

OHIO's



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Ohio Department of Taxation

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COMMENTS *from the commissioner*



Commissioner Zaino

April 15 has come and gone, but not before 2.3 million Ohioans chose to file their state returns electronically. Paperless or electronic methods include *Ohio I-File*, TeleFile and IRS e-file. Approximately 5.4 million paper and electronic returns were filed.

One of the major goals each filing season is to have fewer taxpayers file paper returns. This goal was achieved this year, as we estimate that paper return filing is down 5 percent with 41 percent of all returns filed using an electronic method. That is an increase of over 250,000 paperless electronic returns from 2002, which translates into a considerable savings of tax dollars. Paper returns cost approximately \$3.00 to process, whereas paperless electronic returns on average cost \$.64 to process. (After working at the processing center for a day, I realize why paper returns are so much more costly to process.)

In an effort to encourage more taxpayers to file electronically, *Ohio I-File* was created and offered for the first time this year. This new system received rave reviews from its users. Many taxpayers complimented the system, saying how user-friendly and convenient it was. *Ohio I-File* was free and easily accessible through our web site. The only requirement for taxpayers taking advantage of this system is that they filed an Ohio income tax return last year. Over 116,000 taxpayers used *Ohio I-File*, including myself. I hope you were able to use this new system.

The biggest portion of paperless electronically filed returns came in by way of IRS e-file. The Ohio and school district income tax returns can be attached to federal e-file returns. The attached returns are then downloaded from the IRS data center daily and uploaded to our mainframe computer. This electronic option was available to most taxpayers. They could use their personal computer and tax preparation software, or they could use an authorized e-file provider (their tax

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preparer). Over 1.7 million taxpayers used the IRS e-file system, which was an increase of 14.9 percent over last year.

The number of taxpayers choosing to have their refund checks deposited directly into their bank accounts also increased. To take advantage of direct deposit, taxpayers were required to file a paperless return. Over 800,000 filers chose to have their refund deposited into their bank account and most received their refund within 7-10 days of filing.

Taxpayers again were offered the option of paying their tax due with a credit card through a private vendor (Official Payments Corp.) approved by the state and the IRS. The vendor charges a small convenience fee. Visa, Mastercard, Discover and American Express were among the accepted credit cards. Over \$7 million in taxes were paid using a credit card.

Please note that the figures used in this article are as of May 23 and are not final, as we are still processing returns.

Below you will find a chart comparing paperless filing methods used in 2003 to 2002.

	2003	2002	+/-
1040 TeleFile	534,873	621,987	(87,114)
1040 IRS e-file	1,593,364	1,381,334	212,030
Ohio I- File	116,706	-0-	116,706
School Dist IRS e-file	125,765	115,058	10,707
Total	2,370,708	2,118,379	252,329 (12% increase)

Leadership Team Learns Lessons in Processing

On April 17 Commissioner Zaino and the Leadership Team traveled to the processing center to participate in the initial steps of processing returns.

The “intermittent trainees,” as their nameplates read, were scheduled to work at different workstations throughout the day. Some of the areas included the mail center, income tax extraction, remittance processing, files, coding, stamping, and income tax suspense. Like their fellow co-workers, they were given a half-hour lunch, with one fifteen-minute break.

Fred Nicely, Chief Counsel, commented that the experience made him appreciate the need for people to file electronically. Along those lines, Mike Adelman, Administrator, Legislation Division, said, “I was shocked by the number of manual touches each return receives.” Mike also said that the employees processing the returns are some of the hardest working people in state government.

Of the day, Deputy Tax Commissioner Clare Long said, “It gave me a much better appreciation and understanding of what is involved in the processing of tax returns. It was a great learning experience.” Rosie Baughman, Commissioner Zaino’s executive assistant added, “It was interesting to learn the process of incoming returns and outgoing refunds.”

Executive Administrator Jim Kamerick said, “From my viewpoint, I think the day was a tremendous success. I

appreciated the fact Tom (Zaino) and his staff took time off of their busy work schedule to roll up their sleeves and participate in the work firsthand. Although I don't recommend any of them quit their day jobs, they all 'graduated' and received a certificate of recognition denoting their successful completion of the specific areas that they worked in. There was some concern that one or two of them (names will remain anonymous) might have to retake the class but they made a great save at the end and were able to graduate on time."

OHIO legislative update

By Mark Aiken and Leslie Akers, Legislation Division

The primary focus for tax law changes for the first part of this year is the biennial budget bill, House Bill 95. The original version, introduced by the Governor, included a comprehensive tax reform proposal that made extensive changes to the corporation franchise, individual income, sales and use, and both tangible and real property taxes. These changes both modernized Ohio's tax system and raised important new revenues to balance the two-year state budget.

The Ohio House of Representatives removed a number of the tax reform provisions, and replaced them with a temporary increase in the state sales tax rate to 6 percent, beginning July 1, 2003. The House version of the bill raised the rate for one year, with the second year of the rate increase dependent on the outcome of a vote in the November general election on the placement of Video Lottery Terminals (VLTs) at Ohio's horse race tracks. If the voters were to approve the VLTs, the rate increase would expire on June 30, 2004. The Senate version of the bill did not include the VLT provision and increased the state sales tax rate to 6 percent for the entire biennium, ending June 30, 2005.

Both the House and Senate versions of the bill added selected services to the base of the sales tax, such as satellite television, automobile towing, laundry and dry cleaning, taxi and limousine services inside Ohio, and some selected personal care services such as tanning, tattooing, skin care, and manicures. The Senate made changes to the recently enacted accelerated payment of sales tax, reducing the number of required advanced payments from three to two times per month and raising the threshold for the annual tax liability that requires accelerated payments from \$60,000 per year to \$75,000 per year.

The Senate also passed a number of revisions to the sales tax law to bring Ohio into compliance with the Streamlined Sales Tax Project (SSTP). These changes adopt the SSTP definition of food, removing chewing gum, blended fruit juices, bottled water, and ice from the sales tax base in Ohio, effective July 1, 2004. Their version also adopted the SSTP definition of prescription drugs, widening the number of drugs that are exempt from taxation in Ohio, allowing an exemption for physician-administered drugs, broadening the definition of durable medical equipment, and making other changes to bring Ohio into compliance with the SSTP agreement.

