

STATE TAXES
CORPORATION FRANCHISE TAX

Taxpayer

Domestic and foreign corporations 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 (unless specifically exempt).

The tax is being phased out over tax years 2006 through 2010 (see **Franchise Tax Phase-Out**, later in this section).

Tax Base

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

There are two bases for determining the value of a corporation's issued and outstanding shares: the net income base and the net worth base. A taxpayer pays tax on that base, described below, that produces the greater tax.

- 1. Ohio Net Worth Base (*taxable value*):** Net book value of assets less net carrying value of liabilities yields net worth. The net book value of exempted assets is subtracted from net worth, and any "qualifying amount" as reflected on the books of the corporation is added to net worth, thus yielding the net value of the stock. This amount is multiplied by the Ohio apportionment ratio to yield taxable net worth.
- 2. Ohio Net Income Base (*Ohio taxable income*):** The computation begins with federal taxable income, plus or minus any Ohio adjustments. From this tax base, business income is apportioned to Ohio by the Ohio apportionment ratio, and nonbusiness income is allocated within and without Ohio based upon certain situsing provisions. The total income allocated and apportioned to Ohio, plus certain additions and minus certain deductions, yields Ohio taxable income.

The Ohio apportionment ratio is the sum of the property factor (the ratio of property in Ohio to property everywhere, times 20%), the payroll factor (the ratio of payroll in Ohio to payroll everywhere,



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times 20%), and the sales factor (the ratio of sales in Ohio to sales everywhere, times 60%).

Net income base apportionment:

The net income base property, payroll, and sales factors specifically exclude that 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, production of nonbusiness income allocable under Ohio Revised Code 5733.051. For example, real property generating allocable nonbusiness rental income is excluded from the denominator of the property factor, and if the property is in Ohio, from the numerator as well.

Receipts from services are situated to Ohio in proportion to the purchaser's benefit, with respect to the sale, in Ohio, to the purchaser's benefit, with respect to the sale, everywhere.

Net worth base apportionment:

The numerator and denominator of the net income base property, payroll, and sales factors are adjusted for purposes of the net worth base to include the portion of any real property and tangible personal property, payroll, and sales, respectively, relating to, or used in connection with, production of nonbusiness income allocated under 5733.051. For example, real property generating nonbusiness rental income allocated to Ohio is excluded from both the numerator and denominator of the net income base property factor, but for purposes of the net worth base apportionment the property factor is adjusted to include such property.

Rates

General Rate (excluding financial institutions):

Net worth base: 4.00 mills on Ohio taxable value. The maximum net worth base tax for each taxpayer is \$150,000.

Net income base: 5.1% on the first \$50,000 of Ohio net income plus 8.5% on Ohio net income in excess of \$50,000. Corporations that meet ownership requirements to file a combined report must share the tax bracket to which the 5.1% rate applies, regardless of whether or not the corporations filed combined.

The minimum fee is \$1,000 if: (i) the sum of the taxpayer's gross receipts from its activities in and outside



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Ohio during the year equals or exceeds \$5.0 million, or (ii) the total number of its employees in and outside Ohio at any time during the year equals or exceeds 300. For all other taxpayers the minimum fee remains \$50.

In addition, corporations are subject to a litter tax. Each corporation is subject to the Tier I litter tax, and "litter stream" corporations are also subject to the Tier II litter tax. The litter tax does not apply to financial institutions or family farm corporations.

Financial institutions rate:

13 mills on net worth, but the \$150,000 net worth tax limit does not apply. Financial Institutions are not subject to tax on the net income base.

Franchise Tax Phase-Out. For most taxpayers the franchise tax will ratably phase out over the five franchise tax years 2006 through 2010 (taxable years ending in 2005 through 2009; during this same period Ohio's new commercial activity tax (CAT) will phase in for most taxpayers.

