State of Ohio

The Executive Budget

Fiscal Years 2012 and 2013

The Jobs Budget

Transforming Ohio for Growth

Governor John R. Kasich

Book Two:

The Tax Expenditure Report

Prepared by the Ohio Department of Taxation

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It is my pleasure to present the *Tax Expenditure Report*, a responsibility assigned to the Tax Commissioner by the Ohio Revised Code (Sections 107.03 and 5703.48). This report makes possible an ongoing review of state tax expenditures. It is a companion piece to the Governor's Executive Budget.

This report includes 128 tax expenditures allowed in current law, entailing various exclusions, exemptions, deductions and credits. It provides the amount of state General Revenue Fund tax revenue estimated to be foregone from each expenditure during the current biennium (fiscal years 2010 and 2011) and upcoming biennium (fiscal years 2012 and 2013). The report does not address the merits of those exemptions. Nonetheless, it fosters a better understanding of the current tax system and stands as an important resource for those making decisions about Ohio's tax policy.

If you have questions or comments about the report, please direct them to:

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Sincerely,

Joseph W. Testa
Tax Commissioner

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Introduction

State of Ohio Tax Expenditure Report

Sections 107.03(F) and 5703.48 of the Ohio Revised Code, enacted in 1987, require the tax commissioner to produce a tax expenditure report that is to be submitted as a supplement to the Governor's biennial budget. The report is required to provide estimates of the impact of tax expenditures on the state General Revenue Fund during the current biennium and the next biennium.

Both tax expenditures and direct budgetary expenditures incur a cost to the state in order to accomplish public policy goals. Unlike direct budgetary expenditures, unless there is a pre-existing termination date, tax expenditures may remain in effect indefinitely with little or no scrutiny by policy makers. In most states, tax expenditures are not analyzed and reviewed as part of the budget appropriation process; Ohio is one of the relatively few states that do produce a tax expenditure report in conjunction with the state budget.[1] It is probably safe to assume that if it were not for this report, the fiscal impact of the various Ohio tax expenditure provisions would not be systematically estimated.

A primary purpose of a tax expenditure report is to help provide a clearer picture of the total range of government spending. This report provides the estimated dollar value of tax expenditures but offers no conclusions about the validity of those expenditures. The responsibility of evaluating the expenditure's merit with regard to public policy belongs jointly to the General Assembly and the Governor.

In this edition of the Ohio tax expenditure report, we provide the estimated revenue foregone by the state General Revenue Fund for the fiscal year 2010-2011 biennial budget period and the fiscal year 2012-2013 biennial budget period. The report includes 128 different tax expenditures.[2] In addition, the report contains the legal citation, year of enactment, and a brief description of the tax expenditure.

The Tax Expenditure Concept

Tax expenditures represent tax dollars that are foregone through deductions, exemptions, credits, and other provisions in tax laws. (This statement is a somewhat abbreviated version of the tax expenditure definition found in Ohio Revised Code Section 5703.48.) Tax expenditures result in a loss of tax revenue to state government, thereby reducing the funds available for other government programs. In essence, a tax expenditure has the same fiscal impact as a direct government expenditure.

Since the tax expenditure concept was first articulated in 1967 by Stanley S. Surrey (assistant secretary for tax policy of the U.S. Treasury), the executive and legislative branches of the U.S. government, most state governments and many foreign governments have issued their own versions of tax expenditure reports. In its broadest outline, the tax expenditure concept is fairly uniform and constant: a tax expenditure represents a legislated variation from – more commonly, a reduction to - a standardized tax base. Beyond that, however, varying ideas about what constitutes a tax expenditure have led to differing approaches for defining or identifying those expenditures. In a sense, tax expenditure reports are evolutionary in nature, changing as members of the tax policy community absorb, synthesize, and contribute new thinking on the subject.

One evolving element is the definition of the standardized ("baseline") tax structure, the variations from which are identified as tax expenditures. An example of how the baseline tax structure can change may be found at the federal government level. In May, 2008, the U.S. Joint Committee on Taxation (JCT) revised its definition of tax expenditures.[3] This revision was at least partially motivated by a long-standing criticism that the incumbent definition of tax expenditures was based on a "normalized" conception of an income tax, even though there was no explicit evidence to suggest the U.S. income tax was inherently structured as, or was intended to be structured as, a pure income tax. According to critics, certain long-standing features of the U.S. income tax were more consistent

[1] John L. Mikesell, "Tax Expenditure Budgets, Budget Policy, and Tax Policy: Confusion in the States," *Public Budgeting and Finance*, (Winter 2002): 43.
[2] Some of the 128 tax expenditures have an annual revenue impact below $1 million; revenue estimates are not provided for those items.
[3] Joint Committee on Taxation, *A Reconsideration of Tax Expenditure Analysis* (JCX-37-08), May 12, 2008. Accessed at: www.jct.gov/publications.

with a consumption tax than an income tax, so it was not appropriate to use a baseline wedded to a normalized income tax. In the May, 2008 revision, JCT shed the "normalized" income tax baseline for a more nuanced definition that is somewhat more restricted in scope. The new approach will presumably improve the JCT's representation and measurement of tax expenditures.

Some of the same inherent conceptual difficulties surrounding tax expenditures exist at the state level as at the federal level. There is considerable variation among the states with respect to what they consider tax expenditures (and, by extension, their implied baseline tax structures). For example, just under one-half of state tax expenditure reports include services not subject to sales tax, while the remainder do not.[4] The variation among states ultimately stems from a fundamental difficulty with the tax expenditure concept: the lack of a universally applicable definition of "tax expenditure" that is sufficiently robust in meaning for it be used by all jurisdictions and taxes. As a result, each reporting agency has to render an operating definition of tax expenditure that has analytical utility for that agency and its administration, as well as legislative policy makers and the wider tax policy audience within that jurisdiction.[5]

Tax Expenditures as Defined in this Report

Ohio uses what may be considered a mostly "reference law" concept for defining tax expenditures. However, it is also laden with elements driven by the "ideal base" concept.[6] The primary determinant as to whether a tax provision may be considered a tax expenditure is whether it exists as an exemption, credit, deduction, etc. in the Ohio Revised Code. This conforms with the reference law concept. Of this initial list of *potential* tax expenditures, certain provisions – those considered to be inherent to the tax base – are then excluded; this step reflects elements of the ideal base concept. A primary example of an item excluded from the report is the sales tax "resale" exemption (see discussion in the Sale and Use Tax section of the report). Another example is the commercial activity tax exclusion for non-profit entities.

Listed below are the basic criteria used in this report to determine whether a tax provision constitutes an Ohio tax expenditure. All four of these characteristics must exist in order for the item to be considered a tax expenditure.

1. The item reduces, or has the potential to reduce, one of the state's General Revenue Fund taxes.

By law, the tax expenditure report includes only those taxes that contribute to the state General Revenue Fund (GRF). There are some state taxes that do not provide revenue to the state's GRF and thus are excluded from the report. These taxes include the motor vehicle license tax, motor vehicle fuel tax, horse racing tax, natural gas consumption tax, and severance taxes.

The commercial activity tax (CAT) is included in this report. There are two rationales for this. First, under current law, the CAT will resume contributing revenue to the GRF in FY 2012, the first time that it has done so since FY 2006. Second, the GRF is responsible for covering shortfalls to other funds should CAT revenues be insufficient (conversely, the GRF receives any surplus in those funds at the end of each fiscal year).[7] If any CAT tax expenditure were repealed, the GRF would benefit. Therefore, we determined that the CAT should be included in this report.

[4] Of 34 jurisdictions that include the sales tax in their tax expenditure reports, 16 of them provide an entry for services exempt from sales tax. Jason Levitis, Nicholas Johnson & Jeremy Koulish, "State Budget Accountability Through Tax Expenditure Reports," *State Tax Notes*, May 25, 2009: 655.

[5] Some agencies must work with a statutorily prescribed definition of "tax expenditure." Even though the reporting agency must comply with the statutory definition in good faith and to the maximum extent possible, there is probably no statutory definition with sufficient nuance and logic to guide all situations. In other words, the agency will need develop a useful operating definition of a tax expenditure and then need to apply its judgment in determining which items fit that definition. For example, each state is bound to a constitutional prohibition against taxing nonresidents on income not earned in that state; Ohio accomplishes that result via a nonresident tax credit. Although Ohio law indicates that "credits" fall under the definition of tax expenditure, it is wholly inappropriate to include the nonresident credit in the Ohio tax expenditure report when the credit is simply a mechanism used to ensure a constitutionally compliant tax.

[6] Mikesell, *supra* at 46.

[7] This was the case even in FY 2010-2011, when the CAT made no direct contribution to the GRF.

2. The item would have been part of the defined tax base.

In order for a provision to be a tax expenditure it must specifically exempt from taxation an item that otherwise would have been part of the tax base. Without the provision, the item would have been taxable. There are some items specifically exempted by the Ohio Revised Code that do not happen to be part of the tax base. These items are not included as tax expenditures in this report.

3. The item is not subject to an alternative tax.

Items that are subject to alternative taxes are not considered tax expenditures. For instance, insurance companies are excluded from the commercial activity tax by the Ohio Revised Code but this exclusion is not considered a tax expenditure because such companies are taxed under the domestic or foreign insurance premiums tax.

4. The item is subject to change by state legislative action.

The item must take the form of an exemption, deduction, credit, etc. existing in the Ohio Revised Code. Those items that can only be changed by a state constitutional amendment, a federal law change, or a federal constitutional amendment are not considered tax expenditures.

Interpretation of Tax Expenditures

Although we have discussed definitional issues related to tax expenditures, we should also discuss how one might interpret the information conveyed about a tax expenditure. Tax policy experts have identified several different ways to consider tax expenditures.[8] On one hand, because tax expenditures provide an explicit accounting of deviations from a conceptual tax structure baseline, users of a tax expenditure report are able to identify the nature of those deviations and their relative fiscal magnitude. The report may serve as a foundation for further analysis as to whether, and to what degree, the expenditures violate the principles of good tax policy (fairness, simplicity, efficiency).[9] To one degree or another, many tax expenditures reduce economic efficiency, heighten tax code complexity, and treat people with the same ability to pay in a disparate (inequitable) manner. This may be considered the "tax reform" perspective on tax expenditures.

In contrast, tax expenditures might be viewed as an appropriate mechanism for spending government resources. Under this interpretation, the tax system may serve as an appropriate instrument for reallocating resources or otherwise addressing market inefficiencies. Thus, the tax expenditure report identifies the specific circumstances under which policy makers have chosen to allocate state resources, so as to fully or partially address a perceived societal need. According to this orientation, then, the question is whether the "spending" is efficient and appropriate: the concern is not so much directed toward whether the tax expenditure may violate certain tax policy principles.

Projected Revenue Foregone From Tax Expenditures

The 2012-2013 biennium tax expenditure report identifies the estimated revenue that is foregone, or "spent," by the state General Revenue Fund as a result of the existence of a tax expenditure provided under current law. More precisely, the revenue foregone estimates in this report reflect the amount of financial benefit provided to those persons or business entities using the tax expenditure, adjusted to reflect the state General Revenue Fund's share of the tax expenditure. No further adjustments are made to the estimates except in cases where another tax expenditure is also available to the taxpayer for the same item or activity: the report reduces one (but not both) of the overlapping tax expenditures by the estimated amount of tax revenue associated with the "overlap."

[8] See, for example, Eric J. Toder, *Tax Expenditures and Tax Reform: Issues and Analysis*, Presented at National Tax Association Annual Conference, Miami, Florida, November 19, 2005.

[9] Although tax expenditures usually move a tax structure farther away from positive tax policy, we recognize that some of the expenditures in this report may be highly, if not entirely, consistent with positive tax policy. The sales tax exemption for property used to manufacture tangible personal property is a notable example of an expenditure with tax policy merit, because it mitigates the economic distortions that would otherwise occur through tax "pyramiding."

The estimates in this report do not represent the amount of revenue that would be gained if any particular tax expenditure were to be repealed. Estimates produced under a "revenue gain from repeal" concept would need to encompass an extensive array of (primarily downward) adjustments. For one thing, "revenue gain from repeal" estimates require particular assumptions about the tax expenditure repeal date. There may be important cash flow lag consequences associated with the chosen repeal date. Another potentially significant adjustment involves taxpayer behavioral responses to the repealed tax expenditure. Economic activity would likely be impacted to some degree as tax is newly applied to the previously tax-exempt item or activity. Furthermore, one may expect at least some short-term taxpayer non-compliance with the newly-taxed taxed activity.

To summarize, **the figures in this report do not represent the potential revenue gain from repeal of the tax expenditure**. Instead, the figures reflect our best estimates of the tax benefits realized by recipients of the tax expenditures – what we refer to as the "revenue foregone."