A conference committee met to deliberate on the differences between the House-passed version and the Senate-passed version. These negotiations included a number of tax provisions including individual income tax deferral for active duty military personnel, mitigating the negative revenue effects of the recent federal depreciation law, telecommunications reform, municipal income tax reform, and the necessary SSTP changes. The deliberations concluded on June 19; the Governor must sign the bill by June 30. ODT will notify taxpayers, vendors, tax practitioners, and other interested parties of any changes as soon as possible. The next edition of the *Ohio's State Tax Report* will provide a detailed summary of the tax changes in the effective version of the budget bill.

ODT Continues Ohio Award for Excellence Journey

Periodically, Governor Taft holds cabinet business meetings to discuss different matters and issues with agency directors for informational purposes. Earlier this year, Governor Taft held one of these meetings. Although other issues were discussed, the main topic was Performance Excellence with regards to the Ohio Award for Excellence (OAE) program. Governor Taft is a supporter and advocate of OAE. Numerous state agencies are involved with the program, while many other state agencies are interested in the program and how it can help improve their processes.

At this meeting, Governor Taft asked several individuals to talk about their OAE accomplishments within their agency or company. Since ODT is one of only two state agencies to achieve Tier I status, Governor Taft asked Commissioner Zaino to give a presentation to the other agency directors. The Commissioner talked about why ODT participates in OAE, how it provides a blue-print for long-term business improvement, and the priceless feedback ODT has received from outside business professionals thus far in the process. Commissioner Zaino also highlighted many of the changes ODT has made so far as a result of the feedback, including the following:

- The OAE Feedback Report found that ODT has not targeted our personal income taxpayers (ODT's largest population of customers) for feedback to help identify their needs. As a result, ODT has now instituted a survey, which taxpayers can complete by phone or on the web. (See survey results on page 6.)
- The OAE Feedback Report also noted that ODT does not regularly seek feedback from front-line employees about customer-focus issues. As a result, ODT has implemented the *NEXTEp Survey* for the third straight year for purposes of seeking this input.
- In another area, the OAE Feedback Report also pointed out that key ODT production processes and delivery processes are not clearly defined and documented. To address this area for improvement, ODT recently created the Office of Strategic Development and Business Analysis.

As you may recall, ODT achieved Tier I status last year. This year, ODT is applying for Tier II status. The "Intent to Apply" report must be submitted to OAE by July 1. The completed application for Tier II is due by November 1. The same base criteria are used for each tier, but additional items are added and more is expected of the agency as each higher tier is reached.

To begin the process to achieve Tier II, ODT will be forming teams to look into the seven categories of the OAE. The categories include: Leadership, Strategic Planning, Customer Focus, Information and Analysis, Human Resource Focus, Process Management and Results.

ODT is very fortunate to have six OAE examiners working in the Department. A team of OAE examiners came to the Department last March to conduct a site visit. These six employees conduct site visits just like the ones who visited ODT. It is very beneficial for ODT to have these examiners as employees. They learn how Ohio's top organizations excel and then bring that knowledge back to the workplace. They are able to serve as "internal consultants" who can identify meaningful opportunities and guide the implementation of improvements.

Now these internal examiners will each serve as a resource member on the new teams. Also making up the teams will be employees from across the Department, including a senior manager on each one. Teams will be comprised of about five members, representing different areas of the Department, including the Taxpayer Service Centers.

Since ODT has already been through the steps one time, this second time should be even smoother. There are more examiners in the Department, more expertise, and employees are more efficient in working through the OAE

process. Since the first application was completed, ODT has taken steps to address the opportunities for improvement listed in the previous OAE feedback report.

In order to better answer the questions found in the OAE criteria for this upcoming application, most administrators and many supervisors recently completed the OAE questions, which the new teams will use to complete the second application. For instance, questions such as, "How do you listen and learn from your customers?" have been answered by all divisions. This comprehensive compilation of answers will help ensure that all aspects of ODT are covered in the application.

In March 2004, a team of examiners will once again visit the Department. By the end of May, ODT will receive a new feedback report and find out if the Department has achieved Tier II status. Watch future issues for updates as ODT strives for Tier II status.

Tallying Up Taxpayer Services

If you can be amazed at statistics, let us wow you with some racked up by ODT's Taxpayer Services Division for the 2003 income tax season. Here are some of the numbers, January 1 through April 30:

- On April 15, the income tax deadline, agents took more than 4,000 calls with 2,447 of them being about individual income tax. The 19 tax agents (11 from TPS and 8 from the Service Centers that support this line during the filing season) working that day took an average of 130 calls with one agent taking 184 calls.
- Total calls on income tax taken by agents during the tax season were 157,195 in 2003 compared to 130,616 last year.
- Business tax and business billing calls taken by agents totaled 50,898 in 2003 compared to 44,137 in 2002.
- Registration calls taken by agents amounted to 20,683 in 2003 versus 13,749 in 2002.
- Taxpayer Services responded to 37,847 e-mails this year compared to 26,778 for 2002.
- U.S. mail responses totaled 11,132 this year compared to 3,200 last year.

Mark Walker, acting administrator of Taxpayer Services, said he thought the sharp spikes this year over last were due, in part, to *Ohio I-File* (new this year) and to the requirement that Franklin County businesses file their taxes "on-line" via the *Ohio Business Gateway* or through TeleFile starting January 1, 2003.

How are tax agents able to handle so many questions? Mr. Walker said agents are trained to give correct answers fast and accurately and to know when to "escalate" any questions they cannot answer. This frees an agent to go to the next caller.

Statistics are sharply higher in all categories for 2003 versus 2002, and will likely grow more next year. That is because Taxpayer Services has posted ten new positions. "We'll be able to use them all," Mr. Walker said, "because many more people try to reach Taxpayer Services by telephone than actually get through to an agent."

Income tax season may be the busiest season, but Taxpayer Services stays busy all year long as the tax agents are trained to answer questions on a large number of the Ohio business taxes as well. Tax agents took almost 400,000 calls between July 1, 2002 and April 30, 2003.

Taxpayers Provide Their Input

The Ohio Award for Excellence Feedback Report found that ODT has not targeted individual income taxpayers (our largest population of customers) for feedback to help us understand their needs. As a result, ODT has now instituted a survey, which individual income taxpayers can complete by phone or on the web. Below are the results from January 1 through March 31, 2003.

Q - What method did you use to file your 2002 income tax return?

