



## 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. The General Assembly enacted the tax in 2005 as part of House Bill 66, which also gradually phased out the tangible personal property tax and corporation franchise tax for most Ohio businesses. In fiscal year 2015, total CAT revenue was about \$1,751.7 million.

Of the amount remaining after 0.85 percent was deposited in the revenue enhancement fund, about \$854.0 million was deposited in the General Revenue Fund, about \$597.8 million was deposited in the School District Tangible Property Tax Replacement Fund, and \$256.2 million in the Local Government Tangible Property Tax Replacement Fund. About \$28.8 million was deposited in the Commercial Activity Tax (CAT) motor fuel fund representing CAT revenues measured by receipts from the sale of motor fuel used to propel vehicles on the highways. Smaller amounts were deposited into the Attorney General claims fund, revenue enhancement fund and amounts remaining in the CAT hold fund at the end of the fiscal year.

Returns due and filed in fiscal year 2015 show that manufacturing taxpayers accounted for the largest share of tax liability or about \$443.6 million and 26.1 percent of the total while accounting for 10.5 percent of all filers. The retail sector was the largest group of filers (12 percent), paying about \$346.3 million or 20.3 percent of total liability. Filers with taxable gross receipts of \$100 million or greater accounted for more than half (54.2 percent) of total CAT liability and just above 0.6 percent of the overall filer population. In contrast, taxpayers whose receipts were under \$1 million represented about 0.5 percent of total tax liability but made up 66.3 percent of all taxpayers.

### Taxpayer

(Ohio Revised Code 5751.01)

Generally, the CAT is paid by any person with more than \$150,000 in taxable gross receipts 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 of payroll 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 institutions, which, depending on the privilege year, pay the financial institutions tax;
- insurance companies, which pay the Ohio insurance premiums tax.

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

### Tax Base

(R.C. 5751.01)

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 CAT is measured by gross receipts situated to Ohio in accordance with rules that are primarily destination based. 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).

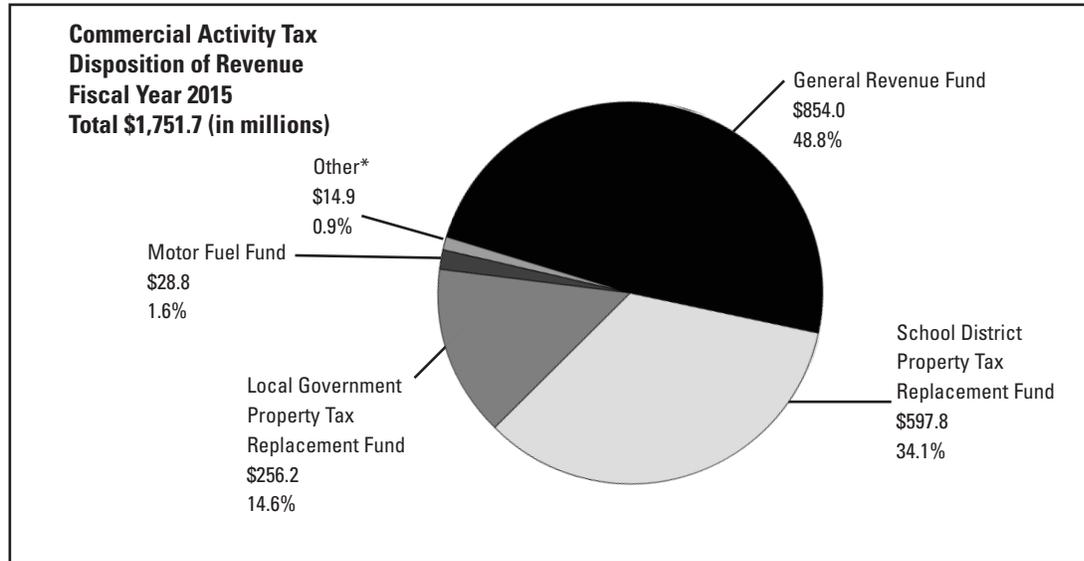
### Annual Minimum Tax

(R.C. 5751.03)

Generally, filers with annual taxable gross receipts of \$150,000 or less are not subject to the CAT. Filers with annual taxable gross receipts of more than \$150,000 are subject to an annual minimum tax. For tax periods beginning on or after Jan. 1, 2014, the amount of annual minimum tax that a CAT filer pays for the calendar year is determined from a schedule of fixed dollar amounts that corresponds to their overall commercial activity in Ohio in the previous calendar year.