For report years 2006, 2007, 2008, 2009 and 2010 franchise taxpayers subject to the phase-out must pay 80%, 60%, 40%, 20% and 0.0%, respectively, of the franchise tax after nonrefundable credits that they would otherwise pay were it not for the phase-out. However, the nonrefundable credit for tax paid by a qualifying pass-through entity is fully recoverable. Rather than applying the phase-out factor to this credit, the law phases-out the tax that a pass-through entity must pay on its Ohio income passing-through to qualifying investors that are subject to the franchise tax phase-out.

The phase-out factor has no effect on the franchise tax minimum fee. Taxpayers liable for the minimum fee will continue to pay the full fee during the phase-out period.

Exceptions to franchise tax phase-out. The franchise tax phase-out and CAT phase-in do not apply to the following entities: (a) financial institutions, (b) financial holding companies, (c) bank holding companies, (d) savings and loan holding companies, (e) affiliates of entities described in (a) through (d) above when engaged in financial institution-type activities, (f) certain

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affiliates of insurance companies when engaged in insurance-type activities, and (g) "securitization" companies described in R.C. 5751.01(E)(10).

Major Exemptions

- Nonprofit corporations.
- Dealers in intangibles (stockbrokers, mortgage companies, etc.).
- Insurance companies, HMO's, and other corporations required to file annual reports with the Director of the Ohio Department of Insurance.
- Public utilities (except railroads, electric companies, long distance telephone companies, and beginning in 2005 all telephone companies).
- Credit unions.
- "S" corporations and qualified subchapter S subsidiaries (QSSS).
- Real Estate Investment Trusts (REIT), Regulated Investment Companies (RIC), and Real Estate Mortgage Investment Conduits (REMIC).
- Corporations in bankruptcy proceedings under Chapter 7 of the U.S. Bankruptcy Code.
- Corporations exempt under federal law.
- High-technology start-up companies are exempt from the net worth base, subject to certain limitations, if organized not more than three years prior to March 31 of any tax year during the 2003-2007 period. (Such corporations are subject to the net income base of the franchise and litter taxes.)
- Qualifying holding companies are exempt from the net worth base.

Revenue (In Millions)

Fiscal Year	General Rev. Fund	Local Gov't. Funds	Other Funds*	Total
2002	\$712.3	\$48.8	\$13.3	\$774.4
2003	747.2	47.5	13.6	808.3
2004	809.1	47.5	14.0	870.6
2005	1,051.6	47.5	12.5	1,111.6
2006	1,054.9	47.5	3.5	1,105.9

Note: * Includes litter funds, and Attorney General Claims Fund.

Disposition of Revenue

After making any required deposits in the Attorney General Claims Fund, 95.2% of remaining revenue is deposited in the General Revenue Fund, 4.2% is deposited in the Local Government Fund, and 0.6% is deposited in the Local Government Revenue Assistance Fund.

For fiscal years 2002 and 2003, the two local government funds were frozen and each received the same amount of corporation franchise tax revenue as they received in fiscal year 2001. The remainder was deposited in the General Revenue Fund. This freeze was continued in fiscal years 2004 and 2005 and again in the biennium budget for fiscal years 2006 and 2007.

Payment Dates

January 31: 1/3 of tax liability but not less than the minimum fee. March 31: 2/3 of tax liability less previous payment. May 31: full balance of tax liability due.

Special Provisions/Credits

A nonrefundable credit is provided for cash donations made to municipal corporations, townships, counties, park districts, and boards of education that have received litter control and recycling grants. The credit is limited to the lesser of one-half of the cash donation or one-half of the sum of the litter taxes paid by the taxpayer.

A nonrefundable credit is provided to state-chartered savings and loan institutions for the difference between the annual assessment paid to the state division of savings and loans and the supervisory fees paid to the federal savings and loan insurance corporation.

A nonrefundable credit is available equal to the taxpayer's proportionate share of the tax paid by a pass-through entity in which the taxpayer is directly or indirectly a qualifying investor.

In determining Ohio taxable income, a corporation claiming the pass-through entity credit must add to federal taxable income the amount claimed as a credit to the extent that the amount was deducted or excluded from the corporation's federal taxable income.



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In addition to other applicable credits, corporations located in an “enterprise zone” may qualify for three nonrefundable credits:

- Credit for amount reimbursed to certain employees for day care costs – maximum of \$300 per child.
- Credit for amount reimbursed to certain employees for job training costs – maximum of \$1,000 per employee.
- Credit for each new employee hired who had been a participant in the Ohio Works program, the prevention, retention, and contingency program, or the former general assistance program – \$1,000 per employee.

A nonrefundable grant may be taken for manufacturing machinery and equipment purchased between July 1, 1995 and June 30, 2005 and located in Ohio. The grant is 7.5% of the amount by which the cost of the qualifying equipment purchased during a calendar year within the qualifying period for use in an Ohio county exceeds the “base investment” for that county. For equipment that is located in certain eligible areas (areas classified as inner city, distressed, labor surplus, or in situational distress), the credit percentage is 13.5% rather than 7.5%.

A nonrefundable credit may be claimed by grape producers equal to 10% of the cost of property used in growing, harvesting or producing grapes in Ohio.

A nonrefundable credit may be granted to investors who make qualified investments in qualifying small Ohio-based research and development or technology transfer companies. The credit is 25% of the amount of capital invested by the taxpayer in the qualifying company.

A nonrefundable credit is provided equal to one-half of the average annual costs for an eligible job training program, subject to a maximum of \$1,000 per trained employee and a \$100,000 maximum per taxpayer.

A nonrefundable credit is available equal to 7.0% of the excess of qualified research expenses incurred during the taxable year over the average annual qualified research expenses incurred during the three preceding taxable years. For those taxpayers subject to the



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franchise tax phase-out and the CAT phase-in, the 2008 franchise tax report is the last report for which the section 5733.351 nonrefundable credit for qualified research expense will apply. The credit then automatically converts to a nonrefundable credit against the taxpayer's CAT liability for CAT periods beginning on or after January 1, 2008. For those taxpayers not subject to both the franchise tax phase-out and the CAT phase-in, the credit continues under the franchise tax.

A nonrefundable credit is available to an affiliated group if the group pays over \$3.5 million in additional tax as a result of the related entity and related member adjustments. The credit is equal to the additional tax in excess of \$3.5 million but may not exceed \$1.5 million.

A nonrefundable credit is provided to railroad companies equal to 10% of their total maintenance expenditures during the taxable year for each grade crossing warning device in this state. But the credit for each device may not exceed \$200 per year.

A nonrefundable credit may be granted by the Director of the Ohio Department of Development equal to 10% of a company's costs incurred in completing a voluntary clean-up of a contaminated site (not to exceed \$500,000).

A nonrefundable credit is available to electric companies equal to \$1.0 per ton of Ohio coal used in a coal-fired electric generating unit.

A nonrefundable credit is available equal to a borrower's qualified research and development loan payments during the calendar year immediately preceding the tax year. These payments represent principal and interest on a loan made to the borrower from the research and development fund administered by the Ohio Department of Development. For those taxpayers subject to the franchise tax phase-out and the CAT phase-in, the last year the credit is applicable to the franchise tax is report year 2008. This credit then automatically converts to a nonrefundable credit against the CAT. For those taxpayers not subject to both the franchise tax phase-out and the CAT phase-in, the credit continues under the franchise tax.

A nonrefundable credit is available to encourage large Ohio manufacturers to retain jobs in Ohio. The credit



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applies to: (i) taxpayer-manufacturers that make a capital investment of at least \$200 million at a single Ohio project site during any three consecutive calendar years, and to (ii) taxpayers that make a capital investment of at least \$100 million at a single Ohio project site during three consecutive calendar years provided that the average wage of all full-time employment positions at the project site is greater than 400% of the federal minimum wage. For those taxpayers subject to the franchise tax phase-out and the CAT phase-in, the 2008 franchise report is the last year in which the credit may be claimed on the franchise report. The credit then automatically converts to a nonrefundable CAT credit beginning on January 1, 2008 for the remaining years of the taxpayer's agreement with the Ohio Tax Credit Authority. For those taxpayers not subject to the franchise tax phase-out and the CAT phase-in, the credit continues under the franchise tax.

A credit is available at the beginning of the fifth year after the Ohio Venture Capital Authority established its investment policy (as of June 25, 2004) to Ohio Venture Capital Program lenders and investors to provide some security against losses on loans to the program.

Telephone companies may be entitled to one or more of the following credits for:

- small telephone companies;
- eligible nonrecurring 9-1-1 charges; and
- providing programs to aid the communicatively impaired.

Note: For taxable years beginning July 1, 2007, a refundable tax credit against the corporation franchise tax, individual income tax or dealers in intangibles tax is available to owners of historic buildings. This credit is equal to 25% of the owner's qualifying rehabilitation expenditures that are incurred in the rehabilitation of a historic building. The credit must be applied for from the Ohio Department of Development, and only 100 historic preservation tax credits can be approved during each two-year period beginning July 1, 2007.

A corporation that dissolves or surrenders its license to conduct business prior to January 1 of the tax year, while not subject to the franchise tax, is subject to an "exit tax" on its unreported Ohio net income (income not previously included in a franchise tax report).

Sections of Ohio Revised Code

Chapter 5733.

Responsibility for Administration

Tax Commissioner.

History of Major Changes

- 1902 • Enacted at rate of 1.0 mills on value of capital stock located in Ohio.
- 1959 • Rate increased to 3.0 mills.
- 1967 • Rate increased to 4.0 mills.
- 1969 • Rate increased to 5.0 mills.
- 1971 • Income base added; 4.0% on first \$25,000 of net income, 8.0% on \$25,001 and above.
- 1978 • Credit allowed for certain tangible property taxes.
- 1980 • Additional “litter” rates enacted for tax years 1981 through 1986:
 - Litter rates for all corporations except “litter stream corporations – 0.14 mill on net worth, or 0.11% on the first \$25,000 of income and 0.22% on income over \$25,000. Maximum tax of \$5,000.
 - Litter rates for corporations manufacturing or selling “litter stream” products – 0.28 mill on net worth, or 0.11% on the first \$25,000 of income and 0.44% on income over \$25,000. Maximum tax of \$5,000.
- 15% surtax imposed for tax year 1981.
- 1981 • Increase in regular corporate rates to 5.5 mills on net worth and to 4.6% and 8.7% on net income. The minimum tax was increased to \$150. Financial institutions exemption repealed; financial institutions became taxed at a 6.5-mill rate on net worth for tax years 1982 and 1983.
 - 5.75% surtax imposed for tax year 1982.
- 1982 • 5.75% surtax imposed for tax year 1983.
- 1983 • Increase in regular corporate rates to 5.82 mills on net worth and to 5.1% and 9.2% on net income plus a 5.4% surtax. The minimum tax was reduced to \$50.
 - Increase in financial institutions rates to 15 mills on net worth plus an additional tax of 6.47 mills on savings and loans and 1.54 mills on other financial institutions for tax years 1984 and 1985.
- 1985 • Litter tax continued through 1991.
 - Surtax on net income reduced to 2.7% in 1987, repealed in 1988.
 - “S” corporations exempted beginning in 1987.
- 1986 • Net income top rate decreased to 8.9% in 1988; lower bracket doubled to first \$50,000 of net income for 1989.

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- 1987 • Long-distance telephone companies subject to tax starting in 1988.
 - Litter tax rates continued through 1993.
- 1989 • Corporations undergoing "F" reorganizations subject to tax.
- 1991 • Income transferred to passive investment corporations subject to tax and certain costs and expenses paid to those corporations disallowed.
- 1992 • Credit for increased exports enacted.
 - Credit for new jobs created.
 - Railroads explicitly subject to tax in 1993.
 - Litter tax extended to 1995.
- 1994 • 20% investment tax credit enacted.
 - Enterprise zone employment credit created.
 - Grape production credit enacted.
 - Litter tax rates made permanent.
- 1995 • 7.5% and 13.5% investment tax credits enacted.
 - Portion of corporation franchise tax payments made by railroads earmarked for rail development fund (expired in FY 2000).
- 1996 • Credit given for costs incurred completing voluntary clean-up of a contaminated site.
 - Credit given for investors who make qualified investments in an Ohio early stage investment entity.
- 1997 • Eligible period for 7.5% and 13.5% investment tax credits extended to December 31, 2000.
 - Effective tax year 1999, net worth tax simplified, tax rate lowered to 4.0 mills and maximum liability of \$150,000; top net income tax rate also lowered to 8.5%. Tax on financial institutions reformed effective tax year 1998 with a 14-mill rate in tax year 1999 and 13-mill rate beginning tax year 2000. Net income tax rates imposed on qualifying pass-through entity income.
- 1999 • Eligible period for 7.5% and 13.5% investment tax credits extended to December 31, 2005.
 - Effective tax year 2001, credit given for increased instructional costs for employee training.
 - Effective tax year 2002, credit provided for increase in qualified research expenses.
 - Effective tax year 2002, credit available for costs of maintaining active railroad grade crossing devices.
 - Electric utilities subject to corporation franchise tax effective in 2002.
 - Credit of \$3.0 per ton of coal burned in coal-fired electric generating unit after April 30, 2001 but before January 1, 2005, effective in 2002.
- 2000 • Effective tax year 2001, credit of lesser of \$1,000 or one-

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- half of the cost of lights and reflectors installed on agricultural tractors, if purchased between October 5, 2000 and October 4, 2001.
- Job training credit changes enacted.
- 2001 • Job training tax credit delayed until tax year 2004 and extended through tax year 2006 (originally scheduled to expire in tax year 2004).
- Credit for increase on qualified research expenses delayed until tax year 2004 (originally scheduled to begin in tax year 2002).
 - Effective tax year 2003, credit available on investments made by a financial institution in a dealer in intangibles.
 - Effective tax year 2003, credit available for fostering job retention.
 - Effective tax year 2003, net worth exemption for high-tech start-ups for first three years of existence.
- 2002 • Job retention credit created.
- Net worth exemption enacted for high-tech start-up companies.
 - Credit enacted for investment in certified ethanol plants.
 - Bonus depreciation adjustment.
 - Codification of the Department of Taxation's policy and interpretation of disregarded entities.
 - Codification of uniform application for refund procedure applicable to franchise tax and various other taxes.
 - Codification of a uniform petition for reassessment procedure applicable to franchise tax and various other taxes.
 - Revision of the late payment penalty including a penalty safe-harbor for estimated payments.
 - Extension of the Ohio net operating loss carry over consistent with federal law.
- 2003 • For taxable years ending on or after June 26, 2003, enacted business/nonbusiness income treatment:
- Internal Revenue Code (I.R.C.) section 179 depreciation adjustment;
 - revision of sham transaction statute;
 - increased to \$1,000 the minimum fee for certain large corporations; and
 - permitted net worth apportionment ratio to differ from net income apportionment ratio.
- Manufacturing and equipment credit extended ten years to Dec. 31, 2015.
 - Research and development loan repayment credit enacted.
 - Credit allowed for losses on loans made to Ohio Venture Capital Program.
 - Sales factor amendments enacted that implemented a

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market-theory approach for sales other than inventory sales of tangible personal property and real estate. Sales of services and certain intangibles were situated to the location where the benefit of the sale is received.

- 2004 • Local exchange telephone companies subjected to tax beginning in tax year 2005. Tax year 2005 liability, for companies with a taxable year ending in 2004, was computed by multiplying by 50% the tax otherwise due, net of all nonrefundable credits; companies also required to compute the net operating loss carried forward from tax year 2005 to a future year by multiplying by 50% the net operating loss otherwise computed for the taxable year ending in 2004.
- 2005 • Phase-out of the corporation franchise tax enacted over the five franchise tax years 2006 through 2010. For report years 2006, 2007, 2008, 2009 and 2010 franchise taxpayers must pay 80%, 60%, 40%, 20% and 0.0%, respectively, of the franchise tax after nonrefundable credits they would otherwise pay were it not for the phase-out. The nonrefundable credit for tax paid by a qualifying pass-through entity made fully recoverable.
- For taxable years ending on or after July 1, 2005 the nonrefundable credit for purchases of new manufacturing machinery and equipment (7.5%-13.5% credit) converted to a grant administered by the Department of Development. The qualifying purchase period for the credit and the grant ended on June 30, 2005; equipment purchased after June 30, 2005 does not qualify for the credit or the grant. Equipment required to be installed by June 30, 2006. Prior law required installation by December 31, 2016.
 - Credit for per ton of Ohio coal used in a coal-fired electric generating unit decreased to \$1.0 per ton (from \$3.0).