A - 1,832 people responded:
 26% Internet
 6% electronic
 36% mail
 24% TeleFile
 8% other (tax practitioner)

Q - Were the Ohio income tax return instructions clear and understandable?

For the 475 Internet filers: 72% said yes 9% said no 19% said somewhat	For the 112 electronic filers: 62% said yes 13% said no 24% said somewhat	For the 658 mail filers: 48% said yes 28% said no 24% said somewhat
For the 435 TeleFile filers: 68% said yes 12% said no 20% said somewhat	For the 152 other filers: 34% said yes 43% said no 18% said somewhat 5% did not respond	

Q - Was the return easy to complete?

For the 475 Internet filers: 71% said yes 12% said no 17% said somewhat	For the 112 electronic filers: 63% said yes 15% said no 22% said somewhat	For the 658 mail filers: 50% said yes 25% said no 25% said somewhat
For the 435 TeleFile filers: 70% said yes 17% said no 13% said somewhat	For the 152 other filers: 23% said yes 51% said no 15% said somewhat 11% did not respond	

Q - Did you need to contact the Department of Taxation for assistance in filing your 2002 income tax return?

For the 475 Internet filers: 21% said yes 79% said no	For the 112 electronic filers: 30% said yes 65% said no 5% did not respond	For the 658 mail filers: 48% said yes 51% said no 1% did not respond
For the 435 TeleFile filers: 29% said yes 70% said no 1% did not respond	For the 152 other filers: 39% said yes 15% said no 46% did not respond	

Q - If you needed assistance, was the service satisfactory?

Of the 475 Internet filers, 96 answered the question: 18% said yes 59% said no 23% said somewhat	Of the 112 electronic filers, 33 answered the question: 36% said yes 43% said no 21% said somewhat	Of the 658 mail filers, 310 answered the question: 21% said yes 60% said no 19% said somewhat
Of the 435 TeleFile filers, 429 answered the question: 69% said yes 12% said no 19% said somewhat	Of the 152 other filers, 50 answered the question: 16% said yes 72% said no 12% said somewhat	

INFORMATION *releases*

The following information releases were issued by the Department in the last several months. The topics addressed are summarized below. Please visit our web site at www.state.oh.us/tax and click on "Practitioner" and scroll down to the lower left-hand portion of the web page. Then click on "Information Releases" to view all the information releases in their entirety.

Excise and Motor Fuel Tax

Cigarettes and Other Tobacco Products

Notice about Master Cigarette Settlement Agreement (MSA) – March 3, 2003

XT 2003-03

The Ohio Attorney General's Office filed complaints with the Franklin County (Ohio) Court of Common Pleas against several companies for failure to make payments to a qualified escrow account.

Trusts

Ohio Law Imposes Ohio Income Tax on Trusts for Taxable Years Beginning in 2002, 2003 and 2004 – April 14, 2003

2003-01

Ohio law imposes Ohio income tax on trusts for taxable years beginning in 2002, 2003 and 2004. The information release contains frequently asked questions and answers. NOTE: because of changes made by House Bill 675, 124th General Assembly, effective December 13, 2002, this information release replaces the July, 2002 and the September 12, 2002 information releases.

Sales and Use Tax

Accelerated Payment Letter – March 6, 2003

This letter to taxpayers outlines the changes in Ohio law (Amended Substitute H.B. 40) affecting when they are required to electronically pay Ohio sales and use taxes. The letter lists the revised electronic payment due dates and the amount of each required electronic payment.

Notice on Sourcing (Notice to State Tax Practitioners and Tax Software Providers) – May 5, 2003

Senate Bill 143, 124th General Assembly, made several changes to Ohio sales and use tax law with an effective date of July 1, 2003. Most notable among those changes is the revision in the situsing (sourcing) law that identifies what jurisdiction's sales or use tax a vendor is to charge. It is anticipated that the effective date of these changes will be delayed to January 1, 2004.

Administrative Changes

In March, **Allen Lenko** was named Acting Administrator of the Strategic Development and Business Analysis Unit in the Office of Performance Excellence. Mr. Lenko began his career with the Department in 1987 as an agent in the Assessment Division and was promoted over the years. Most recently, he was Acting Assistant Administrator in the Compliance Division.

In April, **Kevin McNeil** was named ODT's Chief Financial Officer, as a result of **Larry Thompson's** retirement. Mr. McNeil has served in government for over 20 years with the past eight being with ODT. With ODT, he worked closely with Budget & Fiscal to establish the Department's budget as part of the Biennial Strategic Plan while working as Controller of all technology expenditures.

In May, **Richard Burgess** was appointed to the position of Processing Tax Division Administrator. Mr. Burgess has over 25 years experience with ODT. His previous audit experience in the individual income tax and corporate franchise tax areas combined with the operational experience gained as Assistant Administrator of the Income Tax Processing section will provide him with the tools necessary to meet the challenges of the position.

Abusive Trust Schemes

By Mark Pearce, Tax Specialist, Internal Revenue Service

Over the past few years the number of anti-tax schemes and scams has proliferated at a startling rate, due in large part to the aggressive marketing efforts of scheme promoters, especially Internet marketing.

The IRS experience in Ohio indicates that schemes involving trusts are far and away the most numerous and serious threat to federal tax compliance in Ohio. Abusive trust schemes make up almost 80 percent of the known abusive schemes cases in our state.

So, what makes a trust arrangement abusive? The first thing to remember is that, for the most part, placing an income-producing asset in a trust doesn't much change that asset's federal taxation. Income earned within a trust will either be taxed at the trust level, the grantor level, or the beneficiary level, depending on how the trust is set up.

The identifying mark for most abusive trust schemes is the "layering" of trusts (all controlled by the same or related parties) so as to inflate expenses, reduce income, and hide the identity of the person who owes the tax.

