



Commercial Activity Tax

The commercial activity tax (CAT) is a tax imposed on the privilege of doing business in Ohio, measured by gross receipts. The CAT is paid either quarterly or annually and applies to most business types that operate in Ohio, regardless of whether such business is located within Ohio. The tax was enacted by the Ohio General Assembly in 2005 as part of House Bill 66, legislation that also gradually phased out the tangible personal property tax and corporation franchise tax for the vast majority of Ohio businesses. In fiscal year 2012, the CAT produced about \$1,656 million in total revenue, including \$417.1 million (25.4 percent) for the General Revenue Fund.

Of the amount remaining after 0.85 percent was deposited in the tax reform administration fund, \$856.1 million (52.2 percent) was deposited in the School District Property Tax Replacement Fund and \$367.2 million (22.4 percent) was placed in the Local Government Property Tax Replacement Fund.

The returns due and filed during fiscal year 2012 show that manufacturing taxpayers accounted for the largest share of tax liability, reporting \$435.6 million or 27.3 percent of the total while accounting for 10.1 percent of all taxpayers. The retail sector represented the largest group of taxpayers – 12.8 percent – and represented 20.1 percent of total liability. Taxpayers with taxable gross receipts over \$100 million accounted for more than half (58.5 percent) of total CAT liability and just 0.5 percent of the overall taxpayer population. In contrast, taxpayers whose receipts were \$1 million or less represented just 1.1 percent of total tax liability but made up 70.5 percent of all taxpayers.

Taxpayer

(Ohio Revised Code 5751.01)

The CAT is paid by any person with taxable gross receipts of \$150,000 or more in a calendar year. The term “person” includes sole proprietors, partnerships and corporations. It also applies to service providers such as medical professionals, attorneys, and accountants. The tax also applies to all businesses that either:

- have at least \$500,000 in taxable gross receipts in Ohio;
- have at least \$50,000 in property in Ohio;
- expend at least \$50,000 in payroll for work in Ohio;
- have at least 25 percent of their total property, payroll, or gross receipts in Ohio; or
- are domiciled in Ohio.

The tax does not apply to entities that are deemed “excluded persons” such as nonprofit organizations or certain types of entities that are liable for another Ohio tax, including:

- financial institutions and certain affiliates of financial in-

stitutions, which pay the corporation franchise tax;

- insurance companies, which pay the Ohio insurance premiums tax, and certain affiliates of insurance companies; and
- dealers in intangibles, which pay the Ohio dealers in intangibles tax.

The tax also does not apply to certain receipts by public utilities that are subject to the public utility excise tax.

Tax Base

(R.C. 5751.001(F))

The CAT is a business privilege tax measured by gross receipts situated to Ohio. “Gross receipts” means the total amount realized, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income. Examples of gross receipts include sales, performance of services, and rentals or leases. The method of accounting for gross receipts for the CAT is the same as for federal income tax purposes (that is, accrual or cash basis).

Rates

(R.C. 5751.03 and 5751.031)

Generally, businesses with annual taxable gross receipts of \$150,000 or less are not subject to the CAT.

Businesses with annual taxable gross receipts of more than \$150,000 are subject to an annual minimum tax of \$150.

Businesses with annual taxable gross receipts in excess of \$1 million are subject to the annual minimum tax of \$150 plus apply an effective rate of .26% on receipts above \$1 million on a quarterly basis (with a \$250,000 quarterly exclusion).

Credits

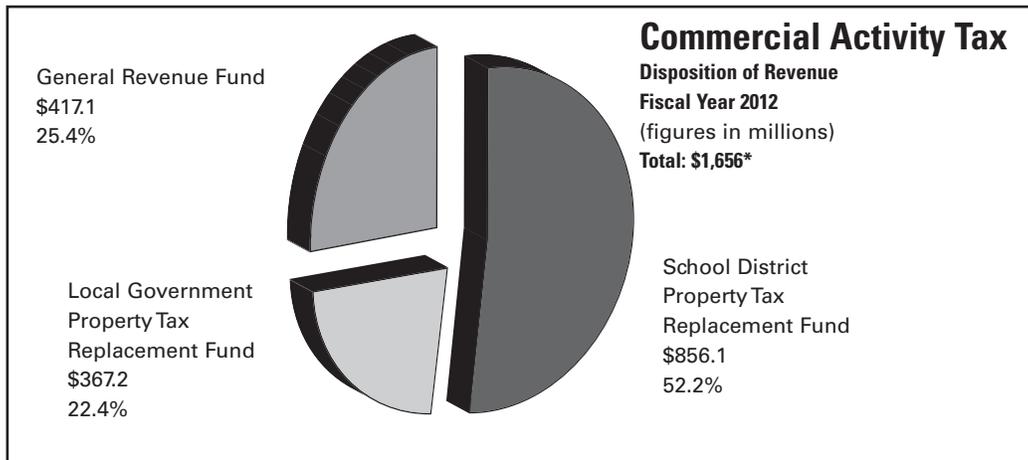
(R.C. 5751.51 – 5751.53, 5751.98)

Eligible taxpayers began accumulating one or all of the following credits against their CAT liability beginning Jan. 1, 2008, and were able to claim these credits beginning July 1, 2008 (on the return due Nov. 9, 2008):

- job creation tax credit.
- job retention tax credit.
- credit for qualified research expenses.
- credit for research and development loan payments.