Data Sources for Tax Expenditure Estimates

The accuracy of the estimates varies with the source of data and applicability of the data to the tax expenditure provision. In some instances, the Department of Taxation relies on external sources of data that may not be as reliable as those offered within the agency. A data reference code has been devised to identify the source for individual tax expenditures, as follows:

Data Source Code (A): Data emanating from tax returns filed with the Department of Taxation, as well as other information generated by the Department of Taxation.

Data Source Code (B): Data produced by government agencies other than the Department of Taxation, such as other State of Ohio agencies, the Federal government (e.g., the IRS and U.S. Census Bureau), other state governments, and Ohio's local governments.

Data Source Code (C): All other data, including (but not limited to) information from business information service providers, academic research, and non-profit research organizations.

FY 2010 – 2013
Tax Expenditure
Summary of Revenue Foregone
(in millions)

Note: "Minimal" indicates that the amount of foregone revenue is under $1 million

		General Revenue Fund Revenue Foregone			
		FY 2010	FY 2011	FY 2012	FY 2013
Sales & Use Tax					
Exempt entities					
1.01	Sales to churches and certain other non-profits organizations	$373.6	$384.8	$395.3	$407.2
1.02	Sales to the state, any of its political subdivisions, and to certain other states	179.3	189.2	199.1	210.0
1.03	Sales by churches and certain types of non-profit organizations	26.7	27.5	28.3	29.1
Exemption for property and services used or consumed to produce a product					
1.04	Tangible personal property used primarily in manufacturing tangible personal property	1,490.1	1,536.9	1,568.9	1,621.0
1.05	Packaging and packaging equipment	237.4	251.7	258.6	266.2
1.06	Sales of tangible personal property and services to electricity providers	387.7	436.2	463.0	491.5
1.07	Tangible personal property used or consumed in agriculture and mining	261.2	268.7	276.5	289.6
1.08	Tangible personal property used to produce printed materials	31.6	31.8	32.1	32.4
1.09	Tangible personal property used in storing, preparing and serving food	20.2	21.0	21.8	22.9
1.10	Tangible personal property used in preparing eggs for sale	2.7	2.8	2.4	2.4
Exemption based on specified use of property or service					
1.11	Building and construction materials and services used in certain structures	174.3	177.8	180.9	184.5
1.12	Tangible personal property used directly in providing public utility services	103.9	107.0	110.0	113.4
1.13	Property used to fulfill a warranty or service contract	48.6	48.4	48.0	47.8
1.14	Motor vehicles sold in Ohio for use outside the state	33.5	36.9	39.2	41.6
1.15	Tangible personal property used in research and development	20.5	21.0	21.5	22.1
1.16	Tangible personal property and services used in providing telecommunications and satellite broadcasting services	92.2	93.3	94.0	95.1
1.17	Qualified tangible personal property used in making retail sales	35.3	36.5	37.6	38.9
1.18	Property used in transportation for hire	33.9	35.4	37.3	39.4
1.19	Qualified call center exemption	23.5	24.0	24.6	25.3
1.20	Copyrighted motion pictures and films	7.5	7.6	7.8	7.9
1.21	Equipment used in private warehouses and distribution centers with inventory primarily shipped out of state	2.4	2.5	2.4	2.4
1.22	Drugs distributed to physicians as free samples	13.2	13.7	14.1	14.6
1.23	Property used in air, noise, or water pollution control	17.3	17.3	17.3	17.3
1.24	Emergency and fire protection vehicles and equipment	1.3	1.3	1.3	1.3
1.25	Tangible personal property used in electronic publishing	5.2	5.3	5.4	5.6
1.26	Property & services used in constructing a qualifying convention center	0.0	1.0	2.0	2.0

FY 2010 – 2013
Tax Expenditure
Summary of Revenue Foregone
(in millions)

		General Revenue Fund Revenue Foregone			
		FY 2010	FY 2011	FY 2012	FY 2013
<u>Sales & Use Tax—continued</u>					
Exempt products and services					
1.27	Prescription drugs and selected medical items	$460.2	$513.5	$571.4	$637.6
1.28	Transportation of persons and property	118.5	122.4	127.1	132.3
1.29	Newspapers	17.8	17.1	16.3	16.3
1.30	Magazine subscriptions	12.0	11.7	11.3	11.0
1.31	Artificial limbs, prostheses, wheelchairs and other durable medical equipment	16.5	16.9	17.3	17.5
1.32	Sales of used manufactured and mobile homes	2.7	2.7	2.7	2.8
1.33	$800 tax cap on qualified fractionally-owned aircraft	1.0	1.0	1.0	1.0
1.34	Sales of materials and services for maintenance and repair of aircraft	3.8	3.9	3.9	4.0
1.35	Flight simulators	1.6	1.6	1.6	1.6
Miscellaneous					
1.36	Value of motor vehicle trade-ins	107.1	118.2	130.2	143.9
1.37	Discount for vendors	46.6	47.8	49.4	51.6
1.38	Food sold to students on school premises	15.4	15.9	16.6	17.3
1.39	Value of watercraft trade-ins	1.2	1.3	1.5	1.6
Tax expenditures with revenue impact below $1 million					
1.40	Sales to non-commercial, educational broadcast stations	minimal	minimal	minimal	minimal
1.41	Sales to veterans' headquarters	minimal	minimal	minimal	minimal
1.42	Sales to facilities financed with public hospital bonds	minimal	minimal	minimal	minimal
1.43	Sales of animals by non-profit animal shelters	minimal	minimal	minimal	minimal
1.44	Agricultural property (use on use)	minimal	minimal	minimal	minimal
1.45	Agricultural land tile and portable grain bins	minimal	minimal	minimal	minimal
1.46	Tangible personal property used or consumed in commercial fishing	minimal	minimal	minimal	minimal
1.47	Ships and rail rolling stock used in interstate or foreign commerce	minimal	minimal	minimal	minimal
1.48	Sales of property for use in non-profit presentations of music, dramatics, the arts, and related fields	minimal	minimal	minimal	minimal
1.49	Property for use in a retail business outside Ohio	minimal	minimal	minimal	minimal
1.50	Property used in energy or waste conversion facilities	minimal	minimal	minimal	minimal
1.51	Sales of computers and computer equipment to certified teachers	minimal	minimal	minimal	minimal
1.52	Sales of qualified tangible personal property to qualified motor racing teams	minimal	minimal	minimal	minimal
1.53	Sales of tangible personal property and services for maintenance and repair of qualified fractionally-owned aircraft	minimal	minimal	minimal	minimal
1.54	Bulk water for residential use	minimal	minimal	minimal	minimal
1.55	Refundable deposits on beverage containers	minimal	minimal	minimal	minimal
1.56	25 percent refund for tangible personal property used by electronic information service providers	minimal	minimal	minimal	minimal
Total Sales & Use Tax		**$4,415.6**	**$4,640.3**	**$4,824.8**	**$5,053.3**

FY 2010 – 2013
Tax Expenditure
Summary of Revenue Foregone
(in millions)

		General Revenue Fund Revenue Foregone			
		FY 2010	FY 2011	FY 2012	FY 2013
Individual Income Tax					
Exemptions, exclusions and deductions					
2.01	Personal, spousal, and dependent exemption	$547.9	$556.1	$560.2	$581.9
2.02	Social security and railroad retirement benefits	237.8	239.5	266.8	280.1
2.03	Deduction for taxpayers not eligible for employer sponsored medical plan	19.5	20.9	21.1	22.7
2.04	Exemption for disability income	32.7	33.2	33.0	34.1
2.05	Exemption for active-duty military income	18.0	19.0	20.0	21.2
2.06	Deduction for excess medical expenses	68.6	71.6	76.1	79.3
2.07	Exemption for pre-1972 trusts	9.3	9.6	9.9	10.3
2.08	Deduction for long-term care insurance premiums	7.1	7.5	7.5	7.9
2.09	Deduction for contributions to college savings programs	10.6	10.8	11.5	12.2
2.10	Deduction for contributions to medical savings accounts	1.1	1.1	1.2	1.3
2.11	Exemption for military retirement income	25.3	26.8	27.0	28.6
2.12	Deduction for health insurance coverage of qualifying adult children and other dependents	0.4	3.4	3.5	3.7
Non-business tax credits					
2.13	Joint filer credit	228.8	236.5	228.8	232.8
2.14	$20 personal exemption credit	163.4	164.8	165.3	166.7
2.15	Retirement income credit	129.9	133.5	135.7	139.5
2.16	Resident credit for income taxed by another state	127.4	131.9	141.3	151.9
2.17	$50 credit for taxpayers aged 65 years or older	32.3	33.0	33.5	34.2
2.18	Credit for taxpayers with income below $10,000	15.5	15.2	13.2	12.7
2.19	Dependent care credit	7.8	6.3	6.3	6.3
2.20	Campaign contribution credit	4.5	4.9	4.7	5.1
2.21	Lump sum retirement income credit	1.3	1.3	1.4	1.5
2.22	Displaced worker job training credit	0.8	0.9	1.0	1.0
2.23	Credit for adoption related expenses	2.4	2.4	2.5	2.5
Business Tax Credits					
2.24	Historic structure rehabilitation credit	24.7	40.6	41.9	59.9
2.25	Technology investment tax credit	3.4	4.0	3.9	3.8
2.26	Motion picture tax credit	0.0	8.5	19.8	9.4
2.27	Credit for alternative fuel sold at retail	0.8	1.0	1.0	0.0
Tax expenditures with revenue impact below $1 million					
2.28	Lump sum distribution credit	minimal	minimal	minimal	minimal
2.29	Deduction for organ donation expenses	minimal	minimal	minimal	minimal
2.30	Enterprise zone day care/training credit	minimal	minimal	minimal	minimal
2.31	Enterprise zone employee credit	minimal	minimal	minimal	minimal
2.32	Grape production credit	minimal	minimal	minimal	minimal
2.33	Ethanol plant investment credit	minimal	minimal	minimal	minimal
Total Individual Income Tax		**$1,721.3**	**$1,784.3**	**$1,838.1**	**$1,910.6**

FY 2010 – 2013
Tax Expenditure
Summary of Revenue Foregone
(in millions)

		General Revenue Fund Revenue Foregone			
		FY 2010	FY 2011	FY 2012	FY 2013
Corporate Franchise Tax					
3.01	Goodwill, appreciation, and abandoned property of financial institutions	$111.9	$115.2	$119.6	$123.0
3.02	Credit for financial institution investment in a dealer in intangibles	1.5	1.5	1.5	1.5
3.03	State chartered savings and loan credit	1.4	1.4	1.4	1.4
3.04	New markets tax credit	0.0	0.0	0.0	1.7
Total Corporate Franchise Tax		**$114.8**	**$118.1**	**$122.5**	**$127.6**
Commercial Activity Tax					
Exclusions and deductions					
4.01	Exclusion of first $1 million of taxable gross receipts	$197.0	$207.0	$211.0	$215.0
4.02	State and federal fuel excise tax exclusion	32.1	32.1	32.0	32.0
4.03	Qualifying distribution center receipts exclusion	56.0	56.0	56.0	56.0
4.04	State and federal cigarette excise tax exclusion	5.8	5.7	5.5	5.3
4.05	Exclusion of real estate brokerage gross receipts that are not retained	1.2	1.2	1.2	1.2
4.06	State and federal alcoholic beverage tax exclusion	1.9	1.9	1.9	1.9
4.07	Professional employer organization exclusion	2.4	2.4	2.4	2.4
4.08	Motor vehicle transfer exclusion	1.7	1.7	1.7	1.7
4.09	Exclusion of certain services to financial institutions	1.0	1.0	1.0	1.0
Tax Credits					
4.10	Credit for increased qualified research and development expenses	13.9	14.2	14.6	15.0
4.11	Job creation credit	53.5	54.6	55.7	56.8
4.12	Job retention tax credit	4.5	11.5	16.5	21.5
4.13	Credit for net operating loss carryforwards and other deferred tax assets	2.3	8.0	8.0	8.0
Tax expenditures with revenue impact below $1 million					
4.14	Research and development loan program credit	minimal	minimal	minimal	minimal
4.15	Exemption for pre-1972 trusts	minimal	minimal	minimal	minimal
4.16	Anti-neoplastic drug exclusion	minimal	minimal	minimal	minimal
4.17	Horse racing taxes and purse exclusion	minimal	minimal	minimal	minimal
Total Commercial Activity Tax		**$373.3**	**$397.3**	**$407.5**	**$417.8**
Public Utility Excise Tax					
5.01	Exemption for municipal utilities and non-profit waterworks	$68.1	$69.5	$71.1	$72.6
5.02	Credit for certain natural gas companies	8.1	8.1	8.1	8.1
5.03	$25,000 exemption from gross receipts for each public utility company	minimal	minimal	minimal	minimal
5.04	Sales to other public utilities for resale	minimal	minimal	minimal	minimal
Total Public Utility Excise Tax		**$76.2**	**$77.6**	**$79.2**	**$80.7**

FY 2010 – 2013
Tax Expenditure
Summary of Revenue Foregone
(in millions)