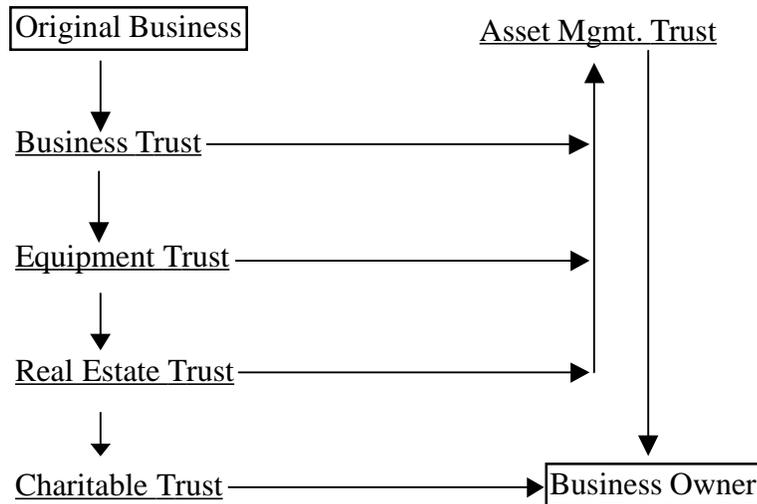
To do this the trust promoter will break a business owner's assets into several pieces, each piece "owned" by a different trust. Often the starting point is a "Business Trust" which takes over the operation of the business itself. The equipment used in the business is then placed into an Equipment Trust. Real estate owned by the business owner, such as his or her personal residence, can be placed in a Real Estate Trust. On paper, each of these trusts may have a nominally independent trustee or manager. In fact, the real control is still in the hands of the original owner.

Often an Asset Management Trust is formed to serve as trustee of the business and equipment trusts. A Charitable Trust may also be created to receive any leftover income and make "charitable distributions" to the family of the business owner. The equipment, real estate and other assets can be passed to the trusts at inflated

values so that the trusts will have larger depreciation deductions than the original business would be allowed.

Once the business has been broken into pieces, the pieces then start to do business with each other, creating expenses and reducing income. The Business Trust can reduce its income by paying inflated fees to the Asset Management Trust and inflated equipment rental fees to the Equipment Trust. The Real Estate Trust can reduce any income it receives by the mortgage, repair, and maintenance expenses it incurs on its “rental property” – the owner’s residence.

The figure below shows how a typical scheme is layered:



By the time all the cross billing is done, the business owner’s income can be reduced to the level where his standard deductions and exemptions will eliminate all federal income taxes.

Fortunately, none of these sham transactions will hold up in court.

Since the 1930s the courts have consistently ruled that a sham trust and its transactions can be ignored for Federal tax purposes. In 2001 this rule was applied specifically to a multi-level trust scheme in the case of Frank and Virginia Muhich. The Muhichs had created five interlocking trusts in an attempt to reduce the taxable income of their existing business, and turn personal living expenses into deductible trust business expenses (*Muhich v. Commissioner*, 238 F.3d 860). The Tax Court found the trusts to be a sham, created only to create tax losses and pay the Muhichs’ living expenses.

In ruling on the Muhichs’ appeal of the Tax Court decision Judge Coffee of the U.S. Court of Appeals wrote, “...courts have uniformly held that such transactions are a sham and that the Commissioner may disregard these sham transactions for tax purposes. This is what the Commissioner did and we can see no reason to overturn the determination... .”

Unfortunately, there are still far too many taxpayers in Ohio who remain caught up in these schemes, and still far too many trust promoters, both onshore and offshore, still selling “untax yourself” trust packages.

COURT *decisions*



The following are significant decisions of the Board of Tax Appeals (BTA) and the Ohio Courts of Appeals and the Ohio Supreme Court during March, April and May, 2003. These informational summaries of tax decisions are compiled by Chuck Ortlieb, Income/Franchise Tax Division, and Peter Angus, Problem Resolution Officer.

CORPORATE FRANCHISE TAX CASES

LSDHC Corp. v. Zaino, 98 Ohio St.3d 450

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, 15 U.S.C. 381, 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 2002-V-164

The Board of Tax Appeals held that the taxpayer may claim the Ohio Revised Code (ORC) section 5733.33 manufacturer's credit on manufacturing equipment whose original use in Ohio began with the taxpayer 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 Generally Accepted Accounting Principles, 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.

ORIX Credit Alliance, Inc. v. Tracy (April 4, 2003), BTA 1996-500

Issue: Is the income characterized on the taxpayer's federal income tax return as rental income and as gain from the sale of leased property allocable as rents and capital gain income, as contended by the Tax Commissioner? Or, instead, is such income apportionable, as contended by the taxpayer?

Facts: Orix is engaged in two-party and three-party lease transactions. In a two-party transaction Orix's customer selects equipment and then approaches Orix to secure the financing for the transaction. After establishing the terms of the transaction, Orix purchases the equipment from a dealer and leases the equipment to the customer. In a three-party lease transaction, an unrelated dealer who does not have the capital to finance the transaction leases equipment to the customer and presents the transaction to Orix, which subsequently takes an assignment of lease. In both two and three-party transactions, the customer has an option to purchase the equipment when the lease terminates and rarely is the option not exercised. On its federal income tax return, the taxpayer characterized the income in question as rents and gains from the sale of leased property. (This decision does not indicate whether the leases in question were treated as sales for federal income tax purposes and does not indicate whether the leased property was depreciated by Orix or by its lessee.)

Holding: The Board agreed with the taxpayer and held that the Tax Commissioner erred in allocating income that the taxpayer characterized on its federal income tax return as rents and net gain or loss from the sale of business property. Applying the “true object” test to determine the substance of the lease transactions between Orix and its customers, the Board found that because the taxpayer is essentially a finance company “which facilitates the purchase and leasing of equipment between unrelated parties” by means of both two-party and three-party transactions, such income should be characterized for franchise tax purposes as interest and should be apportioned pursuant to ORC section 5733.051(H).

The Department has appealed this decision to the Ohio Supreme Court.

Westnovtek Corporation v. Tracy (April 8, 2003), BTA 1996-429

Issues:

- Is the taxpayer’s loss from the bulk sale of inventory apportionable, as contended by the Tax Commissioner, or, instead, allocable, as contended by the taxpayer?
- Are the taxpayer’s proceeds from the bulk sale of inventory includable in the sales factor, or, instead, excludable, as contended by the taxpayer?
- Did the Tax Commissioner err in failing to find that the taxpayer properly deviated from the normal apportionment provisions as permitted under ORC section 5733.05(B)(2)(d)?

Facts: With facilities in Ohio and Michigan, Westnovtek (formerly known as Dura Corporation) was engaged in the business of manufacturing original equipment parts and fabricated metal products for the automotive industry. Each facility operated as a separate profit center with no centralized control. On May 29, 1987, after termination of its S corporation status, the taxpayer sold to a subsidiary of Wickes Corporation substantially all of its assets other than its real property. The sale included all machinery and equipment, inventory, accounts receivable, intellectual property and goodwill.