In addition, a credit for unused franchise tax net operating loss deductions became available starting with the 2010 calendar year.

For more information about these credits, see the **Business Tax Credits** chapter.



Filing and Payment Dates

(R.C. 5751.051)

All businesses liable for the CAT must register prior to filing a return. All taxpayers are subject to the annual minimum tax of \$150, which is due by May 10 of each year.

Taxpayers with taxable gross receipts greater than \$1 million must file quarterly returns. Quarterly returns must be filed electronically through the Ohio Business Gateway. Quarterly returns are due on the tenth day of the second month after the end of each calendar quarter (May 10, Aug. 10, Nov. 10, and Feb. 10).

Taxpayers with taxable gross receipts less than \$1 million may file annual returns. The annual return may also be filed electronically but electronic filing is not mandatory as it is with the quarterly return. The annual return is due on or before May 10 of each year. The annual return reports the prior year's taxable gross receipts and pays the annual minimum tax for the current (privilege) year.

Disposition of Revenue

(R.C. 5751.20)

From the total CAT revenue 0.85 percent is dedicated to the Tax Reform System Implementation Fund. A portion of all state tax revenues collected by the Attorney General are put into the Attorney General's Claims Fund as prescribed by law. These are required and one is outlined above. It is essentially an administrative fund for the Attorney General's office. Of the remaining revenue, during the 2011 fiscal year:

- 70 percent of the revenue generated by the CAT was dedicated to the School District Property Tax Replacement Fund.
- 30 percent of the revenue generated by the CAT was dedicated to the Local Government Property Tax Replacement Fund.

These funding shares change beginning in fiscal year 2012. In that year, the revenue distribution shifts to provide 25% to the GRF, 52.5% to the school district property tax replacement fund and 22.5 percent to the local government property tax replacement fund. These values change again in 2013 and stabilize for all years thereafter to 50%, 35% and 15%, respectively.

Administration

The Tax Commissioner administers the CAT and distributes the revenue to the various funds.

Ohio Revised Code Citations

Chapter 5751.

Recent Court Cases

Ohio Grocers Association v. Levin, 123 Ohio St.3d 303, 2009-Ohio-4872:

The Ohio Supreme Court reversed the decision made by the Tenth District Court of Appeals in *Ohio Grocers Assoc., et al. v. Wilkins*, 897 N.E.2d188 (Ohio App. 10th Dist., Sept. 2, 2008). In its opinion, the Court decided that the CAT "is not a tax on the sale or purchase of food and therefore does not violate the Ohio Constitution." The Court further clarified that the CAT "is a tax on the privilege of doing business" and the "fact that the tax is measured by gross receipts that include proceeds from the sale of food does not affect the constitutionality of [the CAT]."

* Includes Attorney General Claims Fund and Tax Reform System Implementation Fund, which together amount to \$15.6 million.

Table 1

Fiscal Year 2012 Commercial Activity Tax Returns, Number of Returns and Reported Financial Data, by Industrial Classification ¹ (Dollar amounts are in thousands)											
Industrial Classification	NAICS Code Ranges	Number of Taxpayers	Number of Taxable Gross Receipts	Exclusion ²	Net Taxable Gross Receipts	Tax Rate at 0.26%	Annual Minimum Tax ³	Tax Before Credits	Non-refundable Tax Credits	Refundable Tax Credits	Total Tax Due: 0.26% Tax and Minimum Tax
Agriculture, Forestry, and Fishing	111100-115310	6,077	\$6,814,795	\$2,906,649	\$3,908,145	\$10,161	\$919	\$11,080	\$5	\$12	\$11,060
Mining	211110-213110	745	5,661,679	432,789	5,228,889	13,595	109	13,704	183	155	13,364
Utilities (excluding telecommunications)	221100-221300	154	16,606,767	100,685	16,506,082	42,916	23	44,939	292	0	42,647
Construction	236110-238900	14,337	32,812,682	7,461,605	25,351,078	65,913	2,083	67,996	26	115	67,791
Manufacturing	311110-339900	15,700	191,748,675	10,966,741	180,781,935	470,033	2,301	472,334	23,809	9,140	435,612
Wholesale Trade	423100-425120	8,802	104,450,216	6,038,690	98,411,527	255,870	1,288	257,158	331	515	256,184
Retail Trade	441110-454390	19,851	136,407,010	11,812,510	124,594,500	323,946	2,900	326,845	349	5,847	320,656
Transportation and Warehousing	481000-493100	4,330	16,082,490	2,446,866	13,635,623	35,453	632	36,084	36	421	35,615
Information (including telecommunications)	511110-519100	1,593	27,575,364	944,703	26,630,661	69,240	229	69,469	2,068	414	66,915
Finance and Insurance	522110-525990	5,535	9,426,081	2,014,278	7,411,802	19,271	808	20,078	0	450	19,631
Real Estate, and Rental & Leasing of Property	531110-533110	12,974	16,430,121	5,732,743	10,697,378	27,813	1,899	29,712	8	0	29,714
Professional, Scientific and Technical Services	541110-541990	14,435	38,066,512	7,262,390	30,804,122	80,091	2,112	82,203	248	1,513	80,394
Management of Companies (Holding Companies)	551111-551112	880	36,313,624	682,092	35,631,532	92,642	128	92,769	746	7,342	84,648
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	3,862	9,203,570	1,957,861	7,245,709	18,839	565	19,403	122	1,165	18,116
Education, Health Care and Social Assistance	611000-624410	11,833	24,831,001	6,988,236	17,842,766	46,391	1,728	48,119	157	0	47,960
Arts, Entertainment, and Recreation	711100-713900	1,515	2,615,628	701,297	1,914,331	4,977	221	5,198	0	0	5,201
Accommodation and Food Services	721110-722410	8,634	15,590,323	4,782,861	10,807,462	28,099	1,264	29,363	173	0	29,215
Other Services	811110-812990	7,947	7,880,069	3,634,394	4,245,675	11,039	1,175	12,214	151	3	12,060
Unclassified	n/a	15,755	13,556,298	6,053,420	7,502,878	19,507	2,290	21,797	22	387	21,379
TOTAL		154,959	\$712,072,902	\$82,920,809	\$629,152,093	\$1,635,795	\$22,672	\$1,658,467	\$28,727	\$27,479	\$1,598,162

