Corporation Franchise Tax

Taxpayer

Starting with the 2010 report year, the corporation franchise tax is limited to financial institutions as well as the following specialized entities identified in R.C. 5733.01(G)(1)(b):

- financial holding companies, bank holding companies and savings and loan holding companies;
- certain affiliates of these holding companies and certain affiliates of financial institutions;
- certain affiliates of insurance companies; and
- securitization companies.

The corporation franchise tax had long served as Ohio's primary business privilege tax, but was phased out for most corporations according to the following schedule:

Report year[1]	Tax[2]
2005	Normal liability
2006	80% × liability
2007	60% × liability
2008	40% × liability
2009	20% × liability
2010 and thereafter	No liability

Tax Base

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

Financial institutions pay tax based on their net worth. Other taxpayers determine the value of their stock under both a net income base and a net worth base, and pay on the base that produces the greater tax.

Ohio net worth base (taxable value):

Taxable net worth is calculated by first subtracting the net book value of exempted assets from the net worth as reflected on the corporation's books. Any "qualifying amount" as reflected on the corporation's books is added to net worth. This yields the net value of stock. This amount is then multiplied by the Ohio apportionment ratio to yield taxable net worth.

Ohio net income base (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 Ohio apportionment ratio is the sum of the property factor (the ratio of property in Ohio to property everywhere, times 20 percent), the payroll factor (the ratio of payroll in Ohio to payroll everywhere, times 20 percent), and the sales factor (the ratio of sales in Ohio to sales everywhere, times 60 percent).

Rates

Financial institutions rate:

Financial institutions are subject to tax on their net worth at a rate of 13 mills (1.3 percent).

Rates for other entities:

Other franchise taxpayers (described in R.C. 5733.01(G)(1)(b)) compute the tax on both a net worth and a net income basis and pay on the base that produces the higher tax.

The general net worth rate is 4 mills on Ohio taxable value. The maximum net worth tax is $150,000 per taxpayer.

The net income rate is 5.1 percent on the first $50,000 of Ohio net income plus 8.5 percent 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 percent rate applies, regardless of whether or not the corporations actually filed a combined report.

The minimum tax is $1,000 if either:

- the sum of the taxpayer's gross receipts from its activities in and outside Ohio during the year equals or exceeds $5 million, or
- 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 tax is $50.

1 "Report year" refers to the year in which corporations submit their annual report to the Department of Taxation documenting the previous year's business activity.

2 Percentages apply after the application of most nonrefundable tax credits.

In addition, nonfinancial institutions are subject to a litter tax computed on either the net worth base (0.14 mills) or the net income base (0.11 percent on the first $50,000 and 0.22 percent on additional income). The tax that applies is the greater of the two computations, up to a maximum of $5,000.

Major Exemptions

The corporation franchise tax does not apply to:

- Nonprofit corporations.
- Credit unions.
- "S" corporations and qualified subchapter S subsidiaries ("QSSS").
- Limited liability companies (LLCs), if treated as a partnership for federal tax purposes.
- Real estate investment trusts (REITs), regulated investment companies (RICs), and real estate mortgage investment conduits (REMICs).
- Corporations in Chapter 7 bankruptcy proceedings.
- Corporations exempt under federal law.

Also, qualifying holding companies are exempt from the net worth base.

Revenue

(In Millions)

Fiscal Year	General Revenue Fund	Revenue Sharing[1]	Other[2]	Total
2008	$753.5	$(0.4)[3]	$1.5	$ 754.6
2009	520.8	0.0	0.6	521.4
2010	141.7	0.0	0.6	142.3
2011	236.6	0.0	0.6	237.2
2012	117.1	0.0	0.3	117.4

1 For years, two funds established for revenue sharing with local governments received a share of corporation franchise tax receipts. Starting in January 2008, the two funds were consolidated into a single fund. This fund began receiving a designated percentage of all tax revenue into the General Revenue Fund, and these distributions were no longer credited against corporation franchise tax revenue.

2 "Other" revenue includes distributions to litter funds and the Attorney General Claims Fund.

3 Transfers to local government funds from corporation franchise tax were negative in fiscal year 2008 due to some negative deposits in fiscal year 2001, the base year of the freeze, being carried forward; there were no local government fund deposits after fiscal year 2008.

Disposition of Revenue

After making any required deposits in the Attorney General Claims Fund, the remaining revenue is deposited in the General Revenue Fund.

Payment Dates

Jan. 31: One-third of tax liability but not less than the minimum tax.

March 31: Two-thirds of tax liability less previous payment.

May 31: Full balance of tax liability due.

Special Provisions/Credits

Credits

A large number of credits may be claimed against corporation franchise tax liability. They include credits for:

- day care and training expenditures in an enterprise zone;
- creating new employees in an enterprise zone;
- ethanol plant investment;
- grape production property;
- historic building preservation;
- job creation;
- job retention;
- job training (carry forward only, through 2010);
- motion picture production;
- participation in the federal New Markets Tax Credit program (applies to financial institutions);
- research expenses;
- research and development loan repayments;
- technology investment; and
- venture capital investment.