In filing its 1988 franchise tax report the taxpayer allocated its losses from the sale of fixed assets and inventory and apportioned its gain from the sale of goodwill and intellectual property. The 1988 franchise tax report did not reflect a sales factor. That is, the report reflected no sales in Ohio and no sales anywhere. The taxpayer did not file a written request for deviation from the statutory allocation and apportionment provision with its 1988 franchise tax report as required by ORC section 5733.05(B)(2)(d) as it existed for the period at issue. Upon audit the Department included a sales factor in the apportionment formula by including the taxpayer’s proceeds from the bulk sale of inventory, then the Department apportioned the loss from the sale of inventory.

Holding: Agreeing with the taxpayer and applying a business-nonbusiness test to determine whether income is apportionable or allocable, the Board found that the taxpayer’s loss from the bulk sale of inventory was allocable. The Board stated “that the transaction at issue, in which Dura sold all of its tangible assets including a bulk sale of inventory... not in the ordinary course of business but in removing itself from business, falls within the rule in *Borden, Inc. v. Limbach* (1990) 49 Ohio St.3d 240.” Then, applying the same reasoning the Board held that the taxpayer’s proceeds from the bulk sale of inventory were not includable in the net income base sales factor. In rejecting the Tax Commissioner’s argument that such proceeds must be included because the taxpayer failed to file a written request for deviation at the time it filed its franchise tax report (as was the law for the tax year at issue), the Board noted that such a conclusion would lead to a harsh result in this instance because “... the taxpayer’s omission of the four-factor formula is obvious from inspection of the return” and because the law was later amended to permit a taxpayer to request deviation from the statutory allocation and apportionment provisions with an amended return and with a petition for reassessment.

The Department appealed this decision to the Ohio Supreme Court.

American Home Products Corporation, nka Wyeth, as successor in interest to A.H. Robins Company, Incorporated v. Tracy, Court of Appeals, Tenth Appellate District (March 27, 2003), No. 02AP-759

The Court of Appeals here affirmed the earlier decision of the Board of Tax Appeals in *A.H. Robins Company, Inc. v Tracy*, BTA No. 97-T-1215 (6-14-02) and held that the taxpayer (here referred to as Robins II) was not entitled to an Ohio Net Operating Loss (NOL) deduction for the losses incurred by the *original* A.H. Robins Company (here referred to as Robins I) during the period January 1, 1989 through December 15, 1989.

Issue:

Is Robins II entitled to an Ohio NOL deduction for the losses incurred by Robins I during the period January 1, 1989 through December 15, 1989 where Robins I was not a “taxpayer” for tax year 1990?

Facts:

- On July 26, 1988 the United States Bankruptcy Court confirmed the plan of reorganization of Robins I, the original A.H. Robins Company. In substance, the plan permitted American Home Products Corporation to acquire Robins I in exchange for funds that Robins I used to finance a trust which paid certain product liability claimants of Robins I.
- For the purpose of effectuating its acquisition of Robins I, American Home Products formed a wholly-owned subsidiary, here referred to as Robins II.
- On December 15, 1989, Robins I merged into Robins II in an Internal Revenue Code (IRC) section 368(a)(1)(G) and 368(a)(2)(B) tax-free reorganization.
- Robins I filed a purported 1990 Ohio franchise tax report based on the period January 1, 1989 through the December 15, 1989 merger date. The purported franchise report reflected a \$52.8 million Ohio NOL for the period January 1, 1989 through December 15, 1989.
- Robins II, having qualified to do business in Ohio, filed franchise tax reports for tax years 1990 through 1993 and on those reports claimed as a deduction an Ohio NOL carryforward from Robins I for the period January 1, 1989 through December 15, 1989 and the Ohio NOL carryforwards for Robins I during earlier taxable years.
- Upon audit the Department allowed Robins II’s NOL deduction for the losses incurred by Robins I for the tax years in which Robins I was a taxpayer subject to the franchise tax (that is, for the taxable years ending in 1988 and earlier). However, the Department disallowed Robins II’s NOL deduction for the losses incurred by Robins I during the period January 1, 1989 through the December 15, 1989 merger date because Robins I was not a taxpayer for tax year 1990 and thus the period January 1, 1989 to December 15, 1989 was not a taxable year for which an NOL was to be computed.
- Proceedings before the bankruptcy court indicated that the property transferred from Robins I to Robins II included “such rights to use and benefit from the NOL as Robins I would have had.”

Statute (as it read for the years at issue):

- A taxpayer can deduct from Ohio net income “any net operating loss incurred in any *taxable years* ending in 1971 or thereafter... . This deduction shall... be carried over and allowed... until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period described in division (I)(1)(b) of this section.”
- “‘Taxpayer’ means a corporation subject to the tax imposed by this chapter” (see ORC section 5733.04(B)).
- “‘Taxable year’ means the year or portion thereof upon the net income of which the value of the taxpayer’s issued and outstanding shares of stock is determined or the year at the end of which the total value of the corporation is determined” (see ORC section 5733.04(E)).

Holding:

The Court found as follows:

- The Board of Tax Appeals did not err in determining the amount of NOL applicable under state law, and that this determination did not conflict with applicable provisions of the federal bankruptcy code. According to the Court, the Board of Tax Appeals did not err in refusing to give *res judicata* effect to the confirming order of the bankruptcy court. The legal doctrine of *res judicata* does not bar the Tax Commissioner from making an independent determination of the tax matters raised and finding under Ohio law that Robins I had no NOL in 1989 to transfer to Robins II.

While the right to transfer any NOL to which Robins I was entitled is implicit in the confirmed reorganization plan, the existence and amount of an NOL for each of the various years involved is not set forth in the bankruptcy court order. Rather, the existence and amount of an NOL must be defined under state law. While Robins II clearly retained “such rights to use and benefit from the NOL as Robins I would have had” this language is equally supportive of the converse proposition that Robins II could not succeed to any NOL rights which Robins I did not possess. While property may be allocated in a bankruptcy proceeding, the extent and nature of that property, unless specifically defined, enumerated, and stipulated to before the bankruptcy court by interested parties, may yet be determined under applicable state law.