1 The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2012. This is because table reflects reported tax liability, not actual payments made. In addition, the table reflects information from tax returns on the computer system as of the dates when the August 2011, November 2011, February 2012 and May 2012 return data was extracted; any subsequently filed tax returns or subsequent corrections made to previously-filed tax returns are not reflected in this table.

2 Each quarter a taxpayer's first \$250,000 in taxable gross receipts is excluded from the 0.26% tax, resulting in an annual exclusion of \$1 million per taxpayer.

3 The annual minimum tax is \$150. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax.

Table 2

Fiscal Year 2012 Commercial Activity Tax Returns, Number of Returns and Reported Financial Data by Size of Taxable Gross Receipts ¹										
(Dollar amounts are in thousands)										
Size of FY 2011 Taxable Gross Receipts ²	Number of Taxpayers	Taxable Gross Receipts	Exclusion ³	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax ⁴	Tax Before Credits	Non- refundable Tax Credits	Refundable Tax Credits	Total Tax Due: 0.26% Tax and Minimum Tax
Less than \$1,000,000	106,609	\$35,412,809	\$34,983,121	\$429,688	\$1,117	\$15,306	\$16,423	\$0	\$1,987	\$14,457
\$1,000,000 - \$1,999,999	19,409	27,752,488	19,311,082	8,441,406	21,948	3,054	25,002	22	127	24,857
\$2,000,000 - \$2,999,999	8,204	19,956,964	8,142,792	11,814,172	30,717	1,244	31,961	46	790	31,135
\$3,000,000 - \$3,999,999	4,567	15,765,416	4,522,841	11,242,575	29,231	682	29,913	87	1,825	27,994
\$4,000,000 - \$4,999,999	2,747	12,303,304	2,705,919	9,597,385	24,953	405	25,358	37	294	25,030
\$5,000,000 - \$9,999,999	6,023	42,076,981	5,928,819	36,148,161	93,985	889	94,874	297	1,311	93,217
\$10,000,000 - \$24,999,999	4,070	62,640,363	4,015,293	58,625,070	152,425	601	153,027	720	2,698	149,409
\$25,000,000 - \$49,999,999	1,559	54,340,616	1,544,676	52,795,939	137,269	230	137,500	670	1,766	135,046
\$50,000,000 - \$99,999,999	867	59,749,207	860,247	58,888,959	153,111	127	153,239	1,828	5,104	146,157
\$100,000,000 - \$499,999,999	746	151,426,623	748,005	150,678,618	391,764	110	391,875	4,055	5,107	382,356
\$500,000,000 - \$999,999,999	95	64,731,956	95,000	64,636,956	168,056	14	168,070	4,723	1,192	161,386
\$1 billion and above	63	165,916,177	63,014	165,853,163	431,218	9	431,228	16,241	5,277	407,118
TOTAL	154,959	\$712,072,902	\$82,920,809	\$629,152,093	\$1,635,795	\$22,672	\$1,658,467	\$28,727	\$27,479	\$1,598,162

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2 These categories reflect aggregate taxable gross receipts (before exclusion) as reported by taxpayers on returns that were due and filed during fiscal year 2012. For example, a taxpayer whose taxable gross receipts were \$5 million, \$6 million, \$4 million, and \$7 million, on returns filed in August 2011, November 2011, February 2012 and May 2012, respectively, would have total fiscal year 2011 taxable gross receipts of \$22 million, and thereby would be included within the \$10-\$25 million category.

3 On a quarterly basis, each taxpayer's first \$250,000 in taxable gross receipts is excluded from the 0.26% tax, resulting in an annual exclusion of \$1 million per taxpayer.

4 The annual minimum tax is \$150. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax.