

A REPORT FROM:

POLICY MATTERS OHIO

STRENGTHEN, DON'T SCRAP,
OHIO'S CORPORATE FRANCHISE TAX

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Executive Summary

Ohio stands on the brink of eliminating its corporate income tax for nonfinancial companies, known as the corporate franchise tax. Under the budget bill passed by the House of Representatives in April, the corporate franchise tax would be replaced, along with the tax on tangible personal property, with a new gross receipts tax called the Commercial Activity Tax. This would make Ohio one of only six states in the country without a corporate income tax. While the CAT has some positive features, it should not be used to replace the corporate franchise tax for a number of reasons.

Everyone agrees that the franchise tax has been weakened so that it does not produce the revenue it once did. Many of the state's largest companies are paying the yearly minimum of \$1,000 because they are able to plan around the tax system, shifting their income to other states and reducing their liability for Ohio corporate franchise tax. A major reason for the weakness of the tax is state legislation that has allowed it to be legally circumvented. For example, the General Assembly in 1999 capped how much companies must pay on their net worth. As many as 19 of the state's top 50 companies benefited from this cap in tax year 2004, saving millions of dollars. It would be bad policy first to weaken a tax, and then eliminate it because it has been weakened. A better approach would be to strengthen it, which could be done easily enough through steps cited below. These include measures to keep companies from planning around the tax.

Even though many big companies manage to limit what they pay under the franchise tax, a number of others continue to pay a significant amount. In tax year 2003, the last year for which such data are available, 95 companies paid at least \$1 million, or \$204.5 million in total. Though collections remain hundreds of millions of dollars below late 1990s levels, they increased 30 percent in the first 10 months of fiscal 2005, to \$774 million. This indicates that the tax remains viable.

Wiping out the corporate franchise tax would mean that highly profitable companies no longer would have any obligation to pay taxes based on their profits, violating a bedrock principle of fair taxation. Some companies would pay millions of dollars less than they do now. Yet it likely would add to the tax burden on low- and middle-income taxpayers, who already pay more of their income in state and local taxes than do affluent Ohioans. Manufacturers are not unduly burdened by the corporate franchise tax, so its abolition is not likely to spur manufacturing investment.

Perhaps most importantly, under the bill passed by the House, the CAT would not come close to substituting for the amount of taxes being collected under the levies that it would replace. When fully implemented in fiscal year 2011, the CAT would generate a projected \$1.61 billion, without accounting for new exemptions in the House budget bill. That is far short of the \$2.26 billion in estimated taxes that will be eliminated. This would reinforce the long-term trend in Ohio for taxes to shift from business to individuals, and leave a revenue hole of hundreds of millions of dollars a year for future legislatures to fill. If a Commercial Activity Tax is imposed, it should be at a considerably higher rate

than that proposed by Gov. Taft and approved by the House, to make up for all of the taxes it is replacing and the shrinking business share of the state and local tax load.

The CAT would sharply reduce the number of credits and exemptions that businesses may receive compared to those available on the corporate franchise tax, or the abatements companies receive on tangible personal property. However, it likely would be a magnet for business complaints about the unfairness of paying a tax unrelated to business conditions. In fact, legislators already are carving out exemptions, a point that the Taft Administration has criticized in the House-approved budget. A state tax department official has estimated three of the House changes would cost upwards of \$100 million a year in revenue by fiscal year 2010. That is in addition to \$100 million in annual credits included in the original proposal.

Critics argue that Ohio's corporate franchise tax should be eliminated because its relatively high rate discourages businesses from operating here. However, Ohio ranks well below average in how much revenue the tax brings in. Most companies are likely to review the taxes they would actually pay, not tax rates that may never be imposed in reality. In any event, taxes are a secondary factor in corporate location decisions. One recent report commissioned by the Ohio Department of Development found that the CAT would be better for the Ohio economy than the two taxes it is designed to replace. But the difference is tiny, and uncertainties such as which companies ultimately would pay the CAT make it hard to predict the effect one way or the other.

Ohio should adopt the following reforms to bolster the franchise tax while making it fairer to those who already pay, and to make sure business pays its fair share of state and local taxes:

- Require companies to report all of their related operations in a single, combined tax filing, cutting down tax planning that shifts income out of Ohio and artificially lowers corporate franchise taxes;
- Eliminate the cap on net worth payments, which discriminates against small businesses and costs the state close to \$100 million a year;
- Eliminate or limit credits that are steadily weakening the tax;
- Add a throwback provision, under which Ohio would tax sales made by Ohio producers in other states where they are not subjected to tax.
- Consider bringing passthrough entities such as S Corporations and limited liability companies under the tax, as Kentucky has just done with its corporate income tax.

Introduction

Ohio stands on the brink of eliminating its corporate income tax for nonfinancial companies, known as the corporate franchise tax.¹ Under the budget bill passed by the House of Representatives on April 12, the corporate franchise tax along with the tax on tangible personal property would be replaced with a new gross receipts tax called the Commercial Activity Tax. This would make Ohio one of the only states in the country without a corporate income tax. While the CAT has some positive features, it should not be used to replace the corporate franchise tax for a number of reasons.

Advocates of franchise tax repeal cite its current weakness as the main reason for getting rid of it. A major reason for the weakness of the tax, however, is state legislation that has allowed it to be legally circumvented. It would be bad policy to first weaken a tax, and then eliminate it because it has been weakened. A better approach would be to strengthen it, as Gov. Bob Taft proposed just two years ago. This could be done quite easily, in a way that would treat Ohio businesses more equitably (see recommendations below).

Wiping out the corporate franchise tax would mean that highly profitable companies no longer would have any obligation to pay taxes based on their profits, violating a bedrock principle of fair taxation. Some companies would pay millions of dollars less than they do now. Yet it likely would add to the tax burden on low- and middle-income taxpayers, who already pay more of their income in state and local taxes than do affluent Ohioans.

In the past, manufacturers paid a disproportionate share of the franchise tax. However, now they are not unduly burdened by the corporate franchise tax, so its abolition is not likely to spur manufacturing investment.

Finally, under the bill passed by the House, the CAT would not come close to substituting for the amount of taxes being collected under the levies that it would replace. When fully implemented in fiscal year 2011, the CAT would generate a projected \$1.61 billion – far short of the \$2.26 billion in estimated taxes that will be eliminated.² Thus, it would signal that the General Assembly is not really serious about coming up with a tax that works – and would reinforce the long-term trend in Ohio for taxes to shift from business to individuals. If a Commercial Activity Tax is imposed, it should be at a considerably higher rate than that proposed by Gov. Taft and approved by the House, to make up for all of the taxes it is replacing and the shrinking business share of the state and local tax load.

¹ Nonfinancial companies pay the corporate franchise tax either on profits or net worth, depending on which produces a greater amount (see box, next page). More than three-quarters of the tax is paid on profits (that number along with nearly all others describing the corporate franchise tax in this study refers only to nonfinancial companies). Both Gov. Taft's original tax proposal and the House-approved budget bill would preserve the corporate franchise tax paid by banks and savings and loans on their net worth, which accounted for 20 percent of the total tax companies were liable for in tax year 2003. The House-approved budget also retains under the tax certain other financial institutions and their majority-owned affiliates.

² This does not include the effect of new exemptions and other changes made by the House, which according to the Ohio Department of Taxation would reduce FY2010 CAT receipts by more than \$100 million. See below.