		General Revenue Fund Revenue Foregone			
		FY 2010	FY 2011	FY 2012	FY 2013
Kilowatt Hour Tax					
6.01	Exemption for qualified end-users	$2.7	$3.6	$4.7	$4.8
Total Kilowatt Hour Tax		**$2.7**	**$3.6**	**$4.7**	**$4.8**
Insurance Premium Taxes					
7.01	Deduction for premiums received from qualified small business alliances	$15.5	$18.3	$21.7	$26.0
7.02	Credit for small insurers	2.5	2.4	2.3	2.2
7.03	Ohio Life and Health Guaranty Association contribution credit	1.2	1.3	1.3	1.3
Total Insurance Premium Taxes		**$19.2**	**$22.0**	**$25.3**	**$29.5**
Cigarette and Other Tobacco Products Taxes					
8.01	Discount for cigarette tax stamps	$14.5	$13.9	$13.3	$12.7
8.02	Discount for timely payment of other tobacco products' excise tax	minimal	minimal	minimal	minimal
Total Cigarette and Other Tobacco Products Taxes		**$14.5**	**$13.9**	**$13.3**	**$12.7**
Alcoholic Beverage Tax					
9.01	Advanced payment credit/discount	$1.4	$1.4	$1.4	$1.4
9.02	Sacramental wine exemption	minimal	minimal	minimal	minimal
9.03	Small brewer's credit	minimal	minimal	minimal	minimal
9.04	Small wine producer's exemption	minimal	minimal	minimal	minimal
Total Alcoholic Beverage Tax		**$1.4**	**$1.4**	**$1.4**	**$1.4**
Estate Tax					
Deductions					
10.01	Marital deduction	$46.3	$44.9	$46.7	$48.6
10.02	Funeral and administration expenses and debts against estate	9.2	9.2	9.2	9.2
10.03	Deduction for qualified charitable contributions	10.3	10.3	10.3	10.3
Tax Credit					
10.04	Credit for each estate	34.3	34.3	34.3	34.3
Total Estate Tax		**$100.1**	**$98.7**	**$100.5**	**$102.4**
GRAND TOTAL		**$6,851.0**	**$7,170.5**	**$7,432.2**	**$7,757.5**

Sales and Use Tax

The sales and use tax was enacted in 1934 at a rate of 3.0 percent and went into effect on January 27, 1935. In 1967 the rate was increased to 4.0 percent. After a temporary 5.0 percent sales tax rate was imposed during the period of January through June 1981, a permanent 5.0 percent rate was adopted in November 1981. Until 1981 the sales and use tax was restricted to the sale or rental of tangible personal property. In November 1981 the tax base was extended to selected services. Since then, additional services have been made subject to sales and use tax. Authority to levy a permissive sales tax was given to counties in 1967 and to transit authorities in 1974.

In 2003, legislation was enacted to impose a temporary increase in the state sales tax rate, from 5.0 percent to 6.0 percent. This increase was in effect for the July 1, 2003 through June 30, 2005 period. Rather than allowing the rate to revert back to 5.0 percent once the temporary increase expired, Am. Sub. House Bill 66 (the FY 2006-2007 operating budget) set the rate at 5.5 percent, effective July 1, 2005.

Tax Base

The sale and rental of tangible personal property and selected services in Ohio (or of property and selected services purchased out-of-state but used in Ohio) constitute the Ohio sales and use tax base. The tax base reflects a complex amalgam of statutory and constitutional provisions, as well as the accumulation of administrative and case law interpretations.

Since its 1935 inception the Ohio sales and use tax structure has reflected a variety of exceptions, exemptions and credits. This report omits some of these exceptions, exemptions and credits because they are considered to be inherent features of Ohio's sales and use tax. For instance, we have left out certain sales and use tax exceptions designed to conform the sales and use tax more closely to the concept of a tax on final consumption. One feature that helps limit the sales and use tax to final consumption - thereby mitigating the economic distortions otherwise created by "pyramiding" (a phenomenon that occurs when the same activity or final product is taxed more than once as it moves through the economic production chain) - is the resale exception. Ohio law provides a sales tax exception for purchased items that are subsequently resold by the purchaser in the same form (typically to a final consumer). This exception is so elemental to a sales and use tax that it should not be considered a tax preference and therefore does not appear in this report.

The report does not include a credit for sales tax paid to other states. When an item is purchased in another state and sales tax is paid to such state, Ohio law typically allows a credit for the tax paid to that state (although if the tax paid to the other state is lower than what the tax would be under Ohio law, the purchaser must pay the difference to this state). Such a credit is a fundamental structural feature of the sales and use tax, and therefore should not be considered a tax expenditure.

Another item excluded from the report is the exemption for "casual sales." The report reflects the assumption that the sales tax was inherently designed not to tax the kinds of transactions subject to the casual sales exemption. Transactions covered by the casual sales exemption are those involving the sale of an item by a person that had originally acquired the item for his or her own use, as long as the item had already been subject to a state sales or use tax. (Note, however, that sales of motor vehicles and other specified types of vehicles are not subject to the casual sales exemption.)

Other exceptions considered inherent to the Ohio sales and use tax – and therefore not appearing as tax expenditures in this report – are those sanctioned by the Ohio Constitution. One such exception pertains to food sold for human consumption. The Ohio Constitution precludes the imposition of a sales tax on food (including prepared food) consumed off the premises where sold. Another such exception is for sales of motor fuel. Sales of fuel used by motor vehicles operated on public highways are not subject to sales tax because the Ohio Constitution requires any revenue generated from an excise tax on this product to be used for highway-related purposes and not be deposited in the General Revenue Fund.[10]

[10] The State of Ohio does impose a motor vehicle fuel excise tax of 28 cents per gallon whose revenue is earmarked for highway-related purposes (construction, repair and maintenance of roads, bridges, etc.).

An even broader segment of the Ohio economy is largely excluded from the sales and use tax: the service sector. The sales and use tax is primarily structured as a tax on sales of tangible personal property, with only sales of certain services specifically enumerated in Ohio law being subject to the tax. Because the tax in its current form is primarily a tax on tangible personal property by virtue of legal structure and fiscal substance (i.e., the large majority of sales tax revenue emanates from the sale of taxable tangible personal property instead of the sale of taxable services), this report does not consider untaxed services to be subject to a specific tax preference. Therefore, for purposes of this report, the fact that the sales tax is not applied to a particular service does not mean that a tax expenditure exists for such service.

Tax Rate

The tax is imposed by the State of Ohio at a 5.5 percent rate. In addition, a local permissive sales tax may be imposed by a county or transit authority at a rate between 0.25 percent and 1.5 percent, with a maximum allowable combined permissive sales tax rate of 3.0 percent (the highest total permissive sales tax rate currently in effect is 2.25 percent, in Cuyahoga County). Local permissive sales taxes are *not* reflected in the figures provided in this report.

Significant Changes Enacted by the 128th General Assembly

There was only one sales tax law change enacted during the last two years that affects this report. The new sales tax exemption applies to building and construction materials sold to a construction contractor for incorporation into real property comprising a qualifying convention center (i.e., a center that qualifies for property tax exemption under Ohio Revised Code section 5709.084).

Sales and Use Tax Expenditure Estimates

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure. We have also attempted to reflect the impact of a possible “overlapping” provision (i.e., another credit, exclusion or exemption available to the taxpayer) that effectively reduces the revenue consequences associated with the tax expenditure.

These tax expenditure estimates rely mostly on secondary data sources rather than internal, Department of Taxation-originated data sources (such as tax returns). Economic Census data - generated by the U.S. Department of Commerce, Bureau of the Census - is the most extensively used source of data for the estimates. However, various other types of data and information are used in the estimates, including those generated by other (non-Census Bureau) federal agencies, by industry trade groups, and by academic, public, and not-for-profit research organizations.

NOTE: See page 4 for description of data source codes.

A. Exempt Entities

1.01 Sales to churches and certain other non-profit organizations
Ohio Revised Code 5739.02(B)(12); originally enacted 1935

Sales to churches, non-profit entities organized under Internal Revenue Code section 501(c)(3), and certain other types of non-profit organizations are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 373.6	$ 384.8	$ 395.3	$ 407.2

Data Source Code: (B)

1.02 Sales to the state, any of its political subdivisions, and to certain other states[11]
Ohio Revised Code 5739.02(B)(1); originally enacted 1935, revised 1994

Sales of supplies, equipment, or any other normally taxable item to the State of Ohio and any of its political subdivisions are exempt from the sales and use tax. Also exempt from Ohio sales and use tax are sales to any other state (and its subdivisions) as long as such state provides an exemption for sales made to the State of Ohio (and its subdivisions).

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 179.3	$ 189.2	$ 199.1	$ 210.0

Data Source Code: (B)

1.03 Sales by churches and certain types of non-profit organizations
Ohio Revised Code 5739.02(B)(9); originally enacted 1961

Sales by churches, non-profit organizations organized under Internal Revenue Code section 501(c)(3), and certain other non-profit organizations are exempt from the sales and use tax, if the number of days on which sales are made does not exceed six in any calendar year.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 26.7	$ 27.5	$ 28.3	$ 29.1

Data Source Code: (B)

[11] The estimate excludes estimated purchases by the state of Ohio because they do not entail an appreciable state fiscal cost. This is because currently-foregone sales tax revenue is offset by decreased costs on its acquisitions. Viewed from another perspective, if the exemption were repealed the state of Ohio would experience an increase in expenditures nearly commensurate with the sales tax revenue gain.

B. Exemptions for property used or consumed to produce a product

1.04 Tangible personal property used primarily in manufacturing tangible personal property
Ohio Revised Code 5739.02(B)(42)(g); originally enacted 1935, revised 1990

Sales of tangible personal property where the purpose of the purchaser is to use the property primarily in a manufacturing operation to produce tangible personal property for sale are exempt from sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$1,490.1	$1,536.9	$1,568.9	$1,621.0

Data Source Code: (B)

1.05 Packaging and packaging equipment
Ohio Revised Code 5739.02(B)(15); originally enacted 1961

Packaging materials and packaging equipment, including labeling materials and equipment, sold to manufacturers and other qualified business are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 237.4	$ 251.7	$ 258.6	$ 266.2

Data Source Code: (B)

1.06 Sales of tangible personal property and services to electricity providers
Ohio Revised Code 5739.02(B)(40); originally enacted 2000

Tangible personal property and services used or consumed by a provider of electricity in generating, transmitting, or distributing electricity for use by others is exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 387.7	$ 436.2	$ 463.0	$ 491.5

Data Source Code: (A),(B)

1.07 Tangible personal property used or consumed in agriculture and mining
Ohio Revised Code 5739.01(B)(42)(a); originally enacted 1935

Purchases of tangible personal property used or consumed directly in producing a product sold by mining, farming, agricultural, horticultural, or floricultural operations or in the production of crude oil, mining, or natural gas are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 261.2	$ 268.7	$ 276.5	$ 289.6

Data Source Code: (B),(C)

1.08 Tangible personal property used to produce printed materials[12]
Ohio Revised Code 5739.02(B)(42)(f); originally enacted 1973

Machinery, equipment, and material used in the production for sale of printed, lithographic, photostatic, or other graphic productions or re-productions are exempt from sales and use tax. The exemption also applies to property used to produce magazines distributed as controlled circulation publications.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 31.6	$ 31.8	$ 32.1	$ 32.4

Data Source Code: (B),(C)

1.09 Tangible personal property used in storing, preparing and serving food[13]
Ohio Revised Code 5739.02(B)(27); originally enacted 1981

Tangible personal property used in preparing, storing, or serving food in a commercial food establishment is exempt from the sales and use tax. Also exempt from the tax are items used to clean or maintain the property described above.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 20.2	$ 21.0	$ 21.8	$ 22.9

Data Source Code: (B)

1.10 Tangible personal property used in preparing eggs for sale
Ohio Revised Code 5739.02(B)(24); originally enacted 1974

Equipment and supplies used for the cleaning, sorting, preserving, handling, and packaging of eggs for sale are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.7	$ 2.8	$ 2.4	$ 2.4

Data Source Code: (B)

[12] This estimate was reduced by an assumed 75 percent under the expectation that most of this property is also subject to the sales tax exemption for property used primarily in manufacturing (tax expenditure item 1.04). The estimate for tax expenditure 1.04 was not adjusted for tangible personal property also subject to tax expenditure 1.08.
[13] A considerable portion of the property exempt under this provision is also subject to other sales and use tax exemptions. The revenue impact has been reduced by an assumed 50 percent to take these other exemptions into account. In contrast, the estimates for these other exemptions have not been reduced.