- \$150 for filers with more than \$150,000 but less than or equal to \$1 million taxable gross receipts in the previous calendar year.

Chart 1



\*Other Includes: Revenue Enhancement Fund, AG Claims Fund, CAT Registration Fund and CAT Tax Receipts Fund.  
Source: Office of Budget and Management financial reports.

- \$800 for filers with more than \$1 million but less than or equal to \$2 million taxable gross receipts in the previous calendar year.
- \$2,100 for filers with more than \$2 million but less than or equal to \$4 million taxable gross receipts in the previous calendar year.
- \$2,600 for filers with more than \$4 million taxable gross receipts in the previous calendar year.

Businesses with annual taxable gross receipts in excess of \$1 million pay the annual minimum tax plus the product of a tax rate of 0.26% multiplied by taxable gross receipts for the tax period after subtracting the exclusion amount as provided for in the law. Each taxpayer may exclude the first \$1 million of taxable gross receipts for a calendar year. Calendar quarter taxpayers apply the full exclusion amount to the first calendar quarter return the taxpayer files that calendar year and may carry forward and apply any unused exclusion amount to subsequent calendar quarters within that same calendar year.

## Rates

(R.C. 5751.03)

Businesses with annual taxable gross receipts in excess of \$1 million pay the annual minimum tax plus the product of a tax rate of 0.26% multiplied by taxable gross receipts for the tax period after subtracting the exclusion amount as provided for in the law. Each taxpayer may exclude the first \$1 million of taxable gross receipts for a calendar year. Calendar quarter taxpayers apply the full exclusion amount to the first calendar quarter return the taxpayer files that calendar year and may carry forward and apply any unused exclusion amount to subsequent calendar quarters within that same calendar year.

## Major Exemptions and Exclusions

(R.C. 5751.01)

The CAT does not apply to:

- nonprofit organizations;
- financial institutions and certain affiliates of financial institutions, which pay the financial institutions tax;
- insurance companies that pay the Ohio premiums tax;
- certain receipts of public utilities that are subject to the public utility excise tax.

There are certain kinds of receipts that are excluded from the definition of "gross receipts" under R.C. 5751.01. Effective July 1, 2014, R.C. 5751.01 excludes receipts from the sale or exchange of motor fuel from the definition of "gross receipts" for CAT purposes.

## Credits

(R.C. 5751.51 – 5751.53, 5751.98)

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

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

Credit for unused franchise tax net operating loss deductions became available starting with the 2010 calendar year. Additionally, beginning in March 2013, a refundable motion picture tax credit became available against the CAT. Temporarily, the historic preservation tax credit may be claimed against the CAT.

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 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 by the 10th 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 must also be filed electronically, by using the Ohio Business Gateway or the department's TeleFile system. The annual return is due on or before May 10 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)

All collections from the CAT are deposited in the commercial activity tax receipts fund. From that fund, 0.85 percent is dedicated to the revenue enhancement fund and is used to defray the costs incurred by the department in administering the tax and in implementing tax reform measures. The remainder is first credited to the commercial activity tax motor fuel receipts fund in accordance with R.C. 5751.20(B)(2) and then to the general revenue fund, to the school district tangible property tax replacement fund, and to the local government tangible property tax replacement fund in the following percentages:

- 50 percent of the revenue to the General Revenue Fund.
- 35 percent of the revenue to the School District Property Tax Replacement Fund.
- 15 percent of the revenue to the Local Government Property Tax Replacement Fund.

Fiscal Year	Total (in millions)
2011	\$1,451.6
2012	1,656.3
2013	1,595.1
2014	1,685.8
2015	1,751.7

Source: Office of Budget and Management financial reports

## Administration

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

## Ohio Revised Code Citations

Chapter 5751.

## Recent Court Decisions

**Beaver Excavating Co. v. Testa, 2012-Ohio-5776, 134 Ohio St. 3d 565, 566, 983 N.E.2d 1317, 1320 (2012).**

The Ohio Supreme Court reversed the decision made by the Tenth District Court of Appeals. The issue raised in this case is the constitutionality of the commercial activity tax as applied to gross receipts from motor vehicle fuel sales. The decision was issued on Dec. 7, 2012 and is given prospective application. The Court held that the statutory allocation of CAT revenues derived from the sale of motor-vehicle fuel violates the Section 5a clause of the Ohio Constitution because the funds are not dedicated to highway expenditures.

## Recent Legislation

**Amended Substitute House Bill 64, 131st General Assembly (FY 2016-2017 biennial budget bill; budget provisions effective July 1, 2015)**

The Act amended 5751.01(F)(2)(jj) to clarify the definition of gross receipts. The Act excluded qualifying integrated supply chain receipts from the definition of gross receipts for CAT purposes. Qualifying supply chain receipts, qualified property, qualified integrated supply chain vendor, and qualified integrated supply chain district, were defined in the Act. This provision was made retroactive to 2011.

The Act amended 5751.20 and 5751.02 to change the allocation of CAT revenue, effective July 1, 2015. The changes to allocation occur after crediting to the commercial activity tax motor fuel receipts fund in accordance with R.C. 5751.02(C)(2), as amended by Am. Sub. H.B. 64, 131st G.A. The percent allocation to the general revenue fund, to the school district tangible property tax replacement fund, and to the local government tangible property tax replacement fund was changed to:

- 75 percent of the revenue to the General Revenue Fund,
- 20 percent of the revenue to the School District Tangible Property Tax Replacement Fund, and
- 5 percent of the revenue to the Local Government Tangible Property Tax Replacement Fund.

**Amended Substitute House Bill 59, 130th General Assembly (effective July 1, 2013)**

Beginning on July 1, 2014, receipts from the sale, transfer, exchange, or other disposition of motor fuel are

excluded from the definition of taxable gross receipts for purposes of the CAT. Beginning on July 1, 2014, the Petroleum Activity Tax (PAT) is levied on suppliers of motor fuel, and is measured by a supplier's gross receipts from the first sale, transfer, exchange or other disposition of motor fuel in Ohio to a point outside of the distribution system.

## History of Major Changes

2005	The CAT is enacted as part of HB 66.
2006	<p>Legislation allows for certain corporations to claim an unused tax credit that was previously available against corporation franchise tax.</p> <p>Beginning in 2007, an existing exemption for amounts derived from shipments into or out of a qualified foreign trade zone was replaced with an exemption for certain receipts from the sale of tangible personal property delivered to a "qualified distribution center."</p>
2007	<p>Legislation devoted 70 percent of CAT revenue to the School District Tangible Property Tax Replacement Fund.</p> <p>The same legislation authorized an alternative method for situsing receipts from services that must be applied in a reasonable, consistent and uniform manner that is supported by the taxpayer's records as they existed when the service was performed or within a reasonable time thereafter.</p>
2009	<p>In <i>Ohio Grocers Assn. v. Levin</i>, the Ohio Supreme Court reversed the decision made by the Tenth District Court of Appeals and upheld that the CAT "is not a tax on the sale or purchase of food and therefore does not violate the Ohio Constitution."</p> <p>Beginning in 2010, the due date for the annual minimum tax was moved from February to May. Additionally, the quarterly due dates for the CAT returns were moved to the tenth day of the second month following each tax period. Previously, the due date floated based on the calculation of forty days following each tax period.</p>
2010	A legislative change allows a person (in certain situations) who, after completion of the calendar year, was not subject to the CAT because the person's taxable gross receipts were \$150,000 or less, to apply for a refund of the previously paid annual minimum tax.
2012	In <i>Beaver Excavating Co. v. Testa</i> , the Ohio Supreme Court held that the statutory allocation of the CAT revenues derived from the sale of motor-vehicle fuel violates the Section 5a clause of the Ohio Constitution because the funds are not dedicated to highway expenditures.