Two Ohio Business Taxes, and One that Would Replace Them

Ohio's corporate franchise tax is computed on the basis of either net worth or net income, with taxpayers owing tax on whichever computation yields the higher tax. Currently, the rate on general business corporations is 0.4 percent of net worth or 5.1 percent on the first \$50,000 in net income, plus 8.5 percent of net income greater than that. Nonfinancial companies also pay a small "litter tax." Such companies are liable for a minimum of \$50 before refundable credits for which they may be eligible. The minimum is \$1,000 for companies with more than \$5 million in sales or at least 300 employees. Banks, savings and loans and other financial institutions pay the corporate franchise tax only under a net-worth formula, at a rate of 1.3 percent. Companies figure their tax using a formula based on the proportion of their property, payroll and sales they have in Ohio. The corporate franchise tax generated \$809 million in revenue for Ohio's General Revenue Fund in fiscal 2004. A small portion of the tax collected also goes to local government funds.

The tangible personal property tax is imposed on machinery, equipment, inventories, furniture and fixtures used in business in Ohio. The value of each is multiplied by an assessment percentage – 23 percent for inventories, 25 percent for other classes of property – to come up with a taxable value. The first \$10,000 of taxable value is exempt from taxation. A local millage rate is then applied. The tax on inventories is currently scheduled to be phased out gradually by tax year 2018. In 2003, \$1,637,418,361 was levied under the tangible personal property tax. More than 71 percent of that went to school districts, with the rest going to counties, townships, cities and villages. Proponents of the Commercial Activity Tax have argued that the tangible personal property tax needs to be eliminated because it discourages manufacturers from investing in Ohio. While taxes in general are not a major factor in economic development, this report does not attempt to analyze that issue.

The proposed Commercial Activity Tax would replace most of these two taxes. Under Gov. Taft's proposed budget, the corporate franchise tax on nonfinancial companies would be eliminated over five years, so the tax would apply only to financial institutions like banks and savings and loans. The governor's proposal also would abolish the tangible personal property tax on machinery, equipment and inventories over differing time spans, but within the next five years. That would still leave the tax on furniture and fixtures, which accounts for 25.4 percent of the tangible personal property state-wide. The House budget bill would eliminate that portion of the tax, too, over five years.

The CAT would be levied on gross revenues of nonfinancial businesses, whatever their form of organization. Generally, it would cover such businesses that now pay the corporate franchise tax, or whose owners pay personal income tax on income they receive from those businesses (Some industries that pay special business taxes, such as insurance, will not pay the CAT). When the tax is fully implemented, the rate will be 0.26 percent. However, businesses will pay only \$100 on their first \$1 million in Ohio revenue, and those with \$40,000 or less in revenues will be exempt altogether.

Strengthen, Don't Scrap, Ohio's Corporate Franchise Tax

Forty-five states have a corporate income tax.³ Thus, if Ohio eliminated its tax, it would be in small company. The new Commercial Activity Tax, according to the Taft budget recommendation, "...is a bold proposal to implement the sort of tax that has been championed by academic economists but that currently has no real counterpart in the United States."⁴ While sometimes there is good reason to stand out, in effect, this will make the tax system less simple for businesses that pay income taxes across the country and are used to paying Ohio's tax. Businesses complained about this in hearings at the House Ways & Means Committee.

Everyone agrees that Ohio's corporate franchise tax has been severely weakened.⁵ According to data first released by the Ohio Department of Taxation to *The Columbus Dispatch*,⁶ 18 of the top 50 companies in Ohio ranked by sales paid \$1,000 or less in corporate franchise tax for tax year 2004. Each had Ohio sales of at least \$500 million. A researcher at the state taxation department found in a study two years ago that "fully one-half of the largest C corporations in this state now pay no more than a relatively small "flat" corporate franchise tax to the state of Ohio, a significant jump from five years ago."⁷

In the mid-1970s, the state's corporate franchise tax was a major source of revenue, accounting for 16 percent of the taxes supporting Ohio's General Revenue Fund, the main fund for state operations. That had declined to 4.6 percent by fiscal 2002, and remained at that level through fiscal 2004. "Despite industry rhetoric that the decline in the franchise tax is due to low profitability, a look at collections over 25 years shows that the revenue production of the tax is in the late stages of a long-term decline," stated a fact sheet presented as part of Gov. Taft's tax proposal in 2003.⁸ The amount of franchise taxes collected fell between fiscal 1998 and 2002. In fiscal 2003 and 2004, collections grew, but only modestly. In fiscal 2004, the tax contributed \$809 million to Ohio's General Revenue Fund.

Corporate franchise tax revenues have outpaced estimates and are up nearly 30 percent so far this fiscal year, to \$774 million through April 2005. The Office of Budget and Management traces the increase to "the recovering economy and improving performance

³ Wyoming, Washington and Nevada have no corporate income tax. Michigan and Texas have other corporate taxes that are not income taxes. http://www.taxadmin.org/fta/rate/corp_inc.html, accessed May 17, 2005.

⁴ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, Special Analyses – Tax Reform, p. D-9

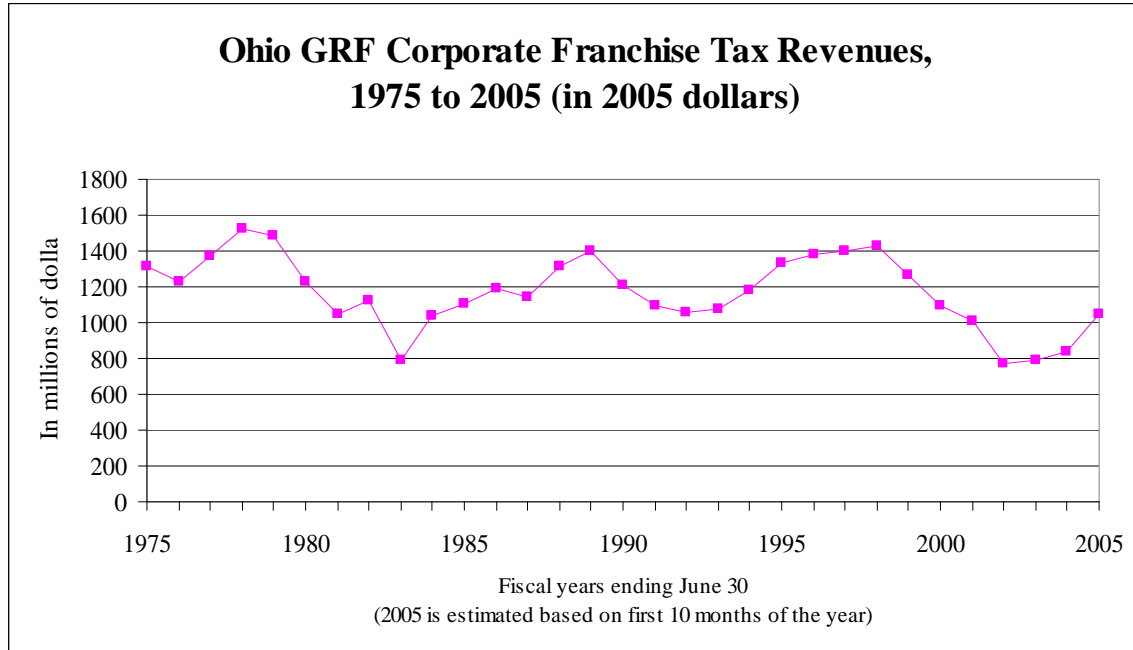
⁵ An October 2002 report from Policy Matters Ohio, *Ohio's Vanishing Corporate Franchise Tax*, explored this in greater depth. See <http://www.policymattersohio.org/franchisetaxintro.htm>

⁶ Mark Niquette, "Many big companies pay lowest state tax," *The Columbus Dispatch*, March 16, 2005. The data released, which included additional information beyond that published earlier, are contained in the Appendix.