C. Exemptions based on specified use of property or service

1.11 Building and construction materials and services used in certain structures[14]
Ohio Revised Code 5739.02(B)(13); originally enacted 1959, revised 1994

A sales and use tax exemption is provided for building and construction materials and services sold to construction contractors for incorporation into certain types of structures. The exemption applies to structures built under a construction contract with the following entities: federal government; state of Ohio and its political subdivisions; religious institutions and other organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; businesses engaged in horticultural and livestock purposes; and certain other types of entities specified in state law.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 174.3	$ 177.8	$ 180.9	$ 184.5

Data Source Code: (B)

1.12 Tangible personal property used directly in providing public utility services
Ohio Revised Code 5739.02(B)(42)(a); originally enacted 1935

Property (including fuel) used in production, transportation, or distribution of a public utility service, or used in the repair and maintenance of machinery and equipment used directly in providing a public utility service, is exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 103.9	$ 107.0	$ 110.0	$ 113.4

Data Source Code: (A),(B)

1.13 Property used to fulfill a warranty or service contract
Ohio Revised Code 5739.02(B)(42)(k); originally enacted 1986

Parts and labor used to fulfill a warranty that is provided as part of the price of tangible personal property sold are exempt from sales and use tax. In addition, parts and labor used to fulfill a warranty, maintenance, or service contract in which the vendor of such warranty or contract agrees to repair or maintain the consumer's tangible personal property, are exempt from the tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 48.6	$ 48.4	$ 48.0	$ 47.8

Data Source Code: (A)

[14] The estimate excludes estimated purchases attributable to building contracts with the state of Ohio. This reflects the assumption that currently-foregone revenue from the exemption is offset by decreased project costs for state projects. Because the tax exemption creates no appreciable fiscal cost to the state on its projects, those projects have been excluded from the estimate.

1.14 Motor vehicles sold in Ohio for use outside the state
Ohio Revised Code 5739.02(B)(23); originally enacted 1971, revised 2007and 2008

Motor vehicles sold in Ohio to non-residents, when the vehicles are immediately removed from Ohio and titled or registered in another state, are exempt from the sales and use tax. However, no exemption is permitted if the vehicle is titled or registered in a foreign nation (other than Canada), or in a U.S. state that applies its sales tax to an Ohioan purchasing a vehicle in that state.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 33.5	$ 36.9	$ 39.2	$ 41.6

Data Source Code: (A),(B)

1.15 Tangible personal property used in research and development
Ohio Revised Code 5739.02(B)(42)(i); originally enacted 1993

Qualified tangible personal property used in research and development is exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 20.5	$ 21.0	$ 21.5	$ 22.1

Data Source Code: (C)

1.16 Tangible personal property and services used in providing telecommunications and satellite broadcasting services
Ohio Revised Code 5739.02(B)(34); originally enacted 1987

Tangible personal property and services used primarily in providing a telecommunications, mobile telecommunications, or satellite broadcasting service are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 92.2	$ 93.3	$ 94.0	$ 95.1

Data Source Code: (A)

1.17 Qualified tangible personal property used in making retail sales
Ohio Revised Code 5739.02(B)(35); originally enacted 1935

Sales of advertising material or catalogs used or consumed in making retail sales that price and describe property are exempt from sales and use tax. Also exempt are purchases by direct marketing vendors of items that are used in printing advertising material. In addition, equipment primarily used to accept orders for direct marketing retail sales are exempt.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 35.3	$ 36.5	$ 37.6	$ 38.9

Data Source Code: (B),(C)

1.18 Property used in transportation for hire
Ohio Revised Code 5739.02(B)(32); originally enacted 1985

The sales and use tax exemption is allowed for the sale, lease, repair and maintenance of motor vehicles primarily used in transporting personal property by a person engaged in highway transportation for hire. Parts and other items attached to/incorporated in the motor vehicle also qualify for the exemption.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 33.9	$ 35.4	$ 37.3	$ 39.4

Data Source Code: (B),(C)

1.19 Qualified call center exemption
Ohio Revised Code 5739.02(B)(45); originally enacted 2003

The sales of telecommunication services that are used directly and primarily to perform the functions of a qualified call center are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 23.5	$ 24.0	$ 24.6	$ 25.3

Data Source Code: (B),(C)

1.20 Copyrighted motion pictures and films
Ohio Revised Code 5739.01(B)(8); originally enacted 1945

Rental or sale of copyrighted motion pictures for exhibition purposes, unless solely used for advertising, is exempt from the sales and use tax. Rentals of videotaped motion pictures, DVDs, or similar items for private home use are taxable.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 7.5	$ 7.6	$ 7.8	$ 7.9

Data Source Code: (B)

1.21 Equipment used in private warehouses and distribution centers with inventory primarily shipped out of state
Ohio Revised Code 5739.01(B)(42)(j) and (B)(48); originally enacted 1994, revised 2008

A sales and use tax exemption is allowed for equipment used primarily in handling purchased sales inventory in a distribution facility when the inventory is primarily distributed outside this state to: (1) the retail stores of the person (or an affiliated entity) who owns or controls the distribution facility; or (2) customers if the facility is owned by a mail order business; or (3) independent salespersons operating as direct sellers if the facility is owned by a qualifying direct selling entity.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.4	$ 2.5	$ 2.4	$ 2.4

Data Source Code: (B)

1.22 Drugs distributed to physicians as free samples
Ohio Revised Code 5741.02(C)(7); originally enacted 2001

Drugs that are distributed free of charge to a physician licensed to prescribe, dispense, and administer drugs to a human being in the course of professional practice are exempt from the use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 13.2	$ 13.7	$ 14.1	$ 14.6

Data Source Code: (B),(C)

1.23 Property used in air, noise, or water pollution control
Ohio Revised Code 5709.25; originally enacted 1965

Tangible personal property used in air, noise, or water pollution control by holders of pollution control certificates is exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 17.3	$ 17.3	$ 17.3	$ 17.3

Data Source Code: (A)

1.24 Emergency and fire protection vehicles and equipment
Ohio Revised Code 5739.02(B)(20); originally enacted 1965

Purchases by not-for-profit organizations of emergency and fire protection vehicles and equipment, for use solely in providing fire protection and emergency services (including trauma care and emergency medical services) for political subdivisions, are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.3	$ 1.3	$ 1.3	$ 1.3

Data Source Code: (B),(C)

1.25 Tangible personal property used in electronic publishing
Ohio Revised Code 5739.02(B)(42)(n); originally enacted 2007

Tangible personal property used in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing is exempt from sales and use tax. “Electronic publishing” is limited to electronic information and data access provided primarily to business customers.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 5.2	$ 5.3	$ 5.4	$ 5.6

Data Source Code: (A)

1.26 Property and services used in constructing a qualifying convention center
Ohio Revised Code 5739.02(B)(13); originally enacted 2010

Building and construction materials and services sold to a construction contractor for incorporation into real property comprising a qualifying convention center are exempt from sales tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 0.0	$ 1.0	$ 2.0	$ 2.0

Data Source Code: (B)

D. Exempt products and services

1.27 Prescription drugs and selected medical items
Ohio Revised Code 5739.02(B)(18); originally enacted 1961

Drugs that may only be dispensed pursuant to a prescription; certain products used by diabetics; and other qualified items used by individuals for medical purposes are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 460.2	$ 513.5	$ 571.4	$ 637.6

Data Source Code: (B)

1.28 Transportation of persons and property
Ohio Revised Code 5739.02(B)(11); originally enacted 1935

Transportation of property and most transportation of persons is exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 118.5	$ 122.4	$ 127.1	$ 132.3

Data Source Code: (A),(B)

1.29 Newspapers
Ohio Revised Code 5739.02(B)(4); originally enacted 1935

Newspapers purchased at places of business, vending machines, or through subscription and published at least bi-weekly are exempt from sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 17.8	$ 17.1	$ 16.3	$ 16.3

Data Source Code: (B)

1.30 Magazine subscriptions
Ohio Revised Code 5739.02(B)(4); originally enacted 1935, revised 2002

Magazine subscriptions and company newsletters, organizational magazines, or other controlled circulation material are exempt from the sales and use tax. Individual magazine purchases are taxable.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 12.0	$ 11.7	$ 11.3	$ 11.0

Data Source Code: (B)

1.31 Artificial limbs, prostheses, wheelchairs and other durable medical equipment
Ohio Revised Code 5739.02(B)(19); originally enacted 1973, revised 1978, 2001, 2003

Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment are exempt from the sales and use tax. To qualify for the exemption, the property must be purchased pursuant to a prescription.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 16.5	$ 16.9	$ 17.3	$ 17.5

Data Source Code: (B)

1.32 Exemption for used mobile homes and reduced taxable price on new mobile homes
Ohio Revised Code 5739.02(B)(39), 5739.0210; originally enacted 2000

Sales of qualified used manufactured and mobile homes are exempt from the sales and use tax. In addition, for sales tax purposes, the dealers of new manufactured and mobile homes are considered consumers of homes they sell, so sales tax is paid based on dealer's cost rather than on the amount paid by the ultimate consumer.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.7	$ 2.7	$ 2.7	$ 2.8

Data Source Code: (C)

1.33 $800 tax cap on qualified fractionally-owned aircraft
Ohio Revised Code 5739.025(G); originally enacted 2003

The sales tax on the sum of the shares of a qualified fractionally-owned aircraft shall be a maximum of $800 and be allocated to each fractional owner according to percentage of ownership in the aircraft.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.0	$ 1.0	$ 1.0	$ 1.0

Data Source Code: (C)

1.34 Sales of materials and services for maintenance and repair of aircraft
Ohio Revised Code 5739.02(B)(49); originally enacted 2008

Sales of materials, parts, equipment and engines used in the repair or maintenance of aircraft or avionics systems, as well as sales of maintenance and repair services, are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 3.8	$ 3.9	$ 3.9	$ 4.0

Data Source Code: (A),(C)

1.35 Flight simulators
Ohio Revised Code 5739.02(B)(50); originally enacted 2008

The sales of full flight simulators that are used for pilot or flight-crew training are exempt from the sales and use tax. Also exempt are sales of repair or replacement parts or components of such flight simulators, as well as repair or maintenance services.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.6	$ 1.6	$ 1.6	$ 1.6

Data Source Code: (C)

E. Miscellaneous Provisions

1.36 Value of motor vehicle trade-ins
Ohio Revised Code 5739.01(H)(2); originally enacted 1981

The value of vehicles traded-in on the purchase of new motor vehicles is exempt from sales and use tax and may be deducted from the taxable base of the new motor vehicle.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 107.1	$ 118.2	$ 130.2	$ 143.9

Data Source Code: (B),(C)

1.37 Discount for vendors
Ohio Revised Code 5739.12, 5741.12; originally enacted 1981

A 0.75-percent discount on sales tax collected by vendors, and on use tax collected by out-of-state registered sellers, is granted if the tax due is remitted by the due date of tax return.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 46.6	$ 47.8	$ 49.4	$ 51.6

Data Source Code: (A)

1.38 Food sold to students on school premises
Ohio Revised Code 5739.02(B)(3); originally enacted 1937

Sales of food to students in a cafeteria, dormitory, fraternity, or sorority maintained in a public, private, or parochial school, college, or university are exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 15.4	$ 15.9	$ 16.6	$ 17.3

Data Source Code: (B),(C)

1.39 Value of watercraft trade-ins
Ohio Revised Code 5739.01(H)(3); originally enacted 1990

The value of any watercraft, watercraft and trailer, or outboard motor traded-in on a new or used watercraft or outboard motor sold by a licensed watercraft dealer is exempt from the sales and use tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.2	$ 1.3	$ 1.5	$ 1.6

Data Source Code: (B)

F. Tax expenditures with annual revenue impact below $1 million

1.40 Sales to non-commercial, educational broadcast stations
Ohio Revised Code 5739.02(B)(12); originally enacted 1981

1.41 Sales to veterans' headquarters
Ohio Revised Code 5739.02(B)(33); originally enacted 1986

1.42 Sales to facilities financed with public hospital bonds
Ohio Revised Code 140.08; originally enacted 1971

1.43 Sales of animals by non-profit animal shelters
Ohio Revised Code 5739.02(B)(28); originally enacted 1981

1.44 Agricultural "use on use" property
Ohio Revised Code 5739.02(B)(17); originally enacted 1961

1.45 Agricultural land tile and portable grain bins
Ohio Revised Code 5739.02(B)(30) and (31); originally enacted 1985

1.46 Tangible personal property used or consumed in commercial fishing
Ohio Revised Code 5739.02(B)(42)(d); originally enacted 1945

1.47 Ships and rail rolling stock used in interstate or foreign commerce
Ohio Revised Code 5739.02(B)(14); originally enacted 1938

1.48 Sales of property for use in non-profit presentations of music, dramatics, the arts, and related fields
Ohio Revised Code 5739.02(B)(12); originally enacted 1982

1.49 Property for use in a retail business outside Ohio
Ohio Revised Code 5739.02(B)(21); originally enacted 1968

1.50 Property used in energy or waste conversion facilities
Ohio Revised Code 5709.20, 5709.25; originally enacted 1978

1.51 Sales of computers and computer equipment to certified teachers
Ohio Revised Code 5739.02(B)(37); originally enacted 1997

1.52 Purchases of qualified tangible personal property to qualified motor racing team
Ohio Revised Code 5739.02(B)(40); originally enacted 1997

1.53 Sales of tangible personal property and services for maintenance and repair of qualified fractionally-owned aircraft[15]
Ohio Revised Code 5739.02(B)(44); originally enacted 2003

1.54 Bulk water for residential use
Ohio Revised Code 5739.02(B)(25); originally enacted 1978

1.55 Refundable deposits on beverage containers
Ohio Revised Code 5739.01(H)(1); originally enacted 1979

1.56 25 percent refund for qualified tangible personal property used by electronic information service providers
Ohio Revised Code 5739.071; originally enacted 1993

[15] This tax expenditure is shown as having a minimal revenue impact under the expectation that most of this property is also eligible for the sales tax exemption for materials and services used in the maintenance and repair of aircraft (tax expenditure item 1.34). In contrast, the estimate for tax expenditure 1.34 was not reduced to reflect property and services subject to this tax expenditure.

