**  
**Tax Year 2002**

Tax Liability Level	Number of Corporations By Type						Tax Liability Before Credits By Type					
	Savings & Loans			Other*			Savings & Loans			Other*		
	Banks	Loans	Total	Banks	Loans	Total	Banks	Loans	Total	Banks	Loans	Total
\$51	16	7	31	54	\$3,064	\$377	\$2,808	\$6,249	—	—	—	
1,001	—	—	—	2	—	—	—	—	—	—	—	
2,001	—	—	2	2	—	—	5,003	5,003	—	—	—	
3,001	4	—	—	4	14,357	—	—	14,357	—	—	—	
4,001	2	—	1	3	8,622	—	4,283	12,905	—	—	—	
5,001	7	1	3	11	45,969	5,973	19,326	71,268	—	—	—	
10,001	6	3	2	11	80,664	39,970	27,621	148,255	—	—	\$1,877	
15,001	3	1	2	6	51,907	15,831	32,471	100,209	—	—	—	
20,001	4	1	—	5	88,641	24,622	—	113,263	—	—	—	
25,001	1	2	—	3	28,704	52,353	—	81,057	—	—	5,744	
30,001	5	2	—	7	161,151	65,728	—	226,879	—	—	4,690	
35,001	19	8	3	30	767,718	331,251	113,470	1,212,439	—	—	4,446	
50,001	65	29	4	98	4,763,975	2,172,242	249,125	7,185,342	—	—	8,719	
100,001	48	26	2	76	6,829,076	3,772,948	358,753	10,960,777	—	—	29,389	
200,001	47	26	—	73	14,475,665	8,065,532	—	22,541,197	—	—	218,424	
500,001	16	8	—	24	11,429,135	5,620,561	—	17,049,696	—	—	214,539	
Over \$1,000,000	13	5	1	19	81,720,135	15,093,097	1,367,258	98,180,490	—	—	596,344	
<b>TOTAL</b>	<b>256</b>	<b>119</b>	<b>51</b>	<b>426</b>	<b>\$120,468,783</b>	<b>\$35,260,485</b>	<b>\$2,180,118</b>	<b>\$157,909,386</b>	<b>\$157,909,386</b>	<b>\$1,700,917</b>	<b>\$1,700,917</b>	

\*Primarily credit agencies that accept deposits.