All of the credits listed above are more fully described in the Business Tax Credits chapter of the Department of Taxation's 2012 Annual Report. Two of them – the historic building preservation and motion picture production credits – may be claimed by corporations no longer subject to the franchise tax. For these credits, the corporation franchise tax becomes, in effect, a vehicle for delivering a business incentive.

Most of the other credits listed above will be claimed infrequently against corporation franchise tax liability in the future – if at all – because of the specialized nature of the corporations still subject to the tax.

Among the credits that continue to be of interest to franchise taxpayers:

Qualifying affiliated groups:

If as a result of the related entity and related member adjustments, an affiliated group would pay over $3.5 million more franchise tax than the members of the group otherwise would have paid had the members of the group not made the related entity and related member adjustment, then the members of the affiliated group may claim a nonrefundable credit equal to the difference between the additional tax and $3.5 million. However, the credit is limited to $1.5 million for the affiliated group (even if the additional tax exceeds $5 million).

Dealers in intangibles tax credit:

A financial institution that is a member of a "qualifying control group," that also includes a dealer in intangibles may, subject to limitations, claim a credit for the dealers in intangibles tax paid by the dealer.

New markets credit:

Financial institutions and insurance companies that are qualified for the federal new markets credit program by virtue of an equity investment in community development entities also qualify for a state credit. The nonrefundable credit may be carried forward for up to four years.

Recycling and litter prevention donations:

Taxpayers may claim a nonrefundable credit equal to 50 percent of cash donations for litter control made to municipalities, counties, and townships that qualify for grants from the litter control and recycling special account. This credit is limited to the lesser of cash donations or 50 percent of the additional tax liability from litter tax rates.

Savings and loan association fees credit:

A nonrefundable credit is available to state-chartered savings and loan institutions for the annual assessment paid to the state Division of Savings and Loans, less supervisory fees paid to the Federal Savings and Loan Insurance Corporation.

Credit for taxes paid by a qualifying pass-through entity:

This nonrefundable credit is 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.

Special provisions

A corporation still subject to the franchise tax that dissolves or surrenders its license to conduct business prior to Jan. 1 of the tax year, while not subject to the franchise tax, may be subject to an "exit tax" on its unreported Ohio net income – meaning, income not previously included in a franchise tax report. Under certain conditions, a corporation's unreported income is taxable in the hands of a transferee.

Sections of Ohio Revised Code

Chapter 5733.

Responsibility for Administration

Tax Commissioner.

History of Major Changes

1902	General Assembly enacts "Willis law," which imposes a 1 mill tax on the value of corporations' capital stock located in Ohio and a $10 minimum fee. The tax is administered by the Ohio Secretary of State.
1910	Legislature increases rate to 1.5 mills. Responsibility for administering the tax shifts to the Ohio Tax Commission.
1925	Legislature lowers rate to 0.83 mills and sets the minimum tax at $15.
1927	Rate is hiked to 1.25 mills for 1927, then permanently set at 1 mill for 1928 and thereafter. Minimum tax is set at $25.
1959	Rate is increased to 3 mills.
1967	Rate is increased to 4 mills.
1969	Rate is increased to 5 mills.
1971	Income base is added with a rate of 4 percent on the first $25,000 of net income and 8 percent on income in excess of $25,000.
1980	A 15 percent surtax is imposed for the 1981 tax year. Also, litter tax rates are enacted for tax years 1981 through 1986.