2013	HB 59 modifies the method of collecting the tax due. It excludes from the CAT base receipts of licensed agricultural commodity handlers from the sale of agricultural commodities. Beginning July 1, 2014, it excludes from the CAT base receipts from the sale or exchange of motor fuel. The bill also replaces a fixed minimum tax with a variable rate minimum tax, beginning Jan. 1, 2014.
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## Comparisons with Other States

(As of June 30, 2015)

None of the states selected for comparison in this publication impose a tax which is exclusively measured by gross receipts. However, the following states impose corporate income taxes: Georgia (6%), Kentucky (4% - 6%), Michigan (6%), North Carolina (5%), Pennsylvania (9.99%), Tennessee (6.5%) and West Virginia (6.5%). Texas imposes a franchise tax ("margin tax") which is based on the lesser of three alternative computations: total receipts less costs of goods sold; total receipts less compensation paid; or total receipts multiplied by 70 percent, and the rate is 0.95 percent of taxable margin. Some of these comparison states levy additional taxes paid by businesses that are not described here (e.g., tax on business personal property).

**Table 2**

**Fiscal Year 2015 Commercial Activity Tax Returns,  
Number of Returns and Reported Financial Data, by Industrial Classification<sup>1</sup>**  
(dollar amounts are in thousands)

Industrial Sector	NAICS Code Ranges	Number of Filers	Taxable Gross Receipts	Exclusion <sup>2,5</sup>	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax <sup>3</sup>	Tax at 0.26% rate plus Minimum Tax, before all credits <sup>5</sup>	Non-refundable Tax Credits <sup>4</sup>	Refundable Tax Credits <sup>4</sup>	Total Tax Due: 0.26% Tax and Minimum Tax, after all credits
Agriculture, Forestry, and Fishing	111100-115310	7,319	\$7,966,650	\$3,874,234	\$4,092,416	\$10,631	\$2,898	\$13,530	\$95	\$33	\$13,396
Mining	211110-213110	900	11,869,239	546,086	11,323,153	29,442	798	30,240	294	110	29,833
Utilities (excluding telecommunications)	221100-221300	175	17,314,270	131,647	17,182,623	44,675	221	44,896	1,462	0	43,434
Construction	236110-238900	16,111	42,991,948	9,898,893	33,093,055	86,045	11,191	97,235	829	2,211	94,109
Manufacturing	311110-339900	16,700	219,342,089	12,280,257	207,061,832	538,327	18,079	556,406	70,180	46,484	443,610
Wholesale Trade	423100-425120	9,760	92,348,874	6,950,787	85,398,087	222,008	10,463	232,471	2,870	10,981	218,607
Retail Trade	441110-454390	19,099	144,012,042	11,912,893	132,099,149	343,458	13,867	357,325	1,603	10,235	346,256
Transportation and Warehousing	481000-493100	4,869	21,005,180	3,044,045	17,961,136	46,694	3,700	50,395	98	441	49,835
Information (including telecommunications)	511110-519100	1,713	30,178,794	1,042,825	29,135,969	75,741	1,386	77,127	1,884	7,243	66,005
Finance and Insurance	522110-525990	6,019	15,497,351	2,767,593	12,729,758	33,101	2,698	35,799	1	7,087	28,694
Real Estate, and Rental & Leasing of Property	531110-533110	15,166	21,073,071	7,519,624	13,553,447	35,234	6,446	41,680	84	270	41,377
Professional, Scientific and Technical Services	541110-541990	16,492	40,396,473	9,044,665	31,351,808	81,505	9,279	90,784	1,726	4,801	84,489
Management of Companies (Holding Companies)	551111-551112	855	36,979,005	685,060	36,293,946	94,365	1,396	95,761	3,555	8,062	84,205
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	4,588	12,515,185	2,614,670	9,900,515	25,742	2,810	28,552	253	769	27,617
Education, Health Care and Social Assistance	611000-624410	12,317	27,213,490	7,901,608	19,311,882	50,211	7,710	57,920	38	66	57,810
Arts, Entertainment, and Recreation	711100-713900	1,842	4,430,434	988,700	3,461,734	9,001	813	9,813	0	2,905	6,912
Accommodation and Food Services	721110-722515	9,953	19,449,992	6,160,279	13,289,713	34,553	5,486	40,040	202	81	39,758
Other Services	811110-812990	8,911	9,247,461	4,559,526	4,687,935	12,189	3,488	15,677	1	22	15,648
Unclassified	n/a	6,784	5,635,135	3,015,167	2,619,968	6,812	2,368	9,179	42	11	9,124
<b>TOTAL</b>		<b>159,553</b>	<b>\$779,466,686</b>	<b>\$94,918,559</b>	<b>\$684,548,126</b>	<b>\$1,779,733</b>	<b>\$105,097</b>	<b>\$1,884,830</b>	<b>\$85,218</b>	<b>\$101,811</b>	<b>\$1,702,710</b>