Comparisons with Other States

(As of 05/07)

California

8.84% of net income. Banks and financial corporations, excepting financial S-corporations, are subject to a 10.84% tax rate (the general corporation rate plus 2.0%). A 3.5% tax rate applies to financial S-corporations, and a 1.5% rate applies to all other S-corporations. A 6.65% alternative minimum tax is imposed.

Florida

5.5% of net income. Corporations subject to federal alternative minimum tax pay equal to the greater of the regular 5.5% net income tax or 3.3% alternative minimum tax. Taxpayers are also

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subject to excise tax of 2.2% on the adjusted value of the federal Accelerated Cost Recovery System (ACRS) depreciation allowance.

Illinois

4.8% of net income. Taxpayers are also subject to 2.5% personal property replacement tax on net income for corporations other than S-corporations, and 1.5% for S-corporations, partnerships, and trusts.

Indiana

8.5% of adjusted gross income; 5.0% of adjusted gross income derived from sources within a qualified area that contains an inactive or closed military base.

Kentucky

Taxpayers pay tax based on the greater of the taxable net income calculation, the alternative minimum calculation, or the minimum tax of \$175. Tax on net income is imposed at the following rates:

Taxable Net Income			Rate
Up to	–	\$50,000	4.00%
\$50,001	–	100,000	5.00
Over	–	100,000	6.00

The alternative minimum tax calculation is equal to the lesser of \$0.095 per \$100 of gross receipts or \$0.75 per \$100 of the taxpayer's Kentucky gross profits. For taxable years beginning on or after January 1, 2006 and before January 1, 2007, alternative minimum tax relief eliminates the alternative minimum tax calculation for taxpayers with gross receipts or gross profits of \$3.0 million or less and reduces it for taxpayers with gross receipts or gross profits over \$3.0 million but less than \$6.0 million.

For taxable years beginning on or after January 1, 2007, the limited liability entity tax, which is computed in the same manner as the alternative minimum tax relief, replaces the alternative minimum tax calculation.

Massachusetts

Corporations pay a tax based in part on each of the following:

- 0.26% on taxable tangible property that is not subject to local taxation, or on allocated net worth; and
- 9.5% of taxable net income.

Michigan

Adjusted tax base includes business income, compensation paid to employees, interest payments, and depreciation of tangible



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assets. For taxpayers with a fiscal year ending in December, the tax year 2007 rate is 1.9%.

New Jersey

For tax year 2007, corporations pay the greater of the following:

- a minimum tax of \$500 to \$2,000, depending on amount of gross receipts, or
- a tax of 9.0% if the corporation's entire net income exceeds \$100,000, 7.5% if the corporation's entire net income is \$50,001 to \$100,000, or 6.5% if the corporation's entire net income is \$50,000 or below.

Plus a surtax of 4.0%.

New York

The greater of:

- 7.5% of allocated entire net income (6.5% for qualified in-state manufacturers);
- 0.178% of allocated business and investment capital (not to exceed \$350,000 for manufacturers or \$1.0 million for all other taxpayers);
- 2.5% of minimum taxable income;
- a fixed dollar minimum of \$100 to \$1,500, depending on gross payroll.

Plus 0.9% of allocated subsidiary capital.

Pennsylvania

9.99% of net income plus 0.389% of taxable value of capital stock.

Texas

The greater of 0.25% on net taxable capital or 4.5% on net taxable earned surplus.

West Virginia

8.75% of net income plus additional franchise tax equal to \$50 or 0.55% of the value of the taxpayer's capital, whichever is greater.