Individual Income Tax

Ohio was first authorized to levy an income tax in 1912 by a constitutional amendment. However, it was 60 years later before the first state individual income tax was enacted in 1972. The income tax was designed to be closely based on federal law to facilitate compliance by the taxpayer and ease of administration by the state.

Tax Base

The amount reported as federal adjusted gross income (FAGI) to the U.S. Internal Revenue Service plus or minus adjustments according to Ohio income tax law.

Tax Rate

Ohio has a graduated income tax with nine rate classes. Changes to both rates and rate classes are scheduled to occur that will affect the upcoming biennium. Am. Sub. House Bill 66 of the 126th General Assembly provided a 21 percent reduction in individual income tax rates to be phased in over a five year period, resulting in a 4.2 percent annual reduction over the 5-year period. The reductions began in tax year 2005, but the last one, originally scheduled for tax year 2009, was delayed for two years (Sub. House Bill 318, 128th General Assembly). The final 4.2 percent reduction is scheduled to take place in tax year 2011, resulting in tax rates ranging from 0.587 percent at the bottom income bracket to 5.925 percent at the top income bracket.

In addition, annual indexing of the income tax brackets took effect in tax year 2010. A provision contained in Am. Sub. Senate Bill 261 (124th General Assembly) requires annual adjustments to the individual income tax brackets based on the growth in the gross domestic product deflator during the preceding calendar year (although the calculated amounts are ultimately required to be rounded the nearest $50).[16] Thus, for tax year 2010 the bottom tax bracket ends at $5,050 of Ohio taxable income, compared to $5,000 during tax year 2009; in 2010 the top income tax bracket begins at $201,800 of Ohio taxable income, compared to $200,000 in 2009. The changes to the brackets are calculated in July of each year and apply to the taxable year during which the changes are calculated.[17]

Significant Changes Enacted by the 128th General Assembly

Am. Sub. House Bill 1, the main operating appropriations bill for the FY10-11 biennium, made changes pertaining to several individual income tax expenditures. The legislation increased the overall amount of credits permitted to be issued by the Ohio Department of Development under the Technology Transfer ("Edison Center") Tax Credit program, from $30 million to $45 million. It also created a motion picture tax credit. The credit is based on eligible motion picture production expenditures in Ohio. In order to receive this credit, motion picture companies must apply to the Department of Development which administers the program. The total amount of available motion picture tax credits is $30 million over the FY 2012-2013 biennium ($20 million per biennium thereafter), and no more than $5 million in credits are allowed per production. The credit is refundable in nature. Finally, House Bill 1 provided an income tax deduction for the cost of health insurance coverage incurred on behalf of adult children and other qualifying relatives who, due to income and support limitations, are not considered dependents under federal tax law.

Sub. Senate Bill 131 extended the alternative fuel retailer tax credit through the 2011 taxable year. An earlier form of this credit was originally enacted by Am. Sub. House Bill 119 of the 127th General Assembly but was not included in the previous tax expenditure report, because it was due to expire after 2009.

Am. Sub. House Bill 48 provided that the bonuses to veterans of the Persian Gulf, Afghanistan, and Iraq conflicts that were authorized by the voters of Ohio in November 2009 would be exempt from Ohio individual income tax. A subsequent decision by the Internal Revenue Service excluded the bonuses from FAGI, and thus from federal income taxation. Because of the IRS decision to exclude such bonuses from FAGI, taxpayers will not use the Ohio-enacted exemption and therefore the exemption is not considered a tax expenditure for this report.

[16] This indexing was originally to begin in tax year 2005 but was postponed by H.B. 66 until tax year 2010.

[17] Reductions in tax rates are not considered tax expenditures for purposes of this report. Similarly, alterations in tax brackets do not meet the operative definition of a tax expenditure, which is why the annual indexation of the individual income tax brackets is not included as an expenditure item in this report.

Am. Sub. House Bill 519 created an income tax deduction for any loss for a wagering transaction that is allowed as an itemized federal income tax wager loss deduction and which was included as an itemized deduction on the taxpayer's federal income tax return. Since this exemption does not take effect until tax year 2013, it will not have an impact in the coming biennium, and thus is not included in this report.

Individual Income Tax Expenditures

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure. In addition, we have attempted to reflect the impact of possible "overlapping" provisions (i.e., other credits, exemptions or deductions available to the taxpayer) that would also dampen the potential revenue gain of the repealed tax expenditure.

Various data sources were used to derive the tax expenditure estimates. Most of the tax expenditure estimates were based on information taken from individual income tax returns filed with the Department Of Taxation for tax years 2007 and 2008. However, some of the estimates were derived from secondary data sources, such as the Internal Revenue Service, other state agencies and published public finance research.

NOTE: See page 4 for description of data source codes.

A. Exemptions, exclusions, and deductions

2.01 Personal, spousal, and dependent exemption

Ohio Revised Code 5747.025; originally enacted 2002

An exemption may be claimed for the taxpayer, taxpayer's spouse, and each dependent. The exemption was $1,550 in tax year 2009 and $1,600 in tax year 2010, and is expected to be $1,650 in tax year 2011 and $1,700 in tax year 2012.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 547.9	$ 556.1	$ 560.2	$ 581.9

Data Source Code: (A)

2.02 Social security and railroad retirement benefits

Ohio Revised Code 5747.01(A)(5); originally enacted 1972

All social security and railroad retirement benefits included in federal adjusted gross income may be excluded from the calculation of Ohio adjusted gross income.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 237.8	$ 239.5	$ 266.8	$ 280.1

Data Source Code: (A)

2.03 Deduction for taxpayers not eligible for an employer-sponsored medical plan

Ohio Revised Code 5747.01(A)(11); originally enacted 1999

Qualifying taxpayers who are not able to participate in an employer-sponsored medical plan may deduct any amounts paid for medical care insurance.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 19.5	$ 20.9	$ 21.1	$ 22.7

Data Source Code: (A),(B)

2.04 Exemption for disability income

Ohio Revised Code 5747.01(A)(4); originally enacted 1975

Disability income included in federal adjusted gross income is excluded from the calculation of Ohio adjusted gross income.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 32.7	$ 33.2	$ 33.0	$ 34.1

Data Source Code: (A)

2.05 Exemption for active-duty military income
Ohio Revised Code 5747.01(A)(24); originally enacted 2006

Military income included in federal adjusted gross income may be excluded from the calculation of Ohio adjusted gross income if the pay is received for active duty service in military, military reserve, or national guard outside the state.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 18.0	$ 19.0	$ 20.0	$ 21.2

Data Source Code: (B)

2.06 Deduction for excess medical expenses
Ohio Revised Code 5747.01(A)(11); originally enacted 1999

Qualifying taxpayers may claim a deduction for the amount of medical expenses that exceed 7.5% of their federal adjusted gross income.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 68.6	$ 71.6	$ 76.1	$ 79.3

Data Source Code: (A),(B)

2.07 Exemption for pre-1972 trusts
Ohio Revised Code 5747.01(FF) and 5751.01(E)(11); originally enacted 2006

Qualifying trusts created before 1972 that have elected to be subject to the commercial activity tax are exempt from the individual income tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 9.3	$ 9.6	$ 9.9	$ 10.3

Data Source Code: (A)

2.08 Deduction for long-term care insurance premiums
Ohio Revised Code 5747.01(A)(11); originally enacted 1999

A taxpayer may deduct the full amount of long-term health care premiums.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 7.1	$ 7.5	$ 7.5	$ 7.9

Data Source Code: (C)

2.09 Deduction for contributions to college savings programs
Ohio Revised Code 5747.01(A)(10) and 5747.70; originally enacted 1999

A taxpayer may receive a deduction, limited to $2,000 per beneficiary, for contributions to either the prepaid tuition or variable college savings programs.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 10.6	$ 10.8	$ 11.5	$ 12.2

Data Source Code: (A)

2.10 Deduction for contributions to medical savings accounts
Ohio Revised Code 5747.01(A)(14); originally enacted 1996

A taxpayer may receive a deduction for contributions to and interest earned by a medical savings account.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.1	$ 1.1	$ 1.2	$ 1.3

Data Source Code: (A)

2.11 Deduction for military retirement income
Ohio Revised Code 5747.01(A)(26); originally enacted 2008

Military retirement income included in federal adjusted gross income is excluded from the calculation of Ohio adjusted gross income.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 25.3	$ 26.8	$ 27.0	$ 28.6

Data Source Code: (A),(B)

2.12 Deduction for health insurance coverage for qualifying adult children and other dependents
Ohio Revised Code 5747.01(A)(11); originally enacted 2009

To the extent included in federal adjusted gross income, a deduction is allowed for amounts paid for health care insurance provided to a qualifying adult child or relative who, but for the fact such person does not meet the income and support limitations in Internal Revenue Code section 152(d)(1)(B) and (C), would be considered a dependent under federal tax law.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 0.4	$ 3.4	$ 3.5	$ 3.7

Data Source Code: (B),(C)

B. Non-business tax credits

2.13 Joint filer credit
Ohio Revised Code 5747.05(G); originally enacted 1973

Taxpayers using married filing joint status may claim a joint filing credit if each spouse has at least $500 in earned income. The maximum credit allowed in any year is $650.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 228.8	$ 231.2	$ 222.0	$ 225.9

Data Source Code: (A)

2.14 $20 personal exemption credit
Ohio Revised Code 5747.022; originally enacted 1983

Taxpayer may claim a $20 credit for each personal exemption claimed.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 163.4	$ 164.8	$ 165.3	$ 166.7

Data Source Code: (A)

2.15 Retirement income credit
Ohio Revised Code 5747.055(B); originally enacted 1983

Taxpayers with qualified retirement income included in Ohio adjusted gross income receive a tax credit up to $200.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 129.9	$ 133.5	$ 135.7	$ 139.5

Data Source Code: (A)

2.16 Resident credit for income taxed by another state
Ohio Revised Code 5747.05(B); originally enacted 1972

Ohio residents may claim a credit for taxes paid to another state. The credit is the lesser of the amount of the tax levied by the other state or the amount of Ohio income tax that would otherwise have been levied on such income.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 127.4	$ 131.9	$ 141.3	$ 151.9

Data Source Code: (A)

2.17 $50 credit for taxpayers aged 65 years or older
Ohio Revised Code 5747.05(C); originally enacted 1972

Taxpayers aged 65 or older receive a $50 tax credit per return.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 32.3	$ 33.0	$ 33.5	$ 34.2

Data Source Code: (A)

2.18 Credit for taxpayers with income below $10,000
Ohio Revised Code 5747.056; originally enacted 2005

Taxpayers having Ohio taxable income of $10,000 or less receive a credit that eliminates their tax liability.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 15.5	$ 15.2	$ 13.2	$ 12.7

Data Source Code: (A)

2.19 Dependent care credit
Ohio Revised Code 5747.054; originally enacted 1988

Taxpayers with qualifying child and dependent care expenses and income below $40,000 can claim a credit based on the federal dependent care credit.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 7.8	$ 6.3	$ 6.3	$ 6.3

Data Source Code: (A)

2.20 Campaign contribution credit
Ohio Revised Code 5747.29; originally enacted 1995

Taxpayers may receive a credit of up to $50 ($100 for a joint return) for campaign contributions to candidates running for statewide office, state representative, or state senator.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 4.5	$ 4.9	$ 4.7	$ 5.1

Data Source Code: (A)

2.21 Lump sum retirement income credit
Ohio Revised Code 5747.055(C) through (E); originally enacted 1972

Lump sum distributions received on account of retirement from a qualified retirement plan may be given special tax treatment. The entire balance in the account must be received during one year.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.3	$ 1.3	$ 1.4	$ 1.5

Data Source Code: (A)

2.22 Displaced worker job training credit
Ohio Revised Code 5747.27; originally enacted 1994

A taxpayer who pays for his or her own job training within 12 months of losing his or her job may claim a tax credit for the cost of the training. The credit is the lesser of $500 or 50 percent of the cost of training.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 0.8	$ 0.9	$ 1.0	$ 1.0

Data Source Code: (A)

2.23 Credit for adoption related expenses
Ohio Revised Code 5747.37; originally enacted 1999

Taxpayers participating in a legal adoption can receive an income tax credit of $1,500 per child.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.4	$ 2.4	$ 2.5	$ 2.5

Data Source Code: (A),(C)

C. Business tax credits

2.24 Historic structure rehabilitation credit[18]
Ohio Revised Code 149.311(A), 5725.151, 5733.47, 5747.76; originally enacted 2007, amended 2008

A tax credit equal to 25% of qualified rehabilitation expenditures is available to owners of historic structures.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 24.7	$ 40.6	$ 41.9	$ 59.9

Data Source Code: (B)

[18] The credit is also available to qualifying dealer in intangibles taxpayers and corporate franchise taxpayers.

