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Ohio Enacts New Limitation on Tax Base for Financial Institutions Tax

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On July 26, 2019, Am. H.B. 166 was enacted into law. That law enacted changes to Ohio Revised Code 5726.04. More specifically, the tax base of the Ohio Financial Institutions Tax (FIT) for tax years beginning on or after January 1, 2020 has been changed. The first estimated tax payment affected by the change is due January 31, 2020. Taxpayers subject to the FIT should be mindful of the change as they calculate their estimated tax payments for tax year 2020 and forward.

The new law caps a financial institution's total equity capital to 14% of the financial institution's total assets. FIT liability is determined by applying the applicable tax rate to a financial institution's total equity capital. Under prior law, total equity capital was simply a financial institution's total equity capital apportioned by a gross receipts factor. For tax year 2020 going forward, total equity capital is a financial institution's total equity capital subject to a limit of 14% of that financial institution's total assets for the taxable year, which is then apportioned by a gross receipts factor. The significance of this change is that if 14% of the financial institution's total assets are less than the financial institution's total equity capital for that tax year, the financial institution will not have to apportion the amount of its total equity capital that exceeds 14% of its total assets. In other words, the apportionable tax base will be subject to a maximum of 14% of total assets. That calculated tax base will then be subject to single factor apportionment.

The Ohio Department of Taxation describes the total assets calculation in a recent information release¹ as follows:

For purposes of the tax base limitation, "total assets" are the financial institution's total consolidated assets reported as of the end of the taxable year, as follows, subject to audit and adjustment by the tax commissioner:

- For a reporting person that is a bank holding company and that files a FR Y-9C, the total consolidated assets of the financial institution as

reported on the FR Y-9C, including the total assets of all entities consolidated for purposes of filing the FR Y-9C;

- For a reporting person that is a bank holding company and that files a FR Y-9SP, the total consolidated assets of the financial institution as reported on the FR Y-9SP, including the total assets of all entities that would be consolidated for purposes of filing a FR Y-9C if the bank holding company were required to file a FR Y-9C. The total consolidated assets as reported on Schedule SC-M of the FR Y-9SP may be used if the total consolidated assets as reported reflect the actual amount of total consolidated assets of the financial institution;
- For a reporting person that is a bank organization and that files a call report, the total consolidated assets of the financial institution as reported on the call report, including the total assets of all entities consolidated for purposes of filing the call report;
- For all other reporting persons, the total consolidated assets of the financial institution in accordance with generally accepted accounting principles. If the financial institution consists of a single entity, the total consolidated assets will only comprise of that entity's total assets.

If you have questions regarding these changes to the FIT tax base, or other questions regarding that tax. Contact David Froling at 614 464 3022.

¹ <https://www.tax.ohio.gov/Portals/0/FIT/web%20page%20related/FIT%202020-01%20-%20Limitation%20on%20Tax%20Base.pdf>