- The Board of Tax Appeals did not err in finding that neither Robins I nor Robins II was entitled to an NOL to be carried forward from 1989. If Robins I had existed on January 1, 1990, it would have been a taxpayer for the 1990 tax year, and the calendar year ending December 31, 1989, would have been a taxable year for Robins I. Since, however, Robins I was not in business on January 1, 1990, Robins I was not a taxpayer for the 1990 tax year, and the period of January 1, 1989 to December 15, 1989, was not a taxable year for Robins I. Pursuant to the Ohio Supreme Court’s decision in *Gulf Oil Corp. v. Lindley* (1980), 61 Ohio St.2d 23, 30-31 and *Litton Industrial Products, Inc. v. Limbach* (1991), 58 Ohio St.3d 169, 171, the loss incurred during that period did not occur in a taxable year, and neither Robins I nor its successor, Robins II, had a right to deduct the NOL.

Note: If current law were applied to the year at issue, it appears that the ORC section 5733.053 transferor statute would apply to Robins II so that Robins II would be entitled to deduct the NOL of Robins I for the period January 1, 1989 to December 15, 1989 because (1) following the merger Robins I is not subject to the franchise tax, (2) the transfer qualifies for nonrecognition of gain or loss under the Internal Revenue Code and (3) current law no longer requires that the transferor and transferee meet the combined report ownership requirements on January 1 prior to the transfer. (See ORC section 5733.053 as amended by Amended Substitute Senate Bill 287, 123rd General Assembly and Amended Substitute House Bill 94 (Budget Bill), 124th General Assembly.)

The taxpayer has requested the Ohio Supreme Court to accept an appeal of this case.

INDIVIDUAL INCOME TAX CASES

Ronald C. Tyler v. Zaino (April 25, 2003), BTA 2002-1310

The taxpayer received a W-2 indicating wages of \$54,185.03 for 2000 but entered \$0 on line 1 of his Ohio tax return. He was assessed Ohio income tax based on the wages shown on his W-2, and assessed a \$500 penalty for filing a frivolous return under ORC section 5747.15(A)(5). The taxpayer sought to introduce the testimony of a witness said by the taxpayer to be an expert in Ohio taxation. The BTA received evidence concerning the credentials of the witness and found that he was not qualified to render an opinion on Ohio income tax, nor was he qualified to represent the taxpayer. The BTA affirmed the assessment.

Steven G. Milkovich v. Zaino (May 23, 2003), BTA 2002-2148

The taxpayer received a W-2 indicating wages of \$119,461.87 and a 1099 indicating dividends of \$8,631.78 for 2000 but entered \$0 on line 1 of his 2000 Ohio tax return. He was assessed Ohio income tax based on the wages shown on his W-2 and the dividends shown on his 1099, and assessed a \$500 penalty for filing a frivolous return under ORC section 5747.15(A)(5). The BTA rejected the taxpayer's contention that wages are not income and affirmed the assessment.

Keith L. Welch v. Zaino (May 23, 2003), BTA 2002-1204

The taxpayer received W-2s indicating wages of \$73,924.25 for 1999 and \$76,551.57 for 2000 but entered \$0 on line 1 of his 1999 and 2000 Ohio income tax returns. He was assessed Ohio income tax based on the wages shown on his W-2s and assessed a \$500 penalty for filing frivolous returns under ORC section 5747.15(A)(5). The BTA rejected the taxpayer's contention that wages are not income and affirmed the assessment.

SALES AND USE TAX CASES

Moore Personnel Service, Inc. v. Zaino (2003), 98 Ohio St.3d 337

The taxpayer, a personnel service company, had understandings, but no written contracts, with its clients that it would become the employer of persons designated by the clients. Moore did not interview or test the persons designated by the clients. The clients determined whom they wanted to work for them and sent those persons to the taxpayer. The persons sent to Moore by its clients were put on the taxpayer's payroll. The taxpayer paid these employees wages after it received time slips from the clients. The taxpayer paid all taxes and other fees based on the employees' earnings. The taxpayer did not charge the employees a fee for being on its payroll; rather, the taxpayer's clients paid the taxpayer a fee for its services. The taxpayer was assessed sales tax on these transactions and it appealed, contending that it did not provide or supply employees to its customers but instead provided nontaxable payroll and personnel services. However, the Supreme Court rejected this contention and held that the personnel supplied by the taxpayer were the taxpayer's employees, although they worked under the supervision or control of the taxpayer's clients. The personnel supplied to the taxpayer's clients received their compensation from the taxpayer, the "provider of the service." Thus, the taxpayer's services met the definition of "employment service" set forth in ORC section 5739.01(JJ).

Nusseibeh v. Zaino (2003), 98 Ohio St.3d 292

Pursuant to a management agreement executed pending the sale of a convenience store, the selling corporation let its vendor's license and liquor permit be used by the purchaser. The purchaser did not remit all of the sales tax due on its sales, and the selling corporation was assessed for the deficiency. That assessment remained unpaid, so the sole corporate officer and 100 percent shareholder of the selling corporation was assessed personally under ORC section 5739.33. The Supreme Court affirmed the assessment, holding that the corporate officer had not established any error in the assessment.

R.K.E. Trucking, Inc. v. Zaino (2003), 98 Ohio St.3d

The holder of a common carrier permit issued by the Public Utilities Commission of Ohio claimed the "highway transportation for hire" exemption under ORC section 5739.02(B)(32) for its purchases of vehicles used both in hauling materials belonging to others and hauling its own materials for sale to others. ORC section 5739.02(B)(32) exempts "the sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire." ORC section 5739.01(Z) defines "highway transportation for hire" to include the transportation of personal property belonging to others for consideration by the holder of a permit or certificate issued by Ohio or the United States authorizing the holder to engage in transportation of personal

property belonging to others for consideration on the public highways. The taxpayer contended that the foregoing statutes should be read so that the purchase of a truck is exempt if the truck is used primarily to transport tangible personal property and is used by a person engaged in highway transportation for hire, even if the particular truck itself is not so used. The taxpayer reached this result by finding that the word “primarily” in ORC section 5739.02(B)(32) relates only to “transporting tangible personal property” and does not relate to “highway transportation for hire.” The Supreme Court affirmed the BTA’s rejection of this contention and held that only those vehicles used primarily in transporting property belonging to others are exempt under the statute.

Jerry Suchy v. Zaino (March 14, 2003), BTA 2000-82

The operator of a limousine service contended that his purchases of certain items were exempt under ORC section 5739.01(E)(2) as directly used in rendering a public utility service. The BTA held that the taxpayer does not operate as a public utility. It enters into private contracts with customers to provide limousine service. Although it is issued a license to operate by the City of Toledo, this process does not rise to the level of regulating the taxpayer as a public utility. This case has been appealed to the Lucas County Court of Appeals.