2.25 Technology investment tax credit ("Edison Center" tax credit)[19]
Ohio Revised Code 122.151, 5707.05, 5727.41, 5733.34, 5747.33; originally enacted 1996

A tax credit is available for investors who provide capital for small, Ohio-based research and development and technology transfer companies.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 3.4	$ 4.0	$ 3.9	$ 3.8

Data Source Code: (B)

2.26 Motion picture tax credit[20]
Ohio Revised Code 122.85, 5733.59, 5747.66; originally enacted 2009

A refundable tax credit may be claimed for Ohio production expenditures by eligible motion picture productions. The credit equals 35 percent of the wages of resident cast and crew, and 25 percent of all other eligible expenditures. The credit is based on the lesser of initially-budgeted production expenditures or actual production expenditures. No production may receive more than $5 million in tax credits, and the total amount of issued credits may not exceed $20 million per fiscal biennium (with the exception of the FY10-11 biennium, which was $30 million).

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 0.0	$ 8.5	$ 19.8	$ 9.4

Data Source Code: (B)

2.27 Credit for alternative fuel sold at retail[21]
Ohio Revised Code 5747.77; originally enacted 2007, amended 2010

Through taxable year 2011, alternative fuel sold and dispensed at a metered pump located at a retail service station is subject to a nonrefundable tax credit. E85 blend fuel and blended diesel fuel containing at least 20 percent biodiesel are subject to a credit of 15 cents per gallon during calendar year 2010 and 13 cents per gallon during calendar year 2011. Blended diesel fuel containing at least 10 percent biodiesel but less than 20 percent biodiesel is subject to a 7.5 cents per gallon credit during calendar years 2010 and 2011, and blends containing at least 6 percent biodiesel but less than 10 percent biodiesel are subject to a 3.75 cents per gallon credit for those years.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 0.8	$ 1.0	$ 1.0	$ 0.0

Data Source Code: (B), (C)

D. Tax expenditures with revenue impact below $1 million

2.28 Lump sum distribution credit
Ohio Revised Code 5747.05(D); originally enacted 1972

2.29 Deduction for organ donation expenses
Ohio Revised Code 5747.01(A)(25); originally enacted 2007

2.30 Enterprise zone day care/training credit[22]
Ohio Revised Code 5709.65; originally enacted 1982

[19] This credit is also available to qualifying corporate franchise, public utility, and dealer in intangibles taxpayers.
[20] This credit is also available to qualifying corporate franchise taxpayers.
[21] Corporate franchise taxpayers were eligible for the original version of this tax credit enacted in 2007 but have not been eligible for the credit since tax year 2010.
[22] This credit is also available under the dealer in intangibles tax and insurance premiums tax.

2.31 Enterprise zone employee credit
Ohio Revised Code 5709.66; originally enacted 1994

2.32 Grape production credit
Ohio Revised Code 5733.32, 5747.28; originally enacted 1995

2.33 Ethanol plant investment credit
Ohio Revised Code 901.13, 5733.46, 5747.75; originally enacted 2002

Corporate Franchise Tax

The corporate franchise tax was first levied in 1902, on the value of capital stock located in Ohio. An alternative tax base, net income, was added in 1972. In tax year 2005 (the last year before the tax began to be phased down), 72 percent of corporate franchise tax liability was based on net income. However, by tax year 2010 almost the entire tax will again be based on net worth; furthermore, the tax will generate a mere fraction of the revenue that was produced in tax year 2005.

The reason for the nearly complete repeal of the tax is the enactment of a business tax reform package in 2005 (Am. Sub HB 66, 126th General Assembly). Under that 2005 law change, the corporate franchise tax was phased out by 20 percentage-point increments over a five-year period (tax years 2006-2010) for all but financial institutions, affiliates of financial institutions, and affiliates of insurance companies. The phase-out of the corporate franchise tax coincides with the phase-in of the commercial activity tax. Other than for the corporate entities listed above, beginning in 2010 the corporate franchise tax was repealed.

Tax Base and Tax Rate

Regular (non-financial institution) corporate franchise taxpayers pay tax on the highest of three tax computations:
1. Net worth tax: Ohio net worth, multiplied by 4.00 mills; maximum $150,000 liability.
2. Net income tax: Ohio net income, multiplied by 5.1 percent on the first $50,000 and 8.5 percent on any excess above $50,000.
3. Minimum tax: $50 for small taxpayers; $1,000 for larger taxpayers.

Financial institution corporate franchise taxpayers are subject to a 13 mill (1.3 percent) tax on net worth, with a minimum tax of $50 or $1,000.

Significant Changes Enacted by the 128th General Assembly

The only notable change during the previous General Assembly was the enactment of the New Markets Tax Credit (Am. Sub. House Bill 1). The credit is available only to projects for which a federal New Markets Tax Credit has been approved. See below for a brief explanation and the estimated revenue impact of this new credit.

Corporate Franchise Tax Expenditures in this Report

This report has been structured to reflect tax expenditures in effect during fiscal years 2012 and 2013. A limited set of corporations will remain as regular corporate franchise taxpayers even after the full implementation of the tax reform changes enacted by HB 66, so most tax expenditures for regular corporate franchise taxpayers still technically remain in existence. But because there are relatively few remaining regular corporate franchise taxpayers, the revenue impact from tax expenditures used by those entities will be small. For this reason, we have excluded all regular corporate franchise tax expenditures from this report. Only those expenditures available to financial institution taxpayers are in this report.

Excluded from the report is a refundable tax credit to defray the losses of lenders to the venture capital program created under Am. Sub. SB 180 (124th General Assembly). While the credit could have a fiscal impact during the time period reflected in this report, the Department has no data to estimate the possible value of that credit.

Corporate Franchise Tax Expenditure Estimates

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure. The tax expenditure estimates were primarily based on information taken from corporate franchise tax returns filed with the Department of Taxation.

NOTE: See page 4 for description of data source codes.

3.01 Goodwill, appreciation, and abandoned property of financial institutions
Ohio Revised Code 5733.056(B)(4); originally enacted 1933

The values of goodwill, appreciation, abandoned property, and investments in production credit associations are exempted from the net worth tax base of financial institutions.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 111.9	$ 115.2	$ 119.6	$ 123.0

Data Source Code: (A)

3.02 Credit for financial institution investment in a dealer in intangibles
Ohio Revised Code 5733.45; originally enacted 2001

Financial institutions are allowed a nonrefundable credit which is lesser of (a) the amount of tax paid by a qualifying dealer in intangibles under ORC chapter 5707, or (b) the cost of the financial institution's ownership interest in a qualifying dealer in intangibles multiplied by the dealer's Ohio ratio computed under ORC section 5725.15 multiplied by eight mills.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.4	$ 1.4	$ 1.4	$ 1.4

Data Source Code: (A)

3.03 State chartered savings and loan credit
Ohio Revised Code 5733.063; originally enacted 1983

A credit is allowed equal to the difference between the assessment paid by state-chartered savings and loan associations to the Division of Savings and Loans and the amount paid in supervisory fees to the Federal Savings and Loan Insurance Corporation.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.5	$ 1.5	$ 1.5	$ 1.5

Data Source Code: (A)

3.04 New markets tax credit[23]
Ohio Revised Code 5725.33, 5729.16, 5733.58; originally enacted 2009

Taxpayers with an equity investment in a qualified community development entity may claim a nonrefundable tax equal to a designated percentage of the adjusted purchase price of qualified low-income community investments. The credit percentage is zero percent in the first two years of the investment, 7 percent in the third year of the investment, and 8 percent in each of the four following years (for a total credit of 39 percent).

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 0.0	$ 0.0	$ 0.0	$ 1.7

Data Source Code: (C)

[23] This credit is also available under the domestic insurance premiums tax and foreign insurance premiums tax.

Commercial Activity Tax

Established by Am. Sub. House Bill 66 (126th General Assembly) and made effective on July 1, 2005, the commercial activity tax (CAT) is a business privilege tax measured by gross receipts on business activities in this state. The tax was a central element in the tax reform package enacted by HB 66. The CAT now serves as Ohio's primary business tax, replacing both the tangible personal property tax and the corporate franchise tax.

Taxpayers

The CAT applies to business entities with taxable gross receipts of more than $150,000 per calendar year. The tax applies to most businesses above the $150,000 threshold, regardless of organizational form: sole proprietorships, partnerships, LLCs, and corporations are subject to the tax. Although the tax applies to most kinds of business entities, there are some notable exemptions. Non-profit entities are exempt from the tax. A fairly limited number of other businesses, such as certain types of public utilities, insurance companies, financial institutions, and the affiliates of insurance companies and financial institutions, are also exempt from the tax since they are subject to an alternative tax. The CAT applies whether the business is based in this state or is located outside of this state as long as that business has "substantial nexus" with this state.

The tax is paid on an annual or quarterly basis. Each May, taxpayers with annual taxable gross receipts of $1 million or below must file an annual return and pay a $150 annual tax. All other taxpayers report and pay the tax on a quarterly basis, with the return and payment due by the 10th day of the second month following the end of the calendar quarter (for example, taxes for the third quarter of 2010 were required to be paid by November 10, 2010).

Tax Base

The CAT is measured by taxable gross receipts on business activities within the state, defined as the total amount realized, without deduction for the cost of goods sold or other expenses incurred, from activities that contribute to the production of gross income. Certain types of receipts are excluded from the definition of taxable gross receipts, including (but not limited to) cash discounts, certain types of interest, dividend, and capital gains income, income in the form of repayment principal of a loan, and gifts or charitable contributions.

Tax Rate

The CAT is levied at a rate of 0.26% on annual taxable gross receipts in excess of $1 million. Each taxpayer pays $150 on its first $1 million in annual taxable gross receipts.

Definition of Commercial Activity Tax Expenditures

The following characteristics are designated as meeting the definition of a CAT tax expenditure: (1) any exclusion, deduction or credit *not* contained in Ohio Revised Code (ORC) sections 5751.01 or 5751.011; or (2) any gross receipts exclusion or deduction contained in ORC sections 5751.01 or 5751.011 that benefits a specific class of taxpayers. In all cases, the exclusion, deduction, or credit must produce tax savings for taxpayers and an associated loss in state GRF tax revenue in order to be considered a tax expenditure.

Significant Changes Enacted by the 128th General Assembly

Changes were made to several tax credit programs by Am. Sub. House Bill 1. The bill changed the job creation tax credit in various ways. The basis for computing the annual tax credit was altered. Instead of being based on the withholding tax associated with new employees, the credit is now based on the amount by which (1) the Ohio income tax withholding on the wages and salaries of employees located at project site exceeds (2) baseline income tax withholding (i.e., withholding on employees during the 12 months immediately preceding the beginning of the agreement, with an annual pay increase factor determined by the Tax Credit Authority). The legislation also changed the length of time a company must maintain operations at the project site, and the consequences if those operations are terminated early.

The job retention tax credit was also amended by this legislation. The amount of minimum required capital investment at the project site was reduced, and the requirement pertaining to the minimum number of retained employees at the site was altered. Other notable changes to the credit included: setting an annual "cap" on the aggregate amount of credits that may be issued in any year; making domestic and foreign insurance companies eligible for the credit; and allowing the withholding tax on part-time employees to be included in the tax credit computation.

A bill enacted by the 129th General Assembly in March 2011 also affected the job retention tax credit. Sub. House Bill 58 allows a refundable version of the job retention tax credit to be issued to a taxpayer meeting certain conditions. To qualify for the refundable credit, a taxpayer must have at least 1,000 employees located at the project site and must make capital investments at the site totaling at least $25 million over a qualifying three-year period. Furthermore, during 2010 the business taxpayer must have received from another state a written offer of financial incentives sufficiently large to induce it to relocate its operations from Ohio to that state. No more than $8 million in aggregate refundable job retention tax credits may issued in any calendar year.

Commercial Activity Tax Expenditure Estimates

The estimates of these tax expenditures are based on various data sources. Some of the estimates use data reported to the Department of Taxation while other estimates were generated using secondary data sources, such as economic data reported by the U.S. Bureau of the Census. We should note that many of the CAT expenditure estimates in this report are based on estimates that were produced during the HB 66 legislative process.