⁷ Amount of corporate franchise tax liability by large and medium corporations, memorandum to Frederick Church, administrator, Tax Analysis Division, from Christopher Hall, asst. administrator, Tax Analysis Division, Ohio Department of Taxation, January 8, 2003. C Corporations are regular corporations under federal tax law.

⁸ Tax Reform Fact Sheet, Governor's Press Conference, Jan. 30, 2003. See also Mike Sobul, *Tax Reform in Ohio*, FTA Revenue Estimating/Tax Research Conference, New Orleans, LA, Sept. 23, 2003. Statement from a presentation before the Senate Finance and Financial Institutions Committee, April 22, 2003.

by corporations in 2004.”⁹ This indicates that the tax remains viable. Still, even if the increase is maintained for the full fiscal year, inflation-adjusted revenues will be more than \$300 million below the levels of the late 1990s. Chart 1 shows how revenues have changed since 1975, adjusted for inflation:



The weakening of the corporate franchise tax has contributed to an overall decline in the share of state and local taxes that business pays. Overall, Ohio businesses are paying a far smaller share of the costs of state and local government than they did 30 years ago. That was the conclusion of a 2001 study sponsored by the Ohio Manufacturers’ Association, updated last year by Policy Matters Ohio.¹⁰ The overall level of business taxation in Ohio is not high.¹¹ Yet according to the plan introduced by Gov. Taft in February, “The CAT is

⁹ Thomas W. Johnson, director, Office of Budget & Management, Monthly Financial Report, , May 10, 2005. <http://www.obm.ohio.gov/finrep/monthly/051005mfr.pdf>, accessed May 14, 2005

¹⁰ Policy Matters Ohio, *Ohio’s State and Local Taxes: The Dwindling Business Share*, May 2004. <http://www.policymattersohio.org/OhioBizTaxes.htm> See also Edward W. Hill, *Ohio’s Competitive Advantage: Manufacturing Productivity*, 2001. Gov. Bob Taft agreed with this assessment in presenting his tax package in 2003, noting that the business share of tax revenues had been falling since the early 1970s. Tax Reform Fact Sheet, Governor’s Press Conference, Jan. 30, 2003. <http://www.governor.ohio.gov/releases/Archive2003/013003factsheet.htm>, retrieved Feb. 3, 2005.

¹¹ For instance, Mike Sobul of the Ohio Department of Taxation found that Ohio’s business taxes were in the middle when compared to nearby states in a presentation to the governor’s Blue Ribbon Task Force on Financing Student Success. See *Business Taxes in Ohio and its Surrounding States*, Nov. 13, 2003. http://www.blueribbontaskforce.ohio.gov/committees/pdf/RT_11-13-03_pres2.pdf, accessed May 19, 2005. Ernst & Young, which produced an analysis for the Ohio Business Roundtable that supported the initiation of a gross receipts tax, has reported that business taxes in Ohio are at or below those in most other states in studies for the Council on State Taxation. See “Taft Tours to Sell Tax Reform,” by William Hershey, *The Dayton Daily News*, April 4, 2005, and *Total State and Local Business Taxes*, by Ernst & Young LLP, specifically Robert Cline, Tom Neubig and Andrew Phillips, with William Fox, Council on State Taxation, April 12, 2005.

not projected to quite replace all of the lost (tangible personal property) tax revenues and corporate franchise tax revenues.”¹² The plan projected that it would replace \$1.55 billion of what the administration says will be \$1.7 billion in foregone taxes in fiscal year 2010. However, the Ohio Department of Taxation says that the full effect of foregone property taxes will not be felt until a year later, adding another \$100 million to the amount of taxes that will disappear.¹³

Substantial revenue gap

Moreover, the House has voted to eliminate the tax on furniture and fixtures over a five-year period beginning in 2006. This business tax is a part of the tangible personal property tax that Gov. Taft would leave in place. Abolishing it will tack on another \$450 million a year to the amount that schools and local governments will lose when the phase-out is complete. The House bill specifies that the state will make up at least part of the additional loss to school districts and local governments through FY2018, likely through tapping funds from the General Revenue Fund.¹⁴ Because most of this revenue loss will not take place until after FY07, the House did not have to come up with replacement revenue for the full \$450 million. It has used a variety of measures, including lower estimated Medicaid spending, capture of increased kilowatt-hour taxes that would have gone to municipalities, and a faster end of the tax break businesses receive on real property, to balance the FY06-07 budget. This will leave a revenue hole of hundreds of millions of dollars a year for future legislatures to fill.

While businesses called upon legislators to end the furniture and fixtures tax during testimony, Gov. Taft saw little reason to do so in his original proposal in February. “The administration believes that this piece of the (tangible personal property) tax does not negatively influence investment decisions, a belief buoyed by conversations with business people over the past several months,” his budget stated.¹⁵ Incongruously, the administration now supports the elimination of this tax, too.

The House took no significant steps to increase the amount the Commercial Activity Tax would raise; if anything, its adoption of various changes in the tax will reduce the revenue it generates compared to Gov. Taft's proposal. If the CAT generates 10 percent or more than currently estimated revenue in fiscal years 2006-2007, 2008 or 2010, its rate will be adjusted upward or downward automatically. In short, in FY11 the CAT is expected to raise only \$1.61 billion out of \$2.26 billion or more of foregone taxes.¹⁶ And

http://www.statetax.org/Content/ContentGroups/Home_Page_Content/Right_Column_Area/2005TotalStateAndLocalBusinessTaxes.pdf, accessed May 16, 2005.

¹² State of Ohio Executive Budget, Fiscal Years 2006 and 2007, p. D-9

¹³ E-mail communication from Christopher Hall, Tax Analysis Division, Ohio Department of Taxation, April 29, 2005. The CAT is expected to grow another 4 percent, to \$1.61 billion in FY11.

¹⁴ Peter A. Cooper and Bethany Boyd, Legislative Service Commission, *H.B. 66 - House Changes to the Executive Tax Proposal*, Presented to the Senate Ways & Means Committee, April 19, 2005.

¹⁵ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, p. D-9.

¹⁶ The amount raised by the CAT will be lower than that if other changes in the House bill remain intact. Various exemptions and changes would reduce annual revenue when the tax is fully implemented by more than \$100 million, according to the state taxation department (see below on April 27, 2005, testimony of Deputy Tax Commissioner Frederick Church. The \$2.26 billion figure for foregone taxes includes \$1

these taxes already are among those that have contributed to a decline in the share business pays of state and local taxes.¹⁷ With the Commercial Activity Tax, we have devised a new and unique type of business taxation only to have the amount of revenue collection remain inadequate.¹⁸

No small part of the decline in the corporate franchise tax has been the result of legislative action. The Legislative Service Commission has calculated that legislative changes between fiscal 1996 and 2003 resulted in a cumulative total of more than \$1.1 billion in corporate franchise tax cuts and credits between FY1996 and FY2005.¹⁹

For instance, data on the 50 largest Ohio companies by sales shows that fully 19 of them, including three of the four biggest in Ohio, were initially liable (before the litter tax and credits) for \$150,000 in corporate franchise tax in tax year 2004. This happens to be the amount that the tax is capped at under the net-worth component of the tax. Clearly, most if not all of these companies are benefiting from that cap. This is no surprise, since the taxation department has estimated that it's going to cause the state to lose \$225.3 million in revenue over the FY06-07 biennium.²⁰ This cap, which also discriminates against smaller companies because it is only available to those with a net worth of at least \$37.5 million, only began in 1999. Prior to that, there was no cap. Eliminating the net worth cap is one of the various ways that the General Assembly could strengthen the existing corporate franchise tax and make it fairer to Ohio business.

