

# **FIT 2014-01 - FIT Basics Issued July, 2014; Updated July, 2015**

The purpose of this information release is to describe who is subject to the financial institutions tax (FIT). Financial institutions with nexus in Ohio are subject to the FIT. The following questions and answers will help you comply with the FIT:

**1. What is a financial institution?** A financial institution consists of a bank organization, a holding company of a bank organization, or a nonbank financial organization. If two or more entities are consolidated for purposes of filing an FR Y-9 with the Federal Reserve Board or a call report prescribed by the FFIEC then a financial institution consists of all the entities included in the FR Y-9 or call report. Given that consolidation of subsidiaries is based on whether or not a bank holding company or a bank's subsidiaries are included in a FR Y-9 or call report, respectively, there may be instances where entities engaging in similar types of activities are subject to different taxes. For example, a loan broker that is not part of the consolidated group for purposes of filing an FR Y-9 or a call report, will likely file the commercial activities tax (CAT); whereas, a loan broker that is part of a consolidated group will be subject to FIT. Please see R.C. 5726.01(H) for more information.

**2. What is a bank organization?** A bank organization is one 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.

**3. What is a nonbank financial organization?** A nonbank financial organization is every person that is not a bank organization or a holding company of a bank organization that engages in business primarily as a small dollar lender. A small dollar lender is any person primarily engaged in the business of loaning money to individuals provided the loans do not exceed 12 months and the loans are for \$5,000.00 or less. An example of a nonbank financial organization may be a "payday lender."

**4. What types of entities are not included in the definition of a financial institution?** A financial institution does not include a diversified savings and loan holding company, a grandfathered unitary savings and loan holding company, any entity that was a grandfathered unitary savings and loan holding company on January 1, 2012, any entity that is not a bank organization or owned by a bank organization and that is owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012, an institution organized under the "Federal Farm Loan Act" or a successor of such an institution, a company chartered under the "Federal Farm Credit Act

of 1933," 48 Stat. 257, or a successor of such a company, an association formed pursuant to 12 U.S.C. 2279c-1, an insurance company, a captive finance company, or a credit union.

**5. Who is the reporting person for purposes of FIT?** The following scenarios describe which entity is the reporting person:

**Example 1.** A bank organization with nexus in Ohio that does not have a holding company.  
Answer: The bank organization is the reporting person and all subsidiaries included in the call report are subject to FIT.

**Example 2.** A bank organization with nexus in Ohio that has a holding company with nexus in Ohio.

Answer: The highest tier holding company filing an FR Y-9 is the reporting person and all subsidiaries included in the FR Y-9 are subject to FIT.

**Example 3.** A bank organization with nexus in Ohio that has a holding company that does not have nexus in Ohio but has a subsidiary with nexus in Ohio.

Answer: The highest tier holding company filing an FR Y-9 is the reporting person and all subsidiaries included in the FR Y-9 are subject to the FIT.

**Example 4.** A nonbank organization with subsidiaries that have nexus with Ohio.

Answer: Only the nonbank organization is subject to the FIT as nonbank organizations file on a separate company basis. A separate analysis will need to be conducted for each subsidiary if the entities are not part of a FR Y-9 or call report.

**Example 5.** A mortgage company that is not a bank, a bank holding company, or a nonbank organization previously subject to the dealers in intangibles tax.

Answer: If the mortgage company is part of a FR Y-9 or call report of an entity that has nexus with Ohio, then the mortgage company is subject to FIT. If the mortgage company is a stand-alone entity then it is likely subject to CAT.

**Example 6.** A bank with nexus in Ohio has an indirect grandfathered unitary savings and loan holding company.

Answer: The bank is the reporting person for FIT and the grandfathered unitary savings and loan holding companies are likely subject to CAT.

**6. When is the first FIT return due for an entity that was previously subject to the corporation franchise tax (CFT)?** The first FIT return is due October 15, 2014 with estimated payments due the 31st of January, March, and May 2014. The entity shall file its final CFT return for tax year 2013 between January 1, 2013 and March 31, 2013.

**7. If an entity was previously subject to the CAT but is now subject to the FIT, when is the final return due for the CAT?** The entity should have continued to pay the CAT until December 31, 2013, and file its final return reflecting the fourth quarter 2013, as necessary, on or before February 10, 2014.

If you have additional questions regarding FIT, please contact the Department at 1-888-405-4039.