Funtime, Inc. v. Zaino (March 7, 2003), BTA 2001-342

The owner of an amusement park objected to the sales tax assessment of its purchase of a white water raft ride, which it contended was real property, not personalty. The ride was constructed of reinforced concrete and it featured a canal into which water was pumped to simulate a river rafting experience. The BTA held that under ORC section 5701.03, the ride is a business fixture and therefore personalty, subject to sales tax. A roller coaster and the waiting room house used with it were also held to be personalty. The maintenance for an elevator in another ride was also held to be taxable. This case has been appealed to the Ohio Supreme Court.

Blanchard Valley Farmers Cooperative, Inc. v. Zaino (March 21, 2003), BTA 2000-1341

An agricultural cooperative contended that its purchases of items in regard to its operation of a grain storage terminal and a liquid fertilizer plant were excepted from sales/use tax under ORC section 5739.01(E)(2) as either directly used in agriculture or in performing agriculture services for others. The BTA agreed and reversed the Tax Commissioner’s assessment. This case has been appealed to the Ohio Supreme Court.

Randy E. Mingee v. Zaino (March 21, 2003), BTA 2002-1107

A corporate officer was assessed personally for unpaid sales tax under ORC section 5739.33. He acknowledged that he was one of the responsible persons, but contended that the underlying corporate assessment was erroneous. The BTA held that it did not have jurisdiction to consider the underlying assessments, as they had become final by operation of law. The assessment was affirmed against the corporate officer.

Kim W. Houseman v. Zaino (May 2, 2003), BTA 2002-474

The president and 50 percent shareholder of a corporation which operated a grocery store and remitted funds to its landlord contended that it was the landlord’s responsibility to submit sales tax returns and payments. The BTA held that a corporate officer cannot avoid the personal responsibility for sales tax imposed by ORC section 5739.33 by seeking to delegate the responsibility to another party. The corporate officer was held liable for unremitted sales tax.

Daniel S. Blosser v. Zaino (May 11, 2003), BTA 2002-658

A corporate officer who admitted to being liable for unremitted sales tax under ORC section 5739.33 contended that the statute did not make him liable for associated penalties and interest. However, the BTA held that the statute does not limit the personal liability against responsible parties to tax only. Associated penalties and interest may also be assessed.

James J. Barnes v. Zaino (May 23, 2003), BTA 2002-1707

A dental lab was assessed on its sales of braces and other dental devices to dentists. ORC section 5739.01(D)(2) provides that “dentists ...are consumers of all tangible personal property and services purchased by them in connection with the practice of ...dentistry.” Rejecting the taxpayer’s contention that orthodontists are not dentists, the BTA affirmed the Tax Commissioner’s final determination.

Al-Ain, Inc. v. Zaino (May 23, 2003), BTA 2002-787

A vendor which operated a Cleveland convenience store failed to maintain adequate records of sales as required by ORC section 5739.11 and was audited for underreporting sales. The vendor contended that it was not afforded the opportunity to present additional evidence regarding the assessed sales. However, since the vendor waived a hearing before the Tax Commissioner, the BTA held the objection to be unfounded. The BTA found that it lacked jurisdiction to consider the vendor’s other objections since they were not raised to the Tax Commissioner.

John D. Schiemann v. Zaino (May 23, 2003), BTA 2002-708

The taxpayer operates a limousine service. In 1997 he purchased a 1991 Lincoln automobile from an individual and paid use tax to the county clerk of court on the basis that the consideration paid for the auto was \$500.00. Because this amount was less than the book value of the auto, an agent of the Department of Taxation undertook an investigation of the matter. A statement was obtained from the seller that the consideration included the taxpayer’s (purchaser’s) assumption of a \$2,600.00 liability. The taxpayer was assessed additional use tax on this basis. At the BTA hearing, the taxpayer testified regarding the condition of the automobile and the consideration he had paid. Based on this, the BTA found that the consideration consisted only of the \$500.00 originally reported to the county clerk of court. The Tax Commissioner’s final determination affirming the assessment was reversed.

Fluor Daniel Fernald, Inc. v. Zaino (May 30, 2003), BTA 2001-1208

The taxpayer was previously engaged in the enrichment of uranium ore at its Fernald, Ohio facility. It currently manages the site under contract with the U.S. Department of Energy. It sought a refund of the use tax it paid on its purchases of materials from the U.S. Government Printing Office, an agency of the federal government. It contended that the purchases are exempt either because a tax on them is prohibited by the Equal Protection Clause or the Supremacy Clause of the U.S. Constitution, or by ORC section 5739.02(B)(10), which exempts “sales not within the taxing power of this state under the Constitution of the United States.” The BTA found that it lacked jurisdiction to address the constitutional question directly, but that it did have jurisdiction to address the constitutional question embedded in the statutory provision. It found that, while the state does not have the power to levy a tax on the federal government, there is nothing in the sales/use tax chapters to prohibit the imposition of use tax on purchases from the federal government. Accordingly, the BTA affirmed the Commissioner’s denial of the refund claim.

McCarthy Industrial Contractors, Inc. v. Zaino (May 30, 2003), BTA 2002-1197

The taxpayer sought a refund for sales tax paid on its purchase of machinery which removed metal shavings from metal grinding wheels. The taxpayer’s president testified that if the shavings were not removed, they would fall into the grinding equipment and production would have to be halted while they were removed. The BTA held that the equipment was exempt under ORC section 5739.011(B)(4), which provides exemption for “machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation.”

EXCISE AND MOTOR FUEL TAX CASES

Campus Bus Service v. Zaino (2003), 98 Ohio St.3d.463

The Supreme Court denied Campus Bus Service's claims for reimbursement of motor vehicle fuel tax under ORC section 5735.142, finding that Campus Bus Service's buses did not meet the definition of "transit bus" set forth in ORC section 5735.01(Q): "Transit bus" means a motor vehicle having a seating capacity of more than ten persons which is *operated* for public transit or paratransit service on a regular and continuing basis within the state *by or for* a county [or] *a municipal corporation...*" In the case of Campus Bus Service, the busses were operated by Kent State University largely for the benefit of students, although non-students could ride for a fee. Since the service was not operated by or for a county or municipal corporation, the exemption was denied.