Source: Department of Taxation

<sup>1</sup> The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2015. The table reflects reported tax liability, not actual payments made. In addition the table reflects information from tax returns processed by the Department of Taxation on or after July 1, 2014 to on or before September 30, 2015, and includes quarterly returns for the 2nd, 3rd, 4th calendar quarters of 2014, the 1st calendar quarter of 2015, and annual returns for calendar year 2014. The quarterly CAT returns for these time periods are due in August 2014, November 2014, February 2015 and May 2015, respectively, and the annual returns are due May 2015. Each of these due dates fall within fiscal year ending June 30, 2015. Any original or amended returns filed after September 30, 2015 are not reflected in this table.

<sup>2</sup> For each filer, the entire annual exclusion of \$1,000,000 may be taken on the first quarter return, up to the amount of total gross receipts. Any unused exclusion is carried forward to subsequent quarters.

<sup>3</sup> The annual minimum tax is \$150 for filers with more than \$150,000 but less than or equal to \$1 million taxable gross receipts in the previous calendar year. The annual minimum tax is \$800 for filers with more than \$1 million but less than or equal to \$2 million taxable gross receipts in the previous calendar year. The annual minimum tax is \$2,100 for filers with more than \$2 million but less than or equal to \$4 million taxable gross receipts in the previous calendar year. The annual minimum tax is \$2,600 for filers with more than \$4 million taxable gross receipts in the previous calendar year. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax. In general, persons with annual gross receipts of \$150,000 or less are not subject to the commercial activity tax.

<sup>4</sup> Nonrefundable credits and refundable credits listed on this table were filed according to the time schedule described in footnote (1), and were reviewed and verified by the Department of Taxation, Commercial Activities Tax Division, as of September 30, 2015. Any credits filed, reviewed, or verified after September 30, 2015 are not reflected in this table.

<sup>5</sup> Two fields, "Exclusion" and "Tax at 0.26% rate plus Minimum Tax, before all credits" do not exist as lines on CAT returns. Each of these fields was, therefore, calculated. The "Exclusion" field was calculated by subtracting "Net Taxable Gross Receipts" from "Taxable Gross Receipts" for each filer. The "Tax at 0.26% rate plus Minimum Tax, before all credits", field was calculated by summing "Tax at 0.26% Rate", and "Annual Minimum Tax" for each filer.

Table 3

**Fiscal Year 2015 Commercial Activity Tax Returns,  
Number of Returns and Reported Financial Data, by Size of Taxable Gross Receipts<sup>1</sup>**  
(Dollar amounts are in thousands)