This report reflects the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure. For most of the taxes included in this report, the General Revenue Fund accounts for a specific percentage share of tax receipts, as provided in Ohio law. In such cases, we are able to fairly easily ascertain the portion of the total amount of a tax expenditure that is attributable to the General Revenue Fund (GRF).[24] The most notable exception to this simple "percentage-based" standard involves commercial activity tax expenditures: their impact on the GRF is not as simple to identify because of the unique manner for which revenue from that tax is to be used.

The 2005 tax reform legislation that enacted the commercial activity tax also repealed the local tangible personal property tax and - for most taxpayers - the state corporation franchise tax (Am. Sub. H.B. 66, 126th General Assembly). To ameliorate the local fiscal impact of repealing the tangible personal property tax, a fairly complex revenue replacement mechanism tied to local 2004 base-year personal property tax valuation levels was established for school districts and local governments. These payments will soon begin to phase-out, with full repeal in FY 2019. That said, current law provides 70 percent of commercial activity tax revenue to school districts even after the replacement payments begin to decline.[25] Local governments, on the other hand, are to receive no commercial activity tax revenue beyond the amount needed to make the prescribed replacement payments.

A central feature of the replacement payments is the requirement for the GRF to make up any shortfall between available commercial activity tax revenue and the replacement payments to school districts and local governments. During the FY11 through FY13 period, the payments to both schools and local governments are projected to exceed commercial activity tax revenues, thereby requiring the GRF to make up that difference and essentially subsidize the replacement payments (as occurred during FY10). The size of this subsidy is difficult to project, but is expected to exceed the revenue foregone from any one of the indicated commercial activity tax expenditures.[26] As a result of this expected subsidy and because of the benefit of providing a simple yet reasonable reporting convention, **the report reflects the assumption that the GRF bears the full revenue impact of each commercial activity tax expenditure during the FY10-FY13 period.**

NOTE: See page 4 for description of data source codes.

[24] As indicated above, the estimated "gross" (or "all-funds") revenue impact of each tax expenditure is not reflected in this report; only the estimated impact on the state GRF is included.
[25] The difference between the aggregate 70 percent-of-CAT funding level and the aggregate phased-down replacement payments is to be used for "school purposes," but no formula yet exists that specifically designates how that revenue will be distributed among schools.
[26] There may be one exception: the revenue impact of the $1 million exclusion may exceed the amount of the GRF subsidy.

A. Exclusions and deductions

4.01 Exclusion of first $1 million of taxable gross receipts
Ohio Revised Code 5751.03; originally enacted 2005

The first $1 million of each taxpayer's annual taxable gross receipts are not subject to the commercial activity tax rate. Instead, each taxpayer pays $150 on its first $1 million in annual taxable gross receipts.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 197.0	$ 207.0	$ 211.0	$ 215.0

Data Source Code: (A)

4.02 State and federal fuel excise tax exclusion
Ohio Revised Code 5751.01(F)(2)(r); originally enacted 2005

An amount equal to federal and state motor fuel excise taxes paid is excluded from the taxable gross receipts realized from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 32.1	$ 32.1	$ 32.0	$ 32.0

Data Source Code: (A),(B)

4.03 Qualifying distribution center receipts exclusion
Ohio Revised Code 5751.01(F)(2)(z); originally enacted 2006

Purchases made by a qualifying Ohio distribution center, and destined for a location outside of Ohio, are excluded from the supplier's taxable gross receipts. A qualifying Ohio distribution center is a facility in which the center's total sales exceed $500 million and more than 50% of the center's total sales are shipped to a location outside of Ohio.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 56.0	$ 56.0	$ 56.0	$ 56.0

Data Source Code: (A)

4.04 State and federal cigarette excise tax exclusion
Ohio Revised Code 5751.01(F)(2)(q); originally enacted 2005

An amount equal to federal and state excise taxes paid for cigarette or tobacco products is excluded from the taxable gross receipts from the sale of such cigarette or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer or seller.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 5.8	$ 5.7	$ 5.5	$ 5.3

Data Source Code: (A),(B)

4.05 Exclusion of real estate brokerage gross receipts that are not retained
Ohio Revised Code 5751.01(F)(3); originally enacted 2005

In the case of a taxpayer when acting as a real estate broker, any fees not retained by the broker are not included in the broker's taxable gross receipts.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.2	$ 1.2	$ 1.2	$ 1.2

Data Source Code: (C)

4.06 State and federal alcoholic beverage excise tax exclusion
Ohio Revised Code 5751.01(F)(2)(s); originally enacted 2005

An amount equal to federal and state excise taxes paid for beer or intoxicating liquor is excluded from the taxable gross receipts from the sale of such beer or intoxicating liquor.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.9	$ 1.9	$ 1.9	$ 1.9

Data Source Code: (A),(B)

4.07 Professional employer organization exclusion
Ohio Revised Code 5751.01(F)(2)(x); originally enacted 2005

Property, money, and other amounts received by a professional employer organization from a client employer, in excess of the administrative fee charged by the professional employer organization to the client employer, is excluded from the taxable gross receipts of the professional employer organization.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.4	$ 2.4	$ 2.4	$ 2.4

Data Source Code: (B)

4.08 Motor vehicle transfer exclusion
Ohio Revised Code 5751.01(F)(2)(t); originally enacted 2005

Receipts realized by a new or used motor vehicle dealer from the sale or transfer of a motor vehicle to another dealer when the sole purpose of the sale or transfer is to meet a specific customer's preference for a motor vehicle are excluded from taxable gross receipts of motor vehicle dealers.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.7	$ 1.7	$ 1.7	$ 1.7

Data Source Code: (C)

4.09 Exclusion of certain services to financial institutions
Ohio Revised Code 5751.01(F)(2)(u); originally enacted 2005

Exclusion of receipts received from a financial institution for certain services provided to the financial institution, as long as the financial institution and the entity providing those services share common ownership.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.0	$ 1.0	$ 1.0	$ 1.0

Data Source Code: (C)

B. Tax credits

4.10 Credit for increased qualified research and development expenses[27]

Ohio Revised Code 5733.351 and 5751.51; originally enacted 2002

Taxpayers may take a nonrefundable credit equal to 7 percent of the increased qualified research expenses incurred in Ohio.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 13.9	$ 14.2	$ 14.6	$ 16.0

Data Source Code: (A)

4.11 Job creation credit[28]

Ohio Revised Code 122.17, 5725.32, 5729.032, 5733.0610(A), 5747.058(A), and 5751.50(A); originally enacted 1993

A qualifying business may be granted a refundable tax credit though an agreement with the Ohio Tax Credit Authority. The credit is a designated percentage of the amount of a company's "excess income tax revenue," defined as the amount by which the actual Ohio individual income tax withholding on its employees' wages exceeds baseline income tax withholding.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 53.5	$ 54.6	$ 55.7	$ 56.8

Data Source Code: (B)

4.12 Job retention tax credit[28]

Ohio Revised Code 122.171, 5733.0610(B), 5747.058(B), and 5751.50(B); originally enacted 2003

An eligible business may be granted a nonrefundable tax credit though an agreement with the Ohio Tax Credit Authority. The credit is equal to a designated percentage of the employees' Ohio individual income withholding tax (not to exceed 75 percent) over a period of up to 15 years. An eligible business is defined as one that: (1) employs at least 500 full-time equivalent employees at the site, and (2) either operates at the project site primarily as a manufacturer and makes at least $50 million in capital investments at the site, or is primarily engaged at the site in providing significant corporate administrative functions and makes at least $20 million in capital investments at the site. If the eligible business employs at least 1,000 employees at the site, makes at least $25 million in capital investments at the site, and during 2010 received an offer of financial incentives from another state sufficient to relocate to that state, it may qualify for a refundable credit.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 4.5	$ 11.5	$ 16.5	$ 21.5

Data Source Code: (A),(B)

[27] The credit is also available against the corporate franchise tax. This estimate includes the estimated credit amount attributable to that tax.

[28] This credit is also available against the domestic insurance tax, foreign insurance tax, corporate franchise tax, and individual income tax (as long as the sole proprietor or pass-through entity is not claiming the credit against the commercial activity tax). This estimate includes the estimated credit amount attributable to those taxes.

4.13 Credit for net operating loss carryforwards and other deferred tax assets
Ohio Revised Code 5751.53; originally enacted 2005

Beginning in calendar year 2010, qualifying taxpayers may claim a nonrefundable tax credit equal to 8 percent of the taxpayer's franchise tax net operating loss carryforwards and other deferred tax items. The credit allowed to be claimed in any given year equals 10 percent of the total generated credit and any credit carried forward from a previous year, but may not exceed 50 percent of the taxpayer's commercial activity tax liability for that year.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.3	$ 8.0	$ 8.0	$ 8.0

Data Source Code: (A)

C. Tax expenditures with revenue impact below $1 million

4.14 Research and development loan program credit
Ohio Revised Code 5733.352, 5751.52; originally enacted 2003

4.15 Exemption for pre-1972 trusts
Ohio Revised Code 5751.01(E)(11); originally enacted 2005

4.16 Anti-neoplastic drug exclusion
Ohio Revised Code 5751.01(F)(2)(v); originally enacted 2005

4.17 Horse racing taxes and purse exclusion
Ohio Revised Code 5751.01(F)(2)(y); originally enacted 2005

Public Utility Excise Tax

The public utility excise tax is levied on companies classified by statute as public utilities. Originally enacted in 1894, the present tax structure was established in 1911. Historically, electric, natural gas, and local telephone companies have accounted for the bulk of total public utility excise tax revenue collections. However, in 2001, electric and rural electric companies became subject to the kilowatt hour tax and electric companies also became subject to the corporate franchise tax (Am. Sub. Senate Bill 3, 123rd General Assembly), and these entities were no longer subject to the public utility excise tax. In 2005, telephone companies became subject to the corporate franchise tax, their services became subject to the sales and use tax, and they became exempt from the public utility excise tax (Am. Sub. House Bill 95, 125th General Assembly).

Tax Base

Gross receipts for natural gas, pipeline, heating, water transportation, and water works companies.[29] There is a minimum tax of $50 for each tax year.

Tax Rate

4.75 percent, except pipeline companies pay 6.75 percent.

Public Utility Excise Tax Expenditures

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure. We have also attempted to reflect the impact of a possible "overlapping" provision (i.e., another credit, exclusion or exemption available to the taxpayer) that effectively reduces the revenue consequences associated with the tax expenditure.

Data are primarily from public utility tax returns and other sources from the Ohio Department of Taxation. Data from the U.S. Census Bureau was also used.

NOTE: See page 4 for description of data source codes.

[29] In 2001, natural gas companies began to pay their public utility excise tax on a different schedule (Am. Sub. Senate Bill 215, 123rd General Assembly). Additionally, these companies became subject to the natural gas consumption tax to mitigate the impact of a reduction in their tangible personal property tax (Am. Sub. Senate Bill 287, 123rd General Assembly).

5.01 Exemption for municipal utilities and non-profit waterworks
Ohio Revised Code 5727.05; originally enacted 1896

Municipal utilities and non-profit corporations that are engaged exclusively in the treatment, distribution, and sale of water to consumers are exempt from the public utility excise tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 68.1	$ 69.5	$ 71.1	$ 72.6

Data Source Code: (B)

5.02 Credit for certain natural gas companies
Ohio Revised Code 5727.29; originally enacted 2000

Natural gas companies that pay the public utility excise tax on a current-quarter system are granted a tax credit for the transition costs from the previous tax schedule.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 8.1	$ 8.1	$ 8.1	$ 8.1

Data Source Code: (A)

Tax expenditures with revenue impact below $1 million

5.03 $25,000 exemption from gross receipts for each public utility company
Ohio Revised Code 5727.33; originally enacted 1934, revised 2004

5.04 Sales to other public utilities for resale
Ohio Revised Code 5727.33(B)(4); originally enacted 1961, revised 2004

Kilowatt Hour Tax

Am. Sub. Senate Bill 3 (123rd General Assembly) re-structured the electric industry in Ohio. Prior to this bill, electric companies had been subject to the public utility excise tax, and they were subject to higher assessment rates on their tangible personal property than general business taxpayers. Among other things the bill removed electric companies from the public utility excise tax and subjected them to the corporate franchise tax (which has since been repealed for most entities). The legislation also lowered the assessment rate on much of their tangible personal property. To replace the revenue loss caused by shifting from the utility excise tax to the corporate franchise tax and to replace the reduced property tax revenues, SB 3 created the kilowatt hour tax. This tax is levied on the electric distribution company and is based upon the end user's consumption of electricity, measured in kilowatt hours. However, qualifying large consumers of electricity may instead choose to self-assess the tax, which is based on the amount of kilowatt hours of electricity consumed and a tax rate structure specific to self-assessors. The kilowatt hour tax became effective in May 2001.

