2014

Ohio FIT 10

Ohio Financial Institutions Tax Instructions

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Ohio | Department of Taxation

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Ohio Financial Institutions Tax (FIT) Instructions
Tax Year (Report Year) 2014
Calendar Year 2013
General Instructions and Information

The Ohio financial institutions tax (FIT) was enacted in Am. Sub. H.B. 510, which was passed by the 129th General Assembly. The FIT is a new tax for many entities previously subject to the corporation franchise tax or the dealer in intangibles tax. Beginning with tax year 2014, and continuing for every tax year thereafter, the FIT is a business privilege tax that is imposed on financial institutions organized for profit and doing business in Ohio or otherwise having nexus in or with this state under the Constitution of the United States pursuant to Ohio Revised Code (R.C.) 5726.02.

Taxpayers – Who Must File
"Financial institution" means a bank organization, a holding company of a bank organization, or a nonbank financial organization, except when one of the following applies:

1. If two or more such entities are consolidated for the purposes of filing an FR Y-9, financial institution means a group consisting of all entities that are included in the FR Y-9.

2. If two or more such entities are consolidated for the purposes of filing a call report, financial institution means a group consisting of all entities that are included in the call report and that are not included in a group described in #1 of this section.

3. If a bank organization is owned directly by a grandfathered unitary savings and loan holding company, financial institution means a group consisting only of that bank organization and the entities included in that bank organization's call report, notwithstanding #1 or #2 of this section.

Financial institution does not include a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company.

"Bank organization" means any of the following:

1. A national bank organized and operating as a national bank association pursuant to the "National Bank Act," 13 Stat. 100 (1864), 12 U.S.C. 21, et seq.;

2. A federal savings association or federal savings bank chartered under 12 U.S.C. 1464;

3. A bank, banking association, trust company, savings and loan association, savings bank, or other banking institution that is organized or incorporated under the laws of the United States, any state or a foreign country;

4. Any corporation organized and operating pursuant to 12 U.S.C. 611, et seq.;

5. Any agency or branch of a foreign bank, as those terms are defined in 12 U.S.C. 3101;

6. An entity licensed as a small business investment company under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C. 661, et seq.;

7. A company chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or a successor of such a company.

Bank organization does not include an institution organized under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a successor of such an institution, an insurance company, or a credit union.

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

A person is engaged in business primarily as a small dollar lender if the person has, for the taxable year, gross income from the activities described in R.C. 5726.01(O) that exceeds the person's gross income from all other activities. As used in R.C. 5726.01(M), gross income has the same meaning as in section 61 of the Internal Revenue Code, and income from transactions between the person and the other members of the affiliated group shall be eliminated, and any sales, exchanges, and other dispositions of commercial paper to persons outside the affiliated group produces gross income only to the extent the proceeds from such transactions exceed the affiliated group's basis in such commercial paper.

Reporting Person
The FIT is reported on a consolidated basis rather than on a separate entity basis.

In accordance with R.C. 5726.03 the reporting person is the taxpayer responsible for filing and paying the financial institutions tax. The reporting person means one of the following:

1. In the case of two or more entities being consolidated for the purposes of filing a FR Y-9, the reporting person is the top-tier holding company required to file the FR Y-9.

2. In the case of two or more entities being consolidated for the purposes of filing a call report, the reporting person is the bank organization required to file the call report.

3. In the case where a bank organization is owned directly by a grandfathered unitary savings and loan holding company, the reporting person is the bank organization required to file the call report.

4. In the case of a bank organization or nonbank financial organization that is not included in a group described in #1, #2, or #3 above, the reporting person is the bank organization or nonbank financial organization.

Change of Ownership
If the ownership structure of a financial institution changes such that a person is no longer includable in the annual report of the financial institution, the reporting person for the financial institution shall notify the tax commissioner of the change when the reporting person files its next annual report or in writing prior to the due date of that report. Taxpayers may notify the tax commissioner of such change by updating their FIT corporate structure through Ohio Business Gateway or by completing form FIT AR and mailing it to the address listed on the form.

Tax Year
The calendar year in and for which the tax is paid is called the "tax year." The tax year is also referred to as the "report year." The financial institutions tax for tax year 2014 is paid for the privilege of doing business in Ohio during the calendar year 2014.

Taxable Year
The taxable year is the calendar year preceding the year in which an annual report is required to be filed under R.C. 5726.03.

