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Client Alert: The New Ohio Financial Institutions Tax

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On December 20, 2012 Governor John Kasich signed into law Amended Substitute House Bill 510 to change the way Ohio taxes financial institutions. Beginning January 1, 2014, Ohio imposes a new business privilege tax on financial institutions doing business in Ohio. Effective this same date, Ohio will repeal the Corporation Franchise Tax (CFT) and dealer in intangibles tax (DIT). This alert highlights some key provisions of the Financial Institutions Tax (FIT).

"Financial institutions" are defined now to include bank organizations, bank holding companies and small dollar lenders.

Total Equity Capital

The starting point for the FIT is a financial institution's "total equity capital," i.e., Line 28 of the financial institution's call report or FR Y-9 (as the case may be). This is the most significant aspect of the FIT because the FIT requires financial institutions to report and pay FIT on a consolidated basis. Under the CFT, Ohio taxed financial institutions on a separate company basis.

Ohio Equity Capital

The FIT is imposed on a financial institution's "Ohio equity capital," which is the portion of the financial institution's total equity capital apportioned to Ohio. The numerator of the apportionment fraction is the financial institution's Ohio gross receipts and the denominator is the financial institution's total gross receipts. Financial institutions situs gross receipts based on the location where the financial institution's customer derives the benefit of the financial institution's products and services.

Rate

The FIT tax rate is 8 mills (0.8%) on the first \$200 million of Ohio equity capital, 4 mills (0.4%) on Ohio equity capital greater than \$200 million but not exceeding \$1.3 billion, and 2.5 mills (0.25%) on Ohio equity capital exceeding \$1.3 billion. The minimum tax due is \$1,000. The FIT

contains an automatic rate adjustment after 2014 and 2016 that is triggered if actual FIT receipts are 10% higher or lower than the target revenue amount, which for 2014 is \$200 million and for 2016 is \$212 million.

Important FIT Credit for Ohio Chartered Banks and Thrifts

Taxpayers may claim a credit against the FIT equal to the aggregate amount of annual assessment fees paid to the Ohio Division of Financial Institutions by each Ohio-chartered bank and thrift institution included in its annual report during the prior calendar year. Assuming that there is a tax due, the credit would result in a virtual rebate of annual assessments for Ohio-chartered banks and thrifts up to the amount of the FIT owed.

Filing

The FIT return is due October 15 of each year. There is no extended due date. Estimated tax payments are due January 31, March 31 and May 31 of each year.

This alert outlines the very basic principles embodied in Gov. Kasich's financial institution tax reform package. If you are interested in discussing the finer points of the new law please contact Jeffrey E. Smith – (614) 464-5436; jesmith@vorys.com; or David A. Froling – (614) 464-3022; dafroling@vorys.com.