Tax Base

Kilowatt Hour Tax Base: Amount of kilowatt hours distributed to the end consumer.

Self-Assessor Option Base: Amount of kilowatt hours consumed.

Tax Rate

Kilowatt Hour Tax:

Kilowatt Hours Distributed to the End Users per Month	Rates per Kilowatt Hour
0 – 2,000 Kilowatts	$0.00465
2,001 – 15,000 Kilowatts	$0.00419
Over 15,000 Kilowatts	$0.00363

Self-Assessor Option Tax: The sum of 0.257 cents per kilowatt hour (kWh) on the first 500 million kWh consumed per year, and 0.1832 cents per kWh for each remaining kWh consumed.

Significant Changes Enacted by the 128th General Assembly

Am. Sub. House Bill 1 altered the self-assessor option tax. Effective January 1, 2011, the portion of the self-assessor tax based on the amount spent on electricity purchases was eliminated, replaced by an entirely volumetric-based tax. The new rate structure is provided above and is reflected, as appropriate, in the tax expenditure estimates below.

Kilowatt Hour Tax Expenditure Estimate

The figures provided below reflect the estimated revenue foregone by the state General Revenue Fund. The portion of the tax attributable to the School District Property Tax Replacement Fund, Local Government Property Tax Replacement Fund, Local Government Fund, and Public Library Fund is not included in the estimates.

Data used to estimate the expenditure was primarily from tax return filings and industries affected by the tax expenditure. Information from the Energy Information Agency (U.S. Department of Energy) was also used.

NOTE: See page 4 for description of data source codes.

6.01 Exemption for qualified end-users
Ohio Revised Code 5727.81(D); originally enacted 1999

Exempts from the kilowatt hour tax the distribution of any kilowatt hours of electricity to certain end users: essentially the federal government, an end user at a federal uranium enrichment facility, or a very large-volume (in terms of electricity usage) manufacturing location.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.7	$ 3.6	$ 4.7	$ 4.8

Data Source Code: (A),(B),(C)

Insurance Premium Taxes

The domestic insurance tax was created in 1830 with a 4.0 percent property tax on dividends paid by insurance companies. In 1933, the insurance companies' tax was changed to tax the lesser of 0.2 percent on capital and surplus or 1.67 percent of gross premiums. The franchise tax rate on gross premiums increased to 2.5 percent in 1971. The tax rate on capital and surplus increased to 0.6 percent in 1981.

The foreign insurance tax was created in 1830, with a 4.0 percent property tax on profits from premiums. In 1852, the value of gross premiums (rather than profits from premiums) was subject to the tax. In 1888, a supplemental tax was levied on gross premiums, and when added to the property tax it produced an effective tax rate of 2.5 percent on gross premiums. A direct 2.5 percent gross premiums tax was created in 1902.

Am. Sub. House Bill 215 of the 122nd General Assembly made numerous changes to the domestic and foreign insurance premium taxes, including changes to the rates and bases of the two taxes. These changes were fully phased in by tax year 2003, at which time the two taxes shared the same gross premiums and tax rate (1.4 percent). The bill also established a small insurers' tax credit, along with a minimum tax of $250.

Tax Base

The domestic and foreign insurers' tax base is the gross amount of premiums covering risks in Ohio, less specified deductions.

Tax Rate

Domestic and foreign insurers are taxed at 1.4 percent of gross premiums. Foreign insurers are also subject to retaliatory provisions. Fire insurance is subject to an additional 0.75 percent tax on gross premiums. Instead of the 1.4 percent tax rate, a 1.0 percent tax rate is applied to health insurance corporations.

Insurance Premium Tax Expenditure Estimates

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure.

Data for these tax expenditures are from the Ohio Department of Insurance and the Ohio Life and Health Guaranty Association. Assistance was also provided by these organizations regarding the projected growth of these tax expenditures.

NOTE: See page 4 for description of data source codes.

7.01 Deduction for premiums received from qualified small business alliances
Ohio Revised Code 1731.07; originally enacted 1993

An insurer may deduct amounts received from underwriting a health care plan under the qualified small employer health care alliance program. The deduction is allowed on premiums or other charges received from, or on behalf of, an enrolled small employer and eligible employees and retirees covered by the health benefit plan.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 15.5	$ 18.3	$ 21.7	$ 26.0

Data Source Code: (B)

7.02 Credit for small insurers
Ohio Revised Code 5729.031; originally enacted 1999

A foreign or domestic insurance company or insurance company group, with less than $75 million in premiums sold in all states by the company or group, may take a tax credit of up to a maximum of $200,000 against its foreign or domestic insurance premium tax liability. The credit is based on the ratio derived by dividing the company's or group's premiums sold in all states by $75 million. This ratio is multiplied by $200,000 to yield the tax credit amount.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 2.5	$ 2.4	$ 2.3	$ 2.2

Data Source Code: (B)

7.03 Ohio Life and Health Guaranty Association contribution credit
Ohio Revised Code 3956.20; originally enacted 1989

Members of the Ohio Life and Health and Guaranty Association make contributions to a fund used to pay Ohioans with insurance policies held by bankrupt companies. Members are able to use their contribution as a credit on the state franchise or premium tax return. Each year's credit equals 20 percent of the contributed amount. The contribution credit may be claimed over five years. Therefore, by the end of the five-year period the total cumulative credit received by the taxpayer equals the full amount it had contributed to the fund.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.2	$ 1.3	$ 1.3	$ 1.3

Data Source Code: (B)

Cigarette and Other Tobacco Products Taxes

The excise tax on cigarettes was first levied in 1931. The tax rate ranged from its original 2 cents per pack to 15 cents in 1971. The rate was reduced to 14 cents per pack in 1981 and cigarette sales became subject to the sales tax. The rate was increased to 24 cents per pack in January, 1993. It was increased to 55 cents per pack on July 1, 2002. The current rate of $1.25 per pack became effective July 1, 2005.

The excise tax on other tobacco products was levied beginning February, 1993. The current rate is 17 percent of the wholesale price.

Tax Base

The sale, use, consumption, or storage of cigarettes in Ohio. The receipt or import of other tobacco products for resale.

Tax Rate

6.25 cents per cigarette ($1.25 per pack of 20 cigarettes). 17 percent on the wholesale price of other tobacco products.

Cigarette and Other Tobacco Products Tax Expenditure Estimates

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure.

NOTE: See page 4 for description of data source codes.

8.01 Discount for cigarette tax stamps
Ohio Revised Code 5743.05; originally enacted 1934, revised 2006

Cigarette excise taxpayers are eligible to receive a discount when purchasing cigarette excise tax stamps or meter impressions as a commission for affixing and canceling the stamps or meter impressions. Under Ohio law, the value of this discount shall not be less than 1.8 percent of more than 10 percent of the face value of the tax stamps and meter impressions, with the exact rate to be set by rule. Under the current rule, the rate of this discount is 1.8 percent. Cigarette excise taxpayers shall not receive this tax stamp discount on payments made when filing a monthly or semi-monthly return.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 14.5	$ 13.9	$ 13.3	$ 12.7

Data Source Code: (A)

Tax expenditures with revenue impact below $1 million

8.02 Discount for timely payment of other tobacco products' excise tax
Ohio Revised Code 5743.52; originally enacted 1993

Alcoholic Beverage Tax

In 1933, the year prohibition was repealed, the Department of Liquor Control was created and the General Assembly enacted tax levies on beer, wine, and other non-spirituous beverages. A liquor gallonage tax was added a year later. As of July 1, 1997, the Department of Liquor Control was changed to a division and was transferred to the Department of Commerce. The Division of Liquor Control administers the liquor gallonage tax. The Department of Taxation administers the tax on all other alcoholic beverages.

Tax Base

Sales by volume of the following non-spirituous beverages: beer, cider, malt liquor, wine, mixed beverages and malt.

Tax Rates

Beer	
Barrel (31 gallons)	$5.58
Containers over 12 ounces	0.84 cent per six ounces
Containers 12 ounces or less	0.14 cent per ounce
Wine	
Less than 14% alcohol by volume	32 cents per gallon
14% to 21% alcohol by volume	$1.00 per gallon
Vermouth	$1.10 per gallon
Sparkling Wine, Champagne	$1.50 per gallon
Other	
Mixed Beverages	$1.20 per gallon
Cider	24 cents per gallon

Alcoholic Beverage Tax Expenditures

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure.

Various data sources were used to derive the tax expenditure estimates. Most of the tax expenditure estimates were based on information taken from returns filed with the Department of Taxation.

NOTE: See page 4 for description of data source codes.

9.01 Advanced payment credit/discount
Ohio Revised Code 4303.33; originally enacted 1963

Beer and malt beverage permit holders are eligible to receive a 3.0 percent credit on advance payments made on or before the 18th of the covered month. In addition, they can receive a discount equal to the lesser of 3.0 percent of the payment remaining after deducting the advance payment, or 0.3 percent of the advance payment (as long as the full monthly payment is received by the 10th of the month for the previous month's liability). Wine and mixed beverage permit holders are eligible to receive a 3.0 percent credit on payments made on or before the 18th of the previous month's tax liability.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 1.4	$ 1.4	$ 1.4	$ 1.4

Data Source Code: (A)

Tax expenditures with revenue impact below $1 million

9.02 Sacramental wine exemption
Ohio Revised Code 4301.23; originally enacted 1937

9.03 Small brewer's credit
Ohio Revised Code 4303.332; originally enacted 1982

9.04 Small wine producer's exemption
Ohio Revised Code 4303.333, 4303.23, 4303.071; originally enacted 1982, revised 2008

Estate Tax

The inheritance tax was enacted in 1893 and levied on individual successions to property within the estate. In 1968, this inheritance tax was repealed and an estate tax was levied, shifting the tax base from individual heirs to the decedent's estate.

For estates with dates of death on or after January 1, 2002, 80 percent of the tax liability is distributed to the municipal corporation or township in which the assets of the estate are located and 20 percent is distributed to the state (the local-state revenue split is different for estates with dates of death before January 1, 2002). Although most local jurisdictions receive little or no estate tax revenue in any given year, there is nonetheless a considerable degree of variability in how localities are impacted by the estate tax. According to a 2006 Ohio Department of Taxation study on the Ohio estate tax, nearly 75 percent (1,647) of all townships and municipalities received less than $10 per capita in estate tax revenue in 2004. In contrast, roughly 300 jurisdictions (13 percent of all municipalities and townships) received an amount exceeding $20 per capita in 2004; of these jurisdictions, 32 received over $100 per capita. That said, note that the estimates in this report reflect only the state General Revenue Fund (20 percent of total estate tax revenues), and excludes the impact on local governments (80 percent of total estate tax revenues).

Tax Base

The taxable estate is the market value of the gross estate less deductions.

Tax Rates

All estates receive a tax credit equal to the lesser of the estate's tax liability or $13,900. Estates with taxable value of $338,333 and below are exempt from the estate tax because the tax credit completely offsets their tax liability.

The tax imposed shown in the table below applies to estates with a date of death on or after January 1, 2002, and is *prior* to the tax credit.

Taxable Estate Value Brackets	Tax Imposed (before $13,900 credit)
$338,334 – $500,000	$13,900 + 6% of excess over $300,000
$500,001 and over	$23,600 + 7% of excess over $500,000

Estate Tax Expenditure Estimates

The estimates shown below reflect the estimated revenue foregone by the state General Revenue Fund from each indicated tax expenditure. Therefore, the estimates exclude the impact on local governments, which represents about 80 percent of total estate tax revenue.

Data for these estimates are based upon estate tax returns finalized during fiscal year 2010.

NOTE: See page 4 for description of data source codes.

Estate Tax

A. Deductions

10.01 Marital deduction
Ohio Revised Code 5731.161; originally enacted 1983

The portion of the estate passed on to the surviving spouse may be deducted from the gross estate value.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 46.3	$ 44.9	$ 46.7	$ 48.6

Data Source Code: (A)

10.02 Funeral and administration expenses and debts against estate
Ohio Revised Code 5731.16; originally enacted 1968

Funeral and administration expenses and debts claimed against the estate may be deducted from the gross estate value.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 9.2	$ 9.2	$ 9.2	$ 9.2

Data Source Code: (A)

10.03 Deduction of qualified charitable contributions
Ohio Revised Code 5731.17; originally enacted 1968

Qualified charitable contributions may be deducted from the gross estate value.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 10.3	$ 10.3	$ 10.3	$ 10.3

Data Source Code: (A)

B. Tax credit

10.04 Credit for each estate
Ohio Revised Code 5731.02(B); originally enacted 1983, revised 2000

Estates with dates of death on or after January 1, 2002 are allowed a credit equal to the lesser of $13,900 or the amount of the tax.

(Dollar Amounts in Millions)

Estimates:	FY 2010	FY 2011	FY 2012	FY 2013
	$ 34.3	$ 34.3	$ 34.3	$ 34.3

Data Source Code: (A)