1981	Legislature increases regular corporate rates to 5.5 mills on net worth and to 4.6 percent and 8.7 percent on net income. Minimum tax increased to $150. The exemption for financial institutions is repealed; financial institutions became taxed at a 6.5-mill rate on net worth for tax years 1982 and 1983. Additionally, a 5.75 percent surtax is imposed for tax year 1982.
1982	General Assembly enacts 5.75 percent surtax for tax year 1983.
1983	Regular corporate rates are increased to 5.82 mills on net worth and to 5.1 percent and 9.2 percent on net income. Lawmakers impose a 5.4 percent surtax while lowering the minimum tax to $50. Also, financial institution rates are increased 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	Legislature reduces surtax on net income to 2.7 percent in 1987 and eliminates it for 1988. Also, the litter tax is extended through 1991 and "S" corporations are made exempt beginning in 1987.
1986	Lawmakers decrease top rate on net income to 8.9 percent in 1988 and, effective 1989, double the size of the lower bracket to the first $50,000 of net income.
1987	Tax is extended to long-distance telephone companies starting in 1988; litter tax rates are extended through 1993.
1989	Corporations undergoing "F" reorganizations made subject to tax.
1991	Income transferred to passive investment corporations made subject to tax.
1992	Railroads made explicitly subject to tax starting in 1993; litter tax is extended to 1995.
1994	Litter tax rates made permanent.
1997	General Assembly lowers rates. Effective for the 1999 tax year, general net worth rate is lowered to 4 mills with a maximum liability of $150,000. Top net income tax rate is lowered to 8.5 percent. Financial institutions will pay 14 mills in tax year 1999 and 13 mills beginning with the 2000 tax year.
1999	Legislature enacts job training tax credit effective from 2001-04. Electric utilities made subject to corporation franchise tax effective in 2002.
2001	Job training tax credit is delayed until tax year 2004 and extended through tax year 2006. Also, effective tax year 2003, credit is enacted for investments made by a financial institution in a dealer in intangibles.
2002	General Assembly enacts credit for investments in certified ethanol plants.
2003	Minimum tax is increased to $1,000 for certain large corporations, effective for taxable years ending on or after June 26, 2003.
2004	Tax is extended to local exchange telephone companies starting with tax year 2005.
2005	House Bill 66 launches a gradual phase-out of the corporation franchise tax for the vast majority of taxpayers.
2007	The job training credit is extended through report year 2008. General Assembly enacts historic building preservation credit.
2009	Most taxpayers file their last reports and make their last payments and are fully shifted to the commercial activity tax. Motion picture production and new markets credits enacted by legislature.
2012	Qualified financial institutions allowed to elect to calculate the base upon which the tax is imposed using a single sales apportionment factor.

Comparisons with Other States

(As of October, 2012)

California

Corporations pay 8.84 percent of net income. Banks and financial corporations, excepting financial S corporations, are subject to a 10.84 percent tax rate. A 3.5 percent tax rate applies to financial S corporations, and a 1.5 percent rate applies to all other S corporations. A 6.65 percent alternative minimum tax is imposed.

Florida

Corporations pay 5.5 percent of net income. Corporations subject to federal alternative minimum tax pay the greater of the regular 5.5 percent net income tax or 3.3 percent alternative minimum tax.

Illinois

Corporations pay 7.0 percent of net income. Taxpayers are also subject to 2.5 percent personal property replacement tax on net income for corporations other than S corporations, and 1.5 percent for S corporations, partnerships, and trusts.

Indiana

Corporations pay 8.0 percent of adjusted gross income.

Kentucky

Corporations pay a tax based on a net income calculation. Coporations and limited liability companies pay the limited liability entity tax. There is a minumum tax of $175. Tax on net income is imposed at the following rates:

Taxable Net Income	Rate
Up to $50,000	4%
$50,001 – $100,000	5%
Over $100,000	6%

The limited liability entity tax is either 9.5 cents per $100 of gross receipts, or 75 cents per $100 of Kentucky gross profits, whichever is less.

Massachusetts

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

- 0.26 percent on taxable tangible property that is not subject to local taxation, or on allocated net worth; and
- 8.0 percent of taxable net income; or
- a minimum tax of $456.

Michigan

Michigan imposes a corporate income tax on every taxpayer with business activity within Michigan or interest in a flow-through entity that has business activity in Michigan at the rate of 6.0 percent.

New Jersey

Corporations pay the greater of the following:

- a minimum tax of $500 to $2,000, depending on the amount of gross receipts; or
- a tax of 9 percent on adjusted net income if the corporation's entire net income exceeds $100,000, 7.5 percent if the corporation's entire net income is $50,001 to $100,000, or 6.5 percent if the corporation's entire net income is $50,000 or below.

New York

Corporations pay the greater of the following:

- 7.1 percent of allocated entire net income (6.5 percent for qualified in-state manufacturers and small businesses; or
- 0.15 percent of allocated business and investment capital (not to exceed $350,000 for manufacturers or $10 million for all other taxpayers); or
- 0.178 percent of minimum taxable income; or
- a fixed dollar minimum of $25 to $5,000, depending on gross receipts.

Additionally, all taxpayers must pay 0.9 percent of allocated subsidiary capital.

Ohio

(As described in the Rates **section in this chapter.)**

Pennsylvania

Corporations pay 9.99 percent of net income.

Texas

A "margin tax" is imposed on entities with more than $300,000 in total revenues. An entity's margin is the lesser of:

- 70 percent of total revenue; or
- total revenue less compensation paid to active duty military and costs of goods sold; or
- total revenue less compensation paid.

This taxable margin is multiplied by the apportionment factor, then by the tax rate. The rate is 1 percent for most taxpayers, 0.5 percent for taxpayers primarily engaged in retail or wholesale trades, or 0.575 percent for taxpayers with $10 million or less in total revenue that choose to use an E-Z filing option. Small business discounts provide for 20 to 80 percent reductions in taxes depending on revenue levels for entities with total revenue less than $900,000.

West Virginia

Corporations pay 7.75 percent of net income plus an additional franchise tax equal to $50 or 0.34 percent of the taxable value of capital stock, whichever is greater.