Tax Rates and Minimum Tax
Pursuant to R.C. 5726.04, a financial institution subject to the FIT shall pay the greater of the following:

1. A minimum tax equal to $1,000;

2. The product of the total Ohio equity capital of the financial institution multiplied by eight mills (.008) for each dollar of the first $200 million of total Ohio equity capital, by four mills (.004) for each dollar of total Ohio equity capital greater than $200 million and less than or equal to $1.3 billion, and by two and one-half mills (.0025) for each dollar of total Ohio equity capital in excess of $1.3 billion.

Due Dates
Pursuant to R.C. 5726.06, the reporting person for a taxpayer shall file estimated tax reports and remit the amount of tax estimated to be due for a tax year to the tax commissioner as follows:

1. The minimum tax required under R.C. 5726.04(A)(1) or one-third of the estimated tax, whichever is greater, on or before the 31st day of January of the tax year;

2. One-half of the amount by which the estimated tax exceeds the amount paid under #1 of this section on or before the 31st day of March of the tax year; and

3. One-half of the amount by which the estimated tax exceeds the amount paid under #1 of this section on or before the 31st day of May of the tax year.

The FIT report is due on or before the 15th day of October of the tax year pursuant to R.C. 5726.03.

If the due date of the report or the due date of the estimated payment falls on a Saturday, Sunday, or legal holiday, then the report or estimated payment may be made on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

Registration and Method of Filing / Payment
1. Registration – Taxpayers who are not registered for the FIT must register first before filing any reports through Ohio Business Gateway (OBG). Taxpayers are required to register under the reporting person and list all of the consolidated members.

2. Electronic Filing – Financial institution taxpayers are required to file each annual or estimated tax report electronically through OBG pursuant to R.C. 5726.03.

3. Electronic Payment – Financial institution taxpayers are required to remit each tax payment electronically pursuant to R.C. 5726.03. The methods of remitting payments are either by ACH debit through OBG or by electronic funds transfer through the Ohio Treasurer of State.

Interest on Underpayments and Overpayments
If a taxpayer fails to pay the tax by the date payment is due, interest accrues on the unpaid tax. In addition, penalties may be charged for late filing, late payment, or failure to file. The period of the underpayment runs from the date payment was required to the date on which payment is made.

Interest on overpayments runs from the later of the date the tax was paid or the date the tax payment was due until the refund is paid.

The interest rate on underpayments is the same as the interest rate on overpayments. During calendar year 2014 interest on underpayments and overpayments accrues at the rate of 3% per annum (based on the rounded federal short term rate of 0% plus the additional 3% prescribed by R.C. 5703.47(B)).

Penalties
1. A penalty may be imposed for failure to timely file a report. The penalty imposed may not exceed the greater of (i) $50 per month up to $500, or (ii) 5% per month of the tax due shown on the report up to 50%.

2. A penalty may be imposed for failure to timely pay the tax. The late payment penalty may not exceed 15% of the delinquent payment.

3. Additional penalties may be imposed for filing a fraudulent report and for filing a false or fraudulent refund claim.

See R.C. 5726.21.

Application for Financial Institutions Tax Refund
FIT taxpayers may request a refund by filing an Application for Financial Institutions Tax Refund (Ohio form FIT REF) pursuant to R.C. 5726.30. Please do not file an application for refund if the claimed overpayment for the tax year is shown on the originally filed financial institutions tax report for that tax year.

Note: If an amended report reflects an overpayment, the taxpayer must complete and mail form FIT REF to the address listed on the form to request the refund.

Form FIT REF applies to claimed overpayments by a taxpayer, whether made voluntarily or as the result of the payment of an assessment issued by the Ohio Department of Taxation. If the statute of limitations period has not been extended by Ohio form FIT WAIVER then the Ohio Department of Taxation must receive the application for refund accompanied by the full and complete reason for the refund claim within four years of the date of the illegal, erroneous, or excessive payment.

If a taxpayer properly files an application for refund for the financial institutions tax and if the tax commissioner determines the amount of the refund to which the applicant is entitled is less than the amount claimed, then the tax commissioner shall proceed in accordance with R.C. 5703.70.

Assessments
Pursuant to R.C. 5726.20, the tax commissioner may issue an assessment against the taxpayer for any deficiency within four years after the later of the following dates:

- The final date the report subject to assessment was required to be filed, OR

- The date the report was filed.

The assessment statute of limitations may be extended for an agreed upon period if both the taxpayer and the tax commissioner consent in writing to the extension by signing form FIT WAIVER before the statute of limitations period would otherwise expire.

If the taxpayer disagrees with an assessment, the taxpayer may object to the assessment by filing Ohio form PR, Petition for Reassessment. Form PR applies only to assessments (not to proposed corrections) issued by the Ohio Department of Taxation. If a petition for reassessment has been properly filed, the tax commissioner shall proceed in accordance with R.C. 5703.60.

Tax Commissioner's Right to Offset Refund
The tax commissioner may apply a taxpayer's FIT tax refund against the taxpayer's indebtedness to the state of Ohio for any tax or fee and any charge, penalty, or interest arising from such a tax or fee that is administered by the tax commissioner and paid to the state or to the clerk of courts. In addition, the tax commissioner may apply a taxpayer's FIT tax refund in satisfaction of the taxpayer's indebtedness to Ohio for workers' compensation premiums, unemployment compensation contributions, unemployment compensation payments in lieu of contributions, or claims certified and any charge, penalty, and interest on such amounts. The offset can be made only if those debts have become "final." See R.C. 5726.31.

Line Instructions

Line 1 – Total Equity Capital
Enter the total equity capital of the reporting person as reported on the FR Y-9 or the call report as of the end of the taxable year. If the financial institution does not file a FR Y-9 or a call report, enter the total equity capital as calculated in accordance with generally accepted accounting principles as of the end of the taxable year. Total equity capital is the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. Total equity capital does not include any noncontrolling (minority) interests as reported on an FR Y-9 or call report, unless such interests are in a bank organization or a bank holding company. See R.C. 5726.01(S) and R.C. 5726.04.

Line 2 – Deduction for Ohio-Qualified Real Estate Investment Trusts
Enter the taxpayer's deduction in an Ohio-qualified real estate investment trust. An Ohio-qualified real estate investment trust is a real estate investment trust that was traded on a public stock exchange on Jan. 1, 2012. See R.C. 5726.041. Compute the deduction as follows:

1. For tax year 2014, 80% of the institution's investment in an Ohio-qualified real estate investment trust as of Jan. 1, 2012;
2. For tax year 2015, 60% of the institution's investment in an Ohio-qualified real estate investment trust as of Jan. 1, 2012;
3. For tax year 2016, 40% of the institution's investment in an Ohio-qualified real estate investment trust as of Jan. 1, 2012;
4. For tax year 2017, 20% of the institution's investment in an Ohio-qualified real estate investment trust as of Jan. 1, 2012; and
5. For tax years after 2017, no deduction is allowed for an investment in an Ohio-qualified real estate investment trust.

Apportionment Factor

The apportionment factor shall be used to determine the total Ohio equity capital and shall be based upon the gross receipts generated by the financial institution. The apportionment factor is a fraction whose numerator is the financial institution's gross receipts in Ohio during the taxable year and whose denominator is the total gross receipts of the financial institution everywhere during the taxable year. The gross receipts shall be determined using the financial institution's method of accounting for income tax purposes.

Gross receipts shall be sitused to Ohio in the proportion that the customers' benefit in this state with respect to the services received bears to the customers' benefit everywhere with respect to services received. The physical location where the customer ultimately uses or receives the benefit is paramount. Examples of gross receipts that must be included in the numerator are found in R.C. 5726.05(C). In addition, rule 5703-33-06 of the Administrative Code further explains situsing concepts that should be used in calculating the gross receipts for the apportionment factor.

If a financial institution's total equity capital incudes investments in an Ohio-qualified real estate investment trust, then deduct the following amounts from both the numerator and denominator of the apportionment factor:

1. For tax year 2014, 80% of the gross receipts from an Ohio-qualified real estate investment trust;
2. For tax year 2015, 60% of the gross receipts from an Ohio-qualified real estate investment trust;
3. For tax year 2016, 40% of the gross receipts from an Ohio-qualified real estate investment trust;
4. For tax year 2017, 20% of the gross receipts from an Ohio-qualified real estate investment trust; and
5. For tax years after 2017, no deduction is allowed from the apportionment factor for gross receipts from an Ohio-qualified real estate investment trust.

Line 4(a) – Total Ohio Gross Receipts
Enter the financial institution's total gross receipts sitused to Ohio for the taxable year.

Line 4(b) – Total Gross Receipts Everywhere
Enter the financial institution's total gross receipts everywhere for the taxable year.

Line 4(c)
Enter the ratio of receipts in Ohio to receipts everywhere by dividing line 4(a) by line 4(b).

Line 6 – Total Tax Liability
Calculate the tax liability by multiplying line 5 times the tax rates explained in the general instructions. Enter the greater of the tax liability computed or the minimum tax of $1,000.

Line 9 – Estimated Payments Made in Tax Year 2014
Enter the sum of the estimated payments remitted during tax year 2014.

Line 12 – Interest and Penalty
Enter any interest and penalty as explained in the general instructions.

Schedule A
Nonrefundable Credits

Line 1 – Bank Organization Assessment Credit
Each bank organization organized under Title XI and included in the annual report of a financial institution may claim a nonrefundable credit that equals the sum of the annual assessments that the bank organization paid to the division of financial institutions and

the schedule of fees published by the division. This credit may only be claimed if the taxpayer submits a FIT CS and a document certified by the division of financial institutions verifying the amount of state annual assessment fees and federal supervisory fees paid by the bank organization. A taxpayer may claim against the financial institutions tax any unused portion of the credits authorized under R.C. 5733.063. See R.C. 5726.51.

For more information, please visit the Ohio Department of Commerce, Division of Financial Institutions' Web site at http://com.ohio.gov/fiin or contact them at 614-728-8400.

Line 2 – Job Retention Credit
A taxpayer may claim a nonrefundable tax credit for each person included in the annual report of the taxpayer that is granted a credit by the tax credit authority under R.C. 122.171(B)(1). This credit applies to eligible businesses that commit to a substantial capital investment that will retain jobs in Ohio. A taxpayer may claim against the financial institutions tax any unused portion of the credits authorized under R.C. 5733.0610(B). Taxpayers claiming the job retention credit must submit a FIT CS and a copy of the credit certificate from the Ohio Development Services Agency (ODSA) with the taxpayer's tax report for verification. See R.C. 5726.50.

For more information, please visit the ODSA's Web site at http://development.ohio.gov or contact them at 1-800-848-1300.

Line 3 – New Markets Tax Credit
A taxpayer may claim a nonrefundable credit for each person included in the annual report of the taxpayer that holds a qualified equity investment on a credit allowance date occurring in the calendar year preceding the tax year. This credit applies only to the extent that the community development entity (in which the financial institution holds an equity investment) invests in qualified active low-income community businesses in Ohio. The aggregate total Ohio credit cannot exceed $10 million per year, and a taxpayer may carry forward any balance of the credit for up to four years. In addition, a taxpayer may claim against the financial institutions tax any unused portion of the credits authorized under R.C. 5725.33 and R.C. 5733.58. See R.C. 5726.54. **Note:** A FIT CS is required to be submitted for each report year where the credit is claimed.

For more information, please visit the Ohio Development Services Agency's Web site at http://development.ohio.gov or contact them at 1-800-848-1300.

Line 4 – Credit for Qualified Research Expenses
A taxpayer may claim a nonrefundable credit equal to 7% of the excess of (1) the qualified research expenses incurred by the taxpayer in this state in a taxable year over (2) the average annual qualified research expenses incurred by the taxpayer in this state in the three previous taxable years. "Qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code. Qualified research expenses incurred by the taxpayer includes the expenses incurred by all persons included in the taxpayer's annual report and any insurance company subject to the tax levied under R.C. 5725.18 or Chapter 5729 that has more than 50% of its ownership interests directly or indirectly owned or controlled by a person included in the annual report. A taxpayer may carry forward any balance of the credit for up to seven years. In addition, a taxpayer may claim against the financial institutions tax any unused portion of the credit authorized under R.C. 5733.351. See R.C. 5726.56. **Note:** A FIT CS is required to be submitted for each report year where the credit is claimed.

Line 5 – Credit for Qualifying Dealer in Intangibles Tax
For tax year 2014, a taxpayer may claim a nonrefundable credit if a qualifying dealer in intangibles is a member of a qualifying controlled group of which a financial institution is also a member. The credit is the lesser of the amount of tax that the qualifying dealer in intangibles paid under Chapter 5707 during the calendar year immediately preceding the financial institution's tax year or the product of the cost of the financial institution's direct investment in the capital stock of the qualifying dealer in intangibles, the ratio described in R.C. 5725.15, and the tax rate imposed under R.C. 5707.03(D). The principles described in R.C. 5733.057 apply in determining whether a dealer in intangibles is a member of a qualifying controlled group of which the financial institution is a member and to ascertain the cost of the financial institution's direct investment in the capital stock of the qualifying dealer in intangibles. See R.C. 5726.57. **Note:** A FIT CS is required to be submitted for each report year where the credit is claimed.

Schedule B
Refundable Credits

Line 1 – Ohio Historic Preservation Credit
A taxpayer may claim a refundable tax credit for each person included in the annual report of the taxpayer that is a certificate owner of a rehabilitation tax credit certificate issued under R.C. 149.311. The credit is equal to 25% of the dollar amount on the certificate and must not exceed $5 million for each certificate. If the credit exceeds the amount of tax otherwise due, the excess shall be refunded to the taxpayer, provided that, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax shall not exceed $3 million. A taxpayer may carry forward any balance of the credit for up to five years. In addition, a taxpayer may claim against the financial institutions tax any unused portion of the credit authorized under R.C. 5725.151. Taxpayers claiming the Ohio historical preservation credit must submit a FIT CS and a copy of the credit certificate from the Ohio Development Services Agency (ODSA) with the taxpayer's tax report for verification. See R.C. 5726.52.

For more information, please visit the ODSA's Web site at http://development.ohio.gov or contact them at 1-800-848-1300.

Line 2 – Job Retention or Job Creation Credit
A taxpayer may claim a refundable tax credit for each person included in the annual report of the taxpayer that is granted a credit by the tax credit authority under R.C. 122.17 and R.C. 122.171(B)(2) and (B)(3). This credit applies to eligible businesses that commit to a substantial capital investment that will retain jobs in Ohio, or eligible businesses that foster job creation meeting a certain payroll threshold. Taxpayers claiming the job retention or job creation credit must submit a FIT CS and a copy of the credit certificate from the Ohio Development Services Agency (ODSA) with the taxpayer's tax report for verification. See R.C. 5726.50.

For more information, please visit the ODSA's Web site at http://development.ohio.gov or contact them at 1-800-848-1300.

Line 3 – Losses on Loans Made Under the Ohio Venture Capital Program
A taxpayer may claim a refundable credit for each person included in the annual report of the taxpayer that was issued a tax credit certificate by the Ohio venture capital authority under R.C. 150.07. This credit is to provide Ohio venture capital lenders and investors some security against losses on their loans to the Ohio Venture Capital Program. The amount of the credit is equal to the amount

on the tax credit certificate. Taxpayers claiming the credit for losses on loans made under the Ohio venture capital program must submit a FIT CS and a copy of the credit certificate from the Ohio Development Services Agency (ODSA) with the taxpayer's tax report for verification. See R.C. 5726.53.

For more information, please visit the ODSA's Web site at http://development.ohio.gov/bs_thirdfrontier/ocva.htm or contact them at 1-800-848-1300.

Line 4 – Motion Picture Production Credit
A taxpayer may claim a refundable credit for each person included in the annual report of the taxpayer that is a certificate owner of a tax credit certificate issued under R.C. 122.85. This credit applies to a motion picture company whose motion picture was pre-certified by the director of the Ohio Development Services Agency (ODSA) as a tax credit-eligible production. The credit amount equals the amount on the certificate and must be claimed for the taxable year in which the certificate is issued by the director of development services. Taxpayers claiming the motion picture production credit must submit a FIT CS and a copy of the credit certificate from the ODSA with the taxpayer's tax report for verification. See R.C. 5726.55.

For more information, please visit the ODSA's Web site at http://development.ohio.gov or contact them at 1-800-848-1300.

Administrative Code
Tax Commissioner Rules
Applicable to the Ohio Financial Institutions Tax

5703-33-01	Electronic filing of annual or estimated tax reports and tax payments
5703-33-02	Captive finance companies
5703-33-03	Notification of change in ownership or applicability of chapter
5703-33-04	Pawn shops and pawnbrokers
5703-33-05	Reporting of total equity capital
5703-33-06	General situsing provision