Recent expansion of business tax incentives also has undercut the corporate franchise tax, the Committee to Study State & Local Taxes found in its 2003 report.²¹ Overall, nonfinancial companies received \$172 million in credits against corporate franchise taxes for tax year 2003. The amount of such credits has been rising – it was \$142 million in 2002, \$116 million in 2001, and \$105 million in 2000.²²

billion in tangible personal property tax on machinery, equipment and inventories; \$450 million on furniture and fixtures, including \$20 million for railroad property; and \$814 million in corporate franchise tax.

¹⁷ Collections from the tangible personal property tax have fallen in each of the last two years. After adjustment for inflation, they are the same as they were 20 years ago.

¹⁸ The CAT also could face legal challenges. For instance, opponents testifying against it have raised the prospect that they might fight it in court as unconstitutional taxation on food. Issues also exist regarding the degree to which some out-of-state businesses will be covered by the tax. See below.

¹⁹ Ohio Legislative Service Commission, Summary of Law Changes FY1996-2003 –LSC Estimate of Tax Cuts and Tax Credits (Impact on GRF in millions of dollars, updated 2/24/05, R-126-0295, March 17, 2005

²⁰ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, Book Two, Tax Expenditure Report, February 2005 http://www.obm.ohio.gov/budget/executive/0607/bb0607_book2.pdf

²¹ “Recent expansion of business tax incentives has also contributed to the tendency of the Ohio tax to raise less than other states’ corporation taxes,” the study said. Report of the Committee to Study State and Local Taxes, March 1, 2003, p. 73.

²² Ohio Department of Taxation, Tax Data Series, Table CF – Credits, No. 54 (2004), August 4, 2004. See also the same table, No. 37, May 1, 2003; Table CF-18, No. 56 (2002), and Table CF-18, No. 57 (2001). See

http://tax.ohio.gov/divisions/tax_analysis/tax_data_series/corporation_franchise/publications_tds_corporate_stm, accessed April 22, 2005.

Strengthen, Don't Scrap, Ohio's Corporate Franchise Tax

Most of this is from the manufacturing investment tax credit passed in 1995. In tax year 2003, 65 companies received nearly half of the \$94 million in investment tax credits that a total of 2,353 companies got.²³ The U.S. Court of Appeals for the Sixth Circuit last year ruled that this tax credit was illegal under the Commerce Clause of the U.S. Constitution. An appeal to the U.S. Supreme Court is in process.²⁴ As tax expert Michael Mazerov has argued, "There is substantial evidence that such incentives are not a cost-effective means of stimulating investment and job creation."²⁵ He notes, for instance, that California allowed its investment tax credit for manufacturers to expire at the end of 2003 because it had proven ineffective in preserving jobs. The Ohio House budget bill would eliminate this credit for new purchases made after June 30 (this corresponds to the end of the tangible personal property tax on new machinery and equipment purchases starting July 1, which is a feature of both the Taft plan and the House version).²⁶

Tax Avoidance

Another significant reason that the corporate franchise tax has lost its punch is legal tax avoidance by multi-state companies, euphemistically known as "tax planning." Gov. Taft's recommended budget put it plainly: "The most serious problem with this tax system, which has also been the focus of the historical reforms on this tax, is that the tax allows extensive and aggressive tax planning."²⁷ Many major companies are able to shift their income to other states, reducing the amount they are liable for in Ohio corporate franchise tax. According to the Ohio Business Roundtable, a group of chief executive officers from big corporations in Ohio, "Under the current corporate franchise tax system, many large businesses are able to plan around the current tax system and avoid this tax. However, smaller firms that do not have the resources to implement sophisticated tax planning pay significant amounts of corporation franchise tax."²⁸ Many states for years have required companies to report all of their related operations in a single tax filing, eliminating much of this flim-flammy.

²³ E-mail from Christopher Hall, Tax Analysis Division, Ohio Department of Taxation, Dec. 3, 2004.

²⁴ See *Cuno v. DaimlerChrysler*, 2004 FED App. 0293P (6th Cir.) and "Ohio Will Appeal Decision to Reject Tax-Credit Program," by John Byczkowski, *The Cincinnati Enquirer*, Jan. 25, 2005

²⁵ Michael Mazerov, "The Sixth Circuit *Cuno* Decision Voiding Ohio's Investment Tax Credit: Modest but Helpful "Arms Control" in the "Economic War Between the States," Center on Budget and Policy Priorities, Feb. 18, 2005. See <http://www.cbpp.org/2-18-05sfp.pdf>

²⁶ The bill reduces the credits more quickly than the governor's plan, which would continue them during the five years that the corporate franchise tax is being phased out.

²⁷ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, Economic Overview and Forecast, p. C-16

²⁸ Ohio Business Roundtable, Testimony of Richard A. Stoff before the Committee on Ways & Means, Ohio House of Representatives, February 17, 2005. Addendum: Straight Talk About the Business Privilege Tax (aka the Commercial Activity Tax or the Gross Receipts Tax). While it is certainly true that many big companies do not pay much in franchise tax, this is the rule for most businesses. In tax year 2003, more than 46 percent of Ohio companies that had to pay the franchise tax were liable for the minimum \$50, before credits. Another 35 percent were each liable for less than \$2,000. Most of the tax is paid by a relatively small number of businesses, most of which clearly are not mom-and-pop operators. The 470 companies that were each liable for \$200,001 or more in tax year 2003 accounted for more than half of the total \$647.7 million in franchise taxes. Altogether, some 99,223 companies were liable for the tax that year. See also below and Ohio Department of Taxation, Tax Data Series, Table CF-2A No 47 (2004). As with other data in this paper, the numbers cover only nonfinancial businesses. Financial institutions will continue to pay the franchise tax under Gov. Taft's proposal and the House-approved budget.

Also, these days a smaller share of Ohio companies is paying the corporate franchise tax. S Corporations, limited liability companies (LLCs) and other “passthrough entities” do not pay franchise tax; instead, their owners pay individual income tax on their earnings from these businesses. S Corporations alone will avoid \$172.8 million over the next biennium, according to the state's Tax Expenditure Report.²⁹ They were exempted from the tax in 1987. While income from partnerships and sole proprietorships has been exempt from franchise tax for many years, entities such as LLCs only became possible much more recently. As the Taft budget points out, “The pass-through entity trend has been a source of corporate franchise tax erosion since the late 1980s.”³⁰

Here, too, steps could be taken, as they were recently in Kentucky, to plug this hole in the franchise tax. The new Kentucky legislation provides for S corporations, limited liability companies, limited liability partnerships and limited partnerships to be covered by the state's corporate income tax. Individual owners will be eligible for nonrefundable tax credits on the state income tax they pay on income they receive from these passthrough entities. Corporate owners of these entities are not eligible for these credits. Altogether, the inclusion of limited liability entities may generate more than \$100 million a year when the measure is fully implemented.³¹

The replacement of the Ohio corporate franchise tax with a CAT would eliminate ability to pay as a factor. The most profitable businesses and the least profitable ones would pay according to their receipts in the state, period. The General Assembly instituted the corporate-income portion of the corporate franchise tax in the same 1971 law that created Ohio's personal income tax. Now, it may eliminate that link, so that corporations will no longer pay tax as individuals do, on their income.

According to data from the Ohio Department of Taxation³² and calculations by Policy Matters Ohio, 12 of the top 50 Ohio companies would pay less in the new Commercial Activity Tax than they did in corporate franchise taxes for tax year 2004. Among them are those that rank No. 8 in sales, who would pay almost \$4.5 million less; No. 14, who would also pay almost \$4.5 million less; No. 31, who would pay more than \$12 million less; and No. 41, who would pay over \$5 million less.³³

One might think that the other 38 of the top 50 Ohio companies would pay more under the Commercial Activity Tax. And in fact, taken together, the top 50 companies paid just

²⁹ Tax Expenditure Report, p. 15.

³⁰ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, p. D-8. One positive feature of the proposed Commercial Activity Tax is that it would cover these passthrough entities.

³¹ Kentucky Office of State Budget, *Expanded Corporation Income Tax, the AMC and Other Details of the Business Tax Changes*, March 2005, and *Detailed Summary of HB 272/As Agreed in Free Conference, 2005 Regular Session, March 8, 2005*, prepared by Appropriations & Revenue Committee Staff, revised with technical corrections March 9, 2005. For revenue estimates, see Legislative Research Commission, *Display HB 72 with Free Conference Changes*, March 2005.

³² See Appendix. These were the data cited above that were initially released to *The Columbus Dispatch*.

³³ These figures compare the companies' liability in corporate franchise tax vs. the proposed Commercial Activity Tax. They do not include the additional benefit they would receive from the elimination of most or all of the tangible personal property tax.

Strengthen, Don't Scrap, Ohio's Corporate Franchise Tax

\$79.8 million in corporate franchise tax for tax year 2004, compared to just over double that, \$164.7 million, which they would pay under the CAT.

However, the Department of Taxation data don't tell us what we really need to know, which is how much these 50 companies paid in other taxes that would be repealed under the plan for a CAT. The Commercial Activity Tax would replace not only most of the corporate franchise tax, but the tangible personal property tax on machinery, equipment, inventories, furniture and fixtures as well.³⁴ The CAT would replace a greater amount of tangible personal property tax than corporate franchise tax--\$1.45 billion a year, compared to \$814 million, when the full impact of the phase-out is felt in FY2011. Thus, as a group, even the 38 actually might well pay less than they do now.³⁵ While it is impossible to gauge exactly how each of these companies would fare, one thing is clear: The Corporate Activity Tax is set up to produce less revenue than the taxes it is replacing. In effect, this "reform" converts deft tax avoidance into permanent tax cuts.

If the General Assembly should choose to go ahead and replace most of the corporate franchise tax and all or part of the tangible personal property tax with the CAT, it should set the rate to make up the reduction these taxes have seen in recent years. While the total amount requires additional study, it amounts to hundreds of millions of dollars.

Current tax is diluted, but still raises considerable revenue

Even though many big companies manage to limit what they pay under the franchise tax, a number of others continue to pay a significant amount. In tax year 2003, the last year for which such data are available, 95 companies paid at least \$1 million, or \$204.5 million in total. Another 108 each paid more than \$500,000.³⁶ Together, they accounted for 41 percent of the total tax that year, a percentage that has been remarkably stable at least since the late 1990s.³⁷ Thus, despite all of the ways that the tax has been diluted, it continues to cover major companies and bring in considerable revenue.

Among the top 50, companies that rely heavily on Ohio sales on average pay less under the current corporate franchise tax than big companies here that don't rely so much on Ohio. Seven of the 12 companies that got at least 20 percent of their U.S. sales from Ohio were among those that paid \$1,000 or less in corporate franchise taxes. By comparison, eight of the 24 that relied on Ohio for less than five percent of their U.S. sales paid that little.³⁸ We have no way of knowing which of these 50 companies are headquartered in

³⁴ As discussed above, Gov. Taft's proposal would leave the property tax on furniture and fixtures in place. The House budget bill would eliminate all of the tangible personal property tax, including that on furniture and fixtures. Excluding the tax on furniture and fixtures, the amount of tangible personal property tax to be eliminated still amounts to \$1 billion a year.

³⁵ This assumes they do roughly the same job in avoiding tangible personal property taxes through abatements as they do in avoiding franchise taxes. While the original proposal by Gov. Taft retained the tax on furniture and fixtures, the reduction in tangible personal property tax would still exceed that of the corporate franchise tax.

³⁶ Ohio Department of Taxation, Tax Data Series, Table CF-2A, No 47 (2004)

³⁷ It has varied between 37 percent and 42 from TY1998 to TY2003.

³⁸ Three of these companies reduced their liability through refundable tax credits so that they actually were each due more than \$1 million from the state. Altogether, the "Ohio-centered" companies paid \$12.5

Ohio, as that information was not released. And all of these companies have substantial Ohio sales. But on the whole, companies whose sales tie them most strongly to Ohio are able to take advantage of the current franchise tax at least as well as big companies that have lesser dependence on the state.

The proposed Commercial Activity Tax is based on the "benefit principle," the governor's budget explains, "where the idea is that a business should pay taxes based on the benefits it receives from state and local government services, whether the business is nominally profitable or not."³⁹ This is sensible, and the corporate franchise tax already includes an element of it with its net-worth component. A company that loses money or makes very little will pay under the net-worth method. This amount can and should be beefed up, given the declining share business is paying of state and local taxes. But that does not require abandoning the ability-to-pay principle. As it happens, the CAT also would violate the benefit principle, in that some companies with extensive Ohio operations that depend on state services could avoid taxation if their output is exported out of the state.

The CAT would make the tax system fairer by sharply reducing the number of credits and exemptions that businesses may receive compared to those available on the corporate franchise tax, or the abatements companies receive on tangible personal property. Proponents argue that credits have sprung up to offset a tax system that they say discourages industry from locating in Ohio. However, numerous studies have shown the ineffectiveness of such incentives. For example, Yoonsoo Lee of the Federal Reserve Bank of Cleveland concluded in a recent study that, "Overall I find very weak evidence of the role of tax and financial incentives in explaining the patterns of plant relocations."⁴⁰ Overall, state and local tax levels are not a key factor in determining income and economic development.⁴¹

The CAT would start out with four tax credits: The job creation tax credit, the job retention tax credit, the research and development credit, and the research and development loan program credit. However, it likely would be a magnet for business complaints about the unfairness of paying a tax unrelated to business conditions. This is already true of the tangible personal property tax, of course, but most of the corporate

million in franchise tax on Ohio sales of \$18,211,646,000, or .067 percent. The "non-Ohio-centered" companies paid \$50.5 million on Ohio sales of \$31.5 billion, or a rate of 0.16 percent.

³⁹ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, pp. D-9-10.

⁴⁰ "Geographic Redistribution of U.S. Manufacturing and the Role of State Development Policy," by Yoonsoo Lee, Federal Reserve Bank of Cleveland, Working Paper 04-15, December 2004, p. 5. <http://www.clevelandfed.org/Research/Workpaper/2004/WP04-15.pdf> "Overall, the results of this study support previous findings that the use of public funds for tax incentives to attract large industrial plants is not very effective," Lee stated (p. 37).

⁴¹ See, for instance, testimony on March 16, 2005, by David Ellis of the Center for Community Solutions before the Ohio House Ways & Means Committee. Ellis's data illustrated that higher levels of state and local taxation are actually associated with higher levels of per capita gross state product and higher per capita personal income. While this doesn't show there is a causal relationship, he noted, "it does undermine the notion that states must cut taxes in order to enjoy the benefits of a strong economy." See http://www.communitysolutions.com/store/index.asp?DEPARTMENT_ID=47, accessed April 23, 2005.

Strengthen, Don't Scrap, Ohio's Corporate Franchise Tax

franchise tax is paid on corporate income.⁴² In Washington State, one of the only states in which a tax similar to the CAT accounts for a sizeable amount of revenue, the Business & Occupation Tax has numerous rates, exemptions and credits. "Because the tax does not consider profit potential, there is continual pressure on the Legislature to grant new preferential tax rates or provide other incentives to industries that have difficulty competing either in local or global markets," notes the Washington revenue department in a manual on state taxes.⁴³

Under the original CAT proposed by Gov. Taft, the administration estimated that the four credits would reduce revenue by \$100 million a year in FY09, when their effect began, and an identical amount in FY2010.⁴⁴ These numbers are probably guesstimates, and the ultimate amounts are uncertain. However, they already are growing. In the House-approved budget bill, exemptions to the CAT were significantly expanded. Among those to be exempted are motor-vehicle sales between dealers when the buyer intends to resell; affiliates of financial and insurance companies, along with financial holding companies and securitization companies; pari-mutuel horse-racing wagers received by horse-racing agents, and a variety of others. "The governor is concerned about the many exemptions and carve-outs in the CAT because they impact the broad nature of the tax," said Taft spokesman Mark Rickel after the House action.⁴⁵

Frederick Church, deputy tax commissioner for tax policy, itemized a number of additional concerns in testimony before the Senate Ways & Means Committee on April 27.⁴⁶ Among them he included unequal treatment of in-state and out-of-state taxpayers, a possible precedent for further exemptions that would erode the tax base, and the possibility that new opportunities for tax planning might be created. Church highlighted three changes the House made in particular:

- The exemption for affiliates of financial and insurance companies;
- The elimination of the "bright-line" nexus proposal that would establish specific thresholds for Ohio payroll, property and sales and require payment of the CAT if any were exceeded, and
- The elimination of excise taxes on particular fuel, tobacco and alcohol from the tax base covered by the CAT.

⁴² In tax year 2003, 75 percent of the liability for nonfinancial companies, or \$607.9 million (before the litter tax and credits), came from net income payors.

⁴³ Tax Reference Manual 2005, Washington State Department of Revenue, p. 103
http://dor.wa.gov/content/statistics/2005/Tax_Reference_2005/

⁴⁴ The amount of these credits is not subtracted from this study's overall estimate of \$1.61 billion that the CAT will generate in FY11. It is unclear how much these credits will actually reduce revenue, and if they do so substantially by FY10, the trigger mechanism in the bill could bring about a rate increase. However, they are likely to have some impact on revenues collected.

⁴⁵ Gongwer News Service, "House Endorses Vast Majority of Taft Initiatives in Sending Biennium Budget to Senate," Vol. 74, Report No. 71, April 12, 2005.

⁴⁶ Frederick Church, deputy tax commissioner, *Taft Tax Reform Plan As Passed by the House*, Testimony to the Senate Ways & Means Committee, April 27, 2005.

“Repeal of the bright-line nexus standard can only be a benefit to out-of-state companies that do not wish to pay the tax,” Church told the committee. When the tax is fully implemented in FY2010, he estimated, these three changes alone would result in a loss of \$109 million in revenue, or possibly as much as \$140 million.⁴⁷ Church cited other changes that, in the administration's view, warrant further consideration, including the elimination of the tax commissioner's right to revoke a company's CAT registration for not complying with the CAT law.⁴⁸

In addition to arguing that the corporate franchise tax is weak and ineffective, its opponents say that it should be eliminated because its relatively high rate discourages business from operating here.⁴⁹ However, it defies logic to suggest that a high corporate-franchise tax rate is discouraging investment when actual revenue from the tax is so low. The governor's budget notes that, “According to 2002 Census of Government Finances data, Ohio's corporate income tax brought in \$66.71 per capita, 25th highest of the 46 states that impose a corporate income tax, and almost one-third below the U.S. average of \$97.95 per capita.”⁵⁰ If you were looking to locate a business in Ohio, would you look at the rate of a tax, or what you actually had to pay under it? For that matter, state and local taxes are unlikely to figure nearly as importantly in business location decisions as a host of other factors such as the availability of skilled labor, productivity and wage levels, proximity to customers and access to transportation.⁵¹

A recent report commissioned by the Ohio Department of Development performed by Regional Economic Models Inc. (REMI) found that the Commercial Activity Tax would have a less negative effect on business activity than the corporate franchise tax or the tangible personal property tax.⁵² Specifically, it found that every \$100 million increase in the CAT would cost 1,680 jobs as of FY2010, while a similar increase in the corporate franchise tax would cost 2,355 jobs. REMI explains that this is because “some of the (CAT) tax burden falls on firms outside of Ohio who are selling goods into Ohio in competition with Ohio firms. Therefore, the Ohio firms that sell within Ohio are not

⁴⁷ The range of estimates depends on whether the CAT will apply to all those retailers who sell products covered by the excise taxes that are to be excluded from coverage. The revenue loss from the three changes grows over time and would not be as great during the 2006-2007 biennium, so the General Assembly does not need to find that much revenue to cover them over that time period.

⁴⁸ The LSC has noted that as a result, “there is no express prohibition against doing business in Ohio if a person's registration is revoked.” Peter A. Cooper and Bethany Boyd, Legislative Service Commission, *H.B. 66 - House Changes to the Executive Tax Proposal*, Presented to the Senate Ways & Means Committee, April 19, 2005

⁴⁹ The 8.5 percent rate that covers corporate income above \$50,000 (the rate is 5.1 percent for below that amount) ranks 14th, tied with New Hampshire and Indiana. http://www.taxadmin.org/fta/rate/corp_inc.html, accessed May 17, 2005. This ranking rises further if municipal taxation of corporate income is included.

⁵⁰ Executive Budget for FYs 2006 and 2007, p. D-7.

⁵¹ For example, see the national survey of businesses recently released by The Public Policy Research Lab of Louisiana State University, *Louisiana Business Image Survey*, Jan. 24, 2005 <http://www.survey.lsu.edu/LouisianaBusinessImageReport2004.pdf>, accessed April 23, 2005.

⁵² *The Dynamic Economic and Fiscal Impact of the Ohio Administration's Proposed Changes to the Commercial Activity Tax, Corporate Franchise Tax, Personal Income Tax, Tangible Personal Property Tax, and Sales Tax*, Prepared for the Ohio Department of Development and the State of Ohio, REMI Consulting Inc., April 18, 2005. See pp. 1-2, 123.

Strengthen, Don't Scrap, Ohio's Corporate Franchise Tax

placed at a competitive disadvantage with the non-Ohio firms selling into Ohio, since both will be taxed the same.”⁵³

However, some non-Ohio companies do pay the corporate franchise tax. At the same time, while the CAT was drawn up to apply to many out-of-state companies selling their products or services in Ohio, it remains to be seen exactly how broadly the CAT will apply to out-of-state businesses. The main provision cited by the taxation department's chief legal counsel in discussing this point – the bright-line nexus standard – was removed from the bill by the House.⁵⁴ Church noted in his testimony that this would reduce the amount the state would collect from out-of-state companies. In-state companies could find themselves making up the difference, since under the trigger mechanism, the tax rate will be adjusted if collections come in 10 percent above or below estimates.

The economic effects of the CAT also depend on how the state makes up the major shortfall in revenues created by the phase-out of these major business taxes (see above). REMI's analysis makes no attempt to measure the negative effect of spending cuts or tax increases that will be required to balance the state budget as a consequence of these tax cuts.⁵⁵ If the CAT tax were used to make up the difference, the total net number of jobs created as of FY2010 could be only 2,959. That number is very small, given that Ohio has more than 5.4 million employed workers. And since the REMI model is built on a variety of assumptions, as well as national data that may not exactly reflect Ohio's economy and tax base, it is uncertain that it is precise enough that one could count on any job increase at all.

Among nonfinancial industries, manufacturers historically have paid the greatest share of the Ohio corporate franchise tax. While that remains true, the relative share borne by manufacturers has dropped sharply, from 50 percent or nearly that in the mid-1990s to 28.5 percent in tax year 2003.⁵⁶ Manufacturers now are paying a share in line with other industries such as wholesale and retail trade in relation to their share of Ohio's gross state

⁵³ Ibid, pp. 1-2.

⁵⁴ Fred Nicely, chief legal counsel, Ohio Department of Taxation, Memorandum to William W. Wilkins, Tax Commissioner, Re H.B. 66 – Constitutional Analysis for the CAT nexus standards, March 4, 2005. The Taft Administration, seeing that the bright-line nexus test likely would be the subject of litigation, proposed an accelerated appeal to the Ohio Supreme Court. It also included a provision in case the bright-line nexus standard was struck down that would require in-state businesses to report purchases from out-of-state sellers not registered to collect the tax. This further underlines the questions surrounding how the CAT will apply to out-of-state businesses. The House retained the provision for a direct appeal to the Ohio Supreme Court on certain other issues, but eliminated the bright-line nexus standard or the back-up provision in case the nexus standard was found unconstitutional.

⁵⁵ See *REMI Report Presents Just Half the Equation*, Jon Honeck and Zach Schiller, Policy Matters Ohio, May 2005. http://www.policymattersohio.org/REMI_Report_2005_05.htm, accessed May 9, 2005.

⁵⁶ Ohio Department of Taxation, *Corporate Franchise Tax Liability: Tax Liability after Litter Tax, Surtax and Credits, by Business Classification, Tax Years 1988-2003*. Included in the 2003 share is manufacturing's proportional share of liability reported by companies that did not report their industry. Considering that government, nonprofit organizations and banks and savings and loans are not covered by the corporate franchise tax on nonfinancial corporations but make up a substantial share of GSP, manufacturing's share of the corporate franchise tax is not far out of line with its output.

product. While weakness in Ohio's manufacturing sector bears some of the responsibility, there was little drop-off in that statistic during the early 1990s recession.

Several other factors contributed to the declining share of the tax paid by manufacturers. Electric utilities started paying the corporate franchise tax in tax year 2002.⁵⁷ Changes in the net worth component of the tax reduced the amount being paid under that method. And the manufacturing investment tax credit, begun in 1997, has been a growing drain on the corporate franchise tax.

Whatever may have been the case in the past, today's corporate franchise tax is not hitting the manufacturing sector harder than most others. As a result, it has become difficult to argue for the elimination of the tax on the grounds that it discriminates against manufacturing.

Because the proposed CAT is like a sales tax, it is likely to fall more heavily on lower- and middle-income taxpayers than the corporate franchise tax, which falls more on shareholders, who tend to be affluent and often live outside the state.⁵⁸ Taxpayers who are less well off spend more of their income and make more of their purchases in the state. They also spend more of their income on goods and less on services than the affluent do. Goods generally pass through more stages of production and distribution, and thus are more likely to be subject to the CAT multiple times, compared to services. To the degree these taxes are passed along to consumers, they are likely to affect low- and middle-income taxpayers more heavily.⁵⁹ These Ohio taxpayers already pay more of their incomes in state and local taxes than more affluent taxpayers do.⁶⁰ As Wayne State University law professor Michael J. McIntyre states, speaking of the state corporate income tax in general: "It is an important part of the state tax mix, and its elimination would make state taxes more regressive and less fair."⁶¹

Business is divided on the plan to impose a CAT and replace the corporate franchise tax. The Ohio Chamber of Commerce and some of the state's biggest companies are arguing for a continuation of the corporate franchise tax, with certain changes and the imposition of a new business privilege tax. However, one element of the chamber's proposal, its plan to calculate the corporate franchise tax based solely on a company's Ohio sales instead of also weighing payroll and property, would further weaken the tax. Such a change, known as "single sales factor," is unlikely either to bring significantly more jobs or more tax revenue to the state. States that have shifted to this approach have not proven to be magnets for new investment and jobs in manufacturing, the industry that should benefit

⁵⁷ This discussion benefited from insights from Christopher Hall of the Tax Analysis Division.

⁵⁸ Institute on Taxation and Economic Policy, *The ITEP Guide to Fair State and Local Taxes*, February, 2005, p. 48. <http://www.itepnet.org/guide.htm>, accessed April 19, 2005.

⁵⁹ See Charles E. McLure Jr., *Why Ohio Should Not Introduce a Gross Receipts Tax – Testimony on the Proposed Commercial Activity Tax*, presented to the Senate Ways & Means Committee on behalf of the Ohio Chamber of Commerce, State Tax Notes, April 18, 2005, p. 214.

⁶⁰ Institute on Taxation and Economic Policy, *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States*, 2nd edition, , January 2003. See http://www.policymattersohio.org/who_pays.htm

⁶¹ Michael J. McIntyre, "Thoughts on the Future Of the State Corporate Income Tax," *State Tax Notes*, Sept. 23, 2002, p. 946.

from such a switch. And every state that has studied single sales factor apportionment has concluded that it would reduce overall corporate income tax collections.⁶²

Could tighten current corporate tax

Given all the questions that have been raised about it, the CAT deserves more substantial scrutiny. As the budget indicates and Gov. Taft himself proposed two years ago, an alternative to eliminating the corporate franchise tax is to tighten it.⁶³ This will not harm the state's economy. As a fact sheet on Gov. Taft's 2003 proposal stated, "Research shows that other states with broad based approaches to corporate taxation, such as in this proposal, are not disadvantaged when it comes to attracting and retaining businesses in the state."⁶⁴ The corporate franchise tax can be fixed so that it covers large and small companies alike, regardless of whether they operate in other states or have the wherewithal to hire sophisticated tax advisers.

Ohio should adopt the following reforms to bolster the franchise tax while making it fairer to those who already pay, and to make sure business pays its fair share of state and local taxes:

- Adopt combined reporting, so that companies that operate as a single business must report as one taxpayer. Sixteen states use combined reporting now, and a seventeenth, Vermont, has enacted it. It has been upheld by the U.S. Supreme Court. The Ohio Department of Taxation estimated in 2002 that it would bring in roughly \$200 million in additional yearly revenue.
- Eliminate the cap on net worth payments, which discriminates against small businesses and costs the state close to \$100 million a year;
- Eliminate or limit credits that are steadily weakening the tax. Abolishing the investment tax credit on machinery and equipment is a good start;
- Add a throwback provision, as two dozen other states have, so that companies with Ohio production would not have income untaxed by any state. Under federal law, states are not allowed to tax income from many companies that are just taking sales orders there. Thus, a company making a product in Ohio and selling it in another state where it is protected by the law will not be taxed on the income it receives. Under a throwback rule, Ohio would tax sales made by Ohio producers in other states where they are not subjected to tax. Gov. Taft proposed the addition of a throwback rule in his budget two years ago;
- Consider bringing passthrough entities under the tax, as Kentucky has just done with its corporate income tax.

⁶² Michael Mazerov, "The 'Single Sales Factor' Formula for State Corporate Taxes: A Boon to Economic Development or a Costly Giveaway," Center on Budget and Policy Priorities, Sept. 2001.

⁶³ State of Ohio Executive Budget, Fiscal Years 2006 and 2007, Special Analyses – Tax Reform, p. D-8
Gov. Taft also sees this alternative including a reduction in the tax rate, as he proposed two years ago.

⁶⁴ Tax Reform Fact Sheet, Governor's Press Conference, Jan. 30, 2003, p. 3

Strengthen, Don't Scrap, Ohio's Corporate Franchise Tax

Ohio's corporate franchise tax should be strengthened, not scrapped. It is not sensible tax policy to abolish a tax on the supposed grounds that it is too weak, and replace it with one that is even weaker. If the General Assembly decides to create a Commercial Activity Tax, it should at the very least ensure that the new tax generates as much revenue as that which is lost.

Appendix

Top 50 Companies Paying the Corporate Franchise Tax, Ranked by Ohio Sales in Tax Year 2004

Boldfaced column shows final tax liability after credits; companies that were liable for \$1,000 or less shown in gray

Taxpayer Rank by Ohio Sales	Ohio Sales	U.S. Sales	Liability before litter tax	Nonrefundable		Liability after nonrefundable	Refundable	Final tax
	(FT-1120, Sch. D)	(FT-1120, Sch. D)	and credits	Litter tax	tax credits	tax credits	tax credits	liability
1	5,216,334,000	145,677,076,000	3,356,000	5,000	0	3,361,000	0	3,361,000
2	4,560,042,000	115,573,325,000	150,000	3,000	8,375,000	1,000	4,000	(3,000)
3	4,209,057,000	12,004,547,000	150,000	10,000	0	160,000	0	160,000
4	3,536,400,000	107,985,100,000	150,000	5,000	51,381,000	1,000	1,065,000	(1,064,000)
5	2,663,593,000	7,040,970,000	5,215,000	1,000	16,679,000	1,000	0	1,000
6	2,628,839,000	49,328,943,000	150,000	1,000	150,000	1,000	0	1,000
7	2,302,996,000	5,185,829,000	16,401,000	5,000	28,416,000	1,000	0	1,000
8	1,673,536,000	22,997,825,000	9,170,000	5,000	336,000	8,839,000	0	8,839,000
9	1,540,478,000	3,633,426,000	12,578,000	5,000	13,824,000	1,000	0	1,000
10	1,489,644,000	27,982,102,000	1,178,000	2,000	0	1,180,000	0	1,180,000
11	1,466,363,000	54,556,951,000	4,476,000	5,000	0	4,481,000	0	4,481,000
12	1,422,734,000	49,417,122,000	150,000	4,000	0	154,000	0	154,000
13	1,380,679,000	33,362,636,000	8,385,000	5,000	7,940,000	450,000	0	450,000
14	1,377,595,000	1,379,248,000	8,039,000	1,000	0	8,040,000	0	8,040,000
15	1,335,278,000	11,660,823,000	150,000	5,000	0	155,000	0	155,000
16	1,235,386,000	44,941,929,000	1,831,000	1,000	974,000	858,000	0	858,000
17	1,135,431,000	2,016,054,000	150,000	2,000	151,000	1,000	0	1,000
18	1,099,196,000	2,560,471,000	150,000	5,000	0	155,000	278,000	(123,000)
19	1,042,214,000	1,042,214,000	166,000	5,000	171,000	1,000	0	1,000
20	978,930,000	26,568,258,000	3,676,000	5,000	13,000	3,668,000	0	3,668,000
21	888,843,000	23,427,220,000	2,564,000	10,000	0	2,574,000	0	2,574,000
22	885,224,000	998,668,000	150,000	1,000	5,914,000	1,000	0	1,000
23	863,017,000	1,226,470,000	895,000	5,000	45,000	855,000	0	855,000
24	856,975,000	21,164,191,000	2,654,000	5,000	79,000	2,579,000	0	2,579,000
25	851,706,000	21,298,961,000	6,178,000	1,000	0	6,179,000	0	6,179,000
26	851,107,000	17,529,691,000	150,000	5,000	0	155,000	0	155,000
27	832,519,000	19,236,432,000	3,739,000	4,000	0	3,743,000	0	3,743,000
28	821,195,000	25,876,192,000	150,000	2,000	152,000	1,000	0	1,000
29	789,671,000	7,569,367,000	1,749,000	5,000	100,000	1,654,000	335,000	1,319,000
30	782,853,000	11,942,786,000	1,040,000	2,000	0	1,042,000	0	1,042,000
31	776,343,000	18,922,086,000	14,298,000	2,000	0	14,300,000	0	14,300,000
32	759,361,000	18,029,943,000	296,000	5,000	402,000	4,000	1,780,000	(1,776,000)
33	753,471,000	30,476,508,000	150,000	0	149,000	1,000	0	1,000
34	740,417,000	17,645,223,000	150,000	4,000	257,000	1,000	1,780,000	(1,779,000)
35	734,733,000	7,556,600,000	150,000	4,000	0	154,000	79,000	74,000
36	697,620,000	5,692,636,000	1,561,000	5,000	0	1,566,000	0	1,566,000
37	663,635,000	17,317,141,000	325,000	5,000	137,000	193,000	0	193,000
38	627,637,000	17,998,001,000	351,000	5,000	0	356,000	0	356,000
39	613,283,000	4,576,199,000	150,000	4,000	154,000	1,000	0	1,000
40	610,783,000	6,486,786,000	150,000	4,000	49,000	106,000	0	106,000
41	602,571,000	12,885,702,000	8,602,000	5,000	1,973,000	6,634,000	0	6,634,000
42	596,780,000	8,730,744,000	529,000	3,000	979,000	1,000	0	1,000
43	590,161,000	4,026,515,000	1,737,000	5,000	0	1,742,000	0	1,742,000
44	583,628,000	9,002,071,000	893,000	5,000	0	898,000	0	898,000
45	578,339,000	12,987,171,000	150,000	5,000	1,216,000	1,000	0	1,000
46	577,104,000	14,967,469,000	150,000	5,000	534,000	1,000	0	1,000
47	574,242,000	1,004,089,000	3,153,000	5,000	0	3,158,000	0	3,158,000
48	539,775,000	18,331,657,000	5,422,000	10,000	0	5,432,000	0	5,432,000
49	529,380,000	3,649,402,000	158,000	0	0	159,000	0	159,000
50	518,603,000	2,136,919,000	150,000	5,000	0	155,000	0	155,000

Source: Ohio Department of Taxation



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