Beverly Ann Aguilar v. Zaino (May 30, 2003), BTA 2002-1241

Taxpayer and her husband were owner-operators of a truck for hire and were audited by an agent of the Department of Taxation for compliance with the International Fuel Tax Agreement (IFTA) for the period 1997-2000. The audit revealed that tax had not been paid on some of the purchases during that period, and an assessment was issued for the deficiency. Although the taxpayer contended that tax had been paid on all purchases, she was not able to substantiate this and was therefore not able to overcome the audit findings which included fuel receipts showing no tax paid. Accordingly, the assessment was affirmed.

REAL PROPERTY EXEMPTION CASES

Eastern Star Baptist Church v. Zaino (March 7, 2003), BTA 2002-1264

A church sought exemption for a portion of its pastor's residence where he studied, counseled members of the congregation and prayed. The BTA denied exemption because the taxpayer had not established that the primary use of the area was for worship and not for residential purposes.

Greater Miami Valley YMCA v. Zaino (March 7, 2003), BTA 2002-381

A campground operated by the Greater Miami Valley YMCA sought exemption under ORC section 5709.12(B) for 40 acres of land used by a farmer for dairy and pasture, and 30 acres used for farming. Although the YMCA operated a camp which featured farm activities for the participants, it did not provide evidence that the exclusive use of the property was for charitable purposes and not for agricultural purposes. The exemption was denied.

Case Western Reserve University v. Lawrence (April 4, 2003), BTA 1999-417

A private university sought exemption under ORC section 5709.07 for buildings which it leased to sororities which used them for its purposes, including providing rooms to student sorority members. The BTA held that it was not the university which was using the buildings and providing the housing and therefore it could not claim exemption under the statute. The appellant has appealed to the Ohio Supreme Court.

TAX enforcement news

The following information is a list of convictions secured by the Enforcement Division of the Ohio Department of Taxation from February through April, 2003. Tax Enforcement News is compiled by Diann L. Hamilton, Management Analyst Supervisor, and Robert M. Bray, Administrator, Enforcement Division. Fraud complaints can be e-mailed to the Enforcement Division at Enforcement@tax.state.oh.us.

Gregg D. Naas, owner of Heavy Metal Trucking in Beavercreek, was found guilty on four counts of failure to file income tax returns. The Ohio Department of Taxation, Criminal Enforcement Division, received a complaint alleging failure to file income tax returns since 1995. A tax enforcement agent received form 1099's from companies, which reflected earnings by Heavy Metal Trucking/Gregg D. Naas. The listed form 1099's reflected earnings for the tax periods of 1995, 1996, 1997, 1998, 1999 and 2000. Also, information received from the Internal Revenue Service, form 1098's and 1099's reflected interest earned for tax periods 1997, 1998, 1999 and 2000. Tax enforcement agents presented evidence to the Greene County Grand Jury and were later informed that the Grand Jury voted to indict Mr. Naas on all four violations of failure to file income tax returns, all felonies of the fifth degree. Mr. Naas was sentenced for a period of two years of supervised community control and was required to file his 1997, 1998, 1999 and 2000 income tax returns with the Internal Revenue Service and the state of Ohio.

The following tables are summaries of convictions concerning sales tax and cigarette violations.

Assorted Sales Tax Violations

NAME	BUSINESS	CITY	VIOLATION
Audrey F. Vugrinac	Audre's Furniture	Toledo	(1) Count Failure To Collect Sales Tax (1) Count No Vendor's License
Patricia J. Rood	Lend A Paw	Toledo	(1) Count No Vendor's License
Betty J. Runion	Betty's Pie House II	Republic	(1) Count Failure To File Sales Tax Returns
Anthony Silvestri	Sylvester's Greenhouse	Sylvania	(1) Count Failure To Collect Sales Tax
Susan E. Pendergrass	Discount Muffler & Brake Inc.	Castalia	(1) Count Failure To File a Sales Tax Return
	Pilot Travel Center	Van Buren	(1) Count Failure To Collect Sales Tax
Chris McPhillips	Envirosteam	Toledo	(1) Count Failure To File Sales Tax Returns
Amy Koher		Bellaire	(1) Count Failure To File Sales Tax Returns
Theresa Tehan	Boats Unlimited	Hebron	(1) Count Failure To File Sales Tax Returns
Robert S. Fisher	North Coast Cleaning	Sandusky	(1) Count No Vendor's License

Cigarette Violations

NAME	BUSINESS	CITY	VIOLATION
Paul M. Kinzer	Central Café	Franklin	(1) Count Selling Cigarettes Without a License
Aaron Ekleberry	Sycamore Drive-Thru Inc.	Sycamore	(1) Count Selling Cigarettes Without a License
Linda Maier	Parkview Drive-Thru	Marysville	(1) Count Selling Cigarettes Without a License
Delbert W. Lambert	Lambert's Food Mart LLC	Norwich	(1) Count Selling Cigarettes Without a License
Nina C. Graves		Wellsville	(1) Count Possession of Unstamped Cigarettes
James M. Hufford		Sycamore	(1) Count Selling Cigarettes Without a License
Shewit Yehala	Chief's Carry-Out	Pickerington	(1) Count Selling Cigarettes Without a License

Tax Calendar at-a-Glance

July

- 15** Monthly Income Tax Withholding Returns
- 21** Monthly Kilowatt Hour (KWH) Tax Return
- 23** Monthly and Semiannual Sales Tax Returns
- 23** Monthly Consumer Use and Direct Pay Returns
- 23** Quarterly Consumer Use Tax Returns
- 23** Quarterly Direct Pay Sales Tax Returns
- 31** Quarterly Income Tax Withholding Returns

Aug.

- 15** Monthly Income Tax Withholding Returns
- 20** Monthly Kilowatt Hour (KWH) Tax Return
- 20** Quarterly Natural Gas Distribution (MCF) Tax Return
- 25** Monthly and Semiannual Sales Tax Returns
- 25** Monthly Consumer Use and Direct Pay Returns

Sept.

- 15** Monthly Income Tax Withholding Returns
- 15** Quarterly Estimated Income Tax Returns
- 22** Monthly Kilowatt Hour (KWH) Tax Return
- 23** Monthly and Semiannual Sales Tax Returns
- 23** Monthly Consumer Use and Direct Pay Returns

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