Size Range of Taxable Gross Receipts <sup>2</sup>	Number of Filers	Taxable Gross Receipts	Exclusion <sup>3,6</sup>	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax <sup>4</sup>	Tax at 0.26% rate plus Minimum Tax, before all credits <sup>6</sup>	Non-refundable Tax Credits <sup>5</sup>	Refundable Tax Credits <sup>5</sup>	Total Tax Due: 0.26% Tax and Minimum Tax, after all credits
Less than \$1,000,000	105,734	\$41,491,918	\$41,142,835	\$349,084	\$907	\$16,023	\$16,929	\$44	\$8,504	\$8,426
\$1,000,000 - \$1,999,999	22,087	31,374,551	21,885,284	9,489,267	24,670	17,521	42,191	428	963	41,163
\$2,000,000 - \$2,999,999	8,941	21,848,422	9,056,530	12,791,892	33,254	16,862	50,115	282	969	49,006
\$3,000,000 - \$3,999,999	4,832	16,723,672	4,959,045	11,764,627	30,589	9,967	40,556	1,327	1,113	39,255
\$4,000,000 - \$4,999,999	3,029	13,502,342	3,070,146	10,432,196	27,124	7,351	34,475	3,026	162	34,205
\$5,000,000 - \$9,999,999	6,570	45,993,032	6,563,207	39,429,825	102,518	16,332	118,850	888	1,830	116,198
\$10,000,000 - \$24,999,999	4,603	70,737,454	4,549,838	66,187,615	172,087	11,542	183,629	1,961	2,725	179,398
\$25,000,000 - \$49,999,999	1,733	60,937,148	1,704,718	59,232,430	154,002	4,382	158,384	1,434	7,374	149,572
\$50,000,000 - \$99,999,999	1,006	69,828,878	986,957	68,841,921	178,986	2,536	181,522	3,271	15,587	162,576
\$100,000,000 - \$499,999,999	853	174,621,657	835,000	173,786,657	451,795	2,151	453,946	15,083	22,146	416,612
\$500,000,000 - \$999,999,999	97	66,562,420	97,000	66,465,420	172,775	252	173,027	10,849	6,107	156,051
\$1 billion and above	68	165,845,192	68,000	165,777,192	431,027	177	431,203	46,626	34,331	350,247
<b>TOTAL</b>	<b>159,553</b>	<b>\$779,466,686</b>	<b>\$94,918,559</b>	<b>\$684,548,126</b>	<b>\$1,779,733</b>	<b>\$105,097</b>	<b>\$1,884,830</b>	<b>\$85,218</b>	<b>\$101,811</b>	<b>\$1,702,710</b>

Source: Department of Taxation

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<sup>2</sup> These categories reflect aggregate taxable gross receipts (before exclusion) as reported by taxpayers on returns that were due during fiscal year 2015 and processed by the Department of Taxation on or after July 1, 2014 to on or before September 30, 2015. For example, a taxpayer whose taxable gross receipts were \$5 million, \$6 million, \$4 million, and \$7 million, on returns filed in August 2014, November 2014, February 2015 and May 2015, respectively, would have total fiscal year 2015 taxable gross receipts of \$22 million, and thereby would be included within the \$10 - \$25 million category.

<sup>3</sup> For each filer, the entire annual exclusion of \$1,000,000 may be taken on the first quarter return, up to the amount of total gross receipts. Any unused exclusion is carried forward to subsequent quarters.

<sup>4</sup> The annual minimum tax is \$150 for filers with more than \$150,000 but less than or equal to \$1 million taxable gross receipts in the previous calendar year. The annual minimum tax is \$800 for filers with more than \$1 million but less than or equal to \$2 million taxable gross receipts in the previous calendar year. The annual minimum tax is \$2,100 for filers with more than \$2 million but less than or equal to \$4 million taxable gross receipts in the previous calendar year. The annual minimum tax is \$2,600 for filers with more than \$4 million taxable gross receipts in the previous calendar year. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax. In general, persons with annual gross receipts of \$150,000 or less are not subject to the commercial activity tax.

<sup>5</sup> Nonrefundable credits and refundable credits listed on this table were filed according to the time schedule described in footnote <sup>1</sup>, and were reviewed and verified by the Department of Taxation, Commercial Activities Tax Division, as of September 30, 2015. Any credits filed, reviewed, or verified after September 30, 2015 are not reflected in this table.

<sup>6</sup> Two fields, "Exclusion", and "Tax at 0.26% rate plus Minimum Tax, before all credits", do not exist as lines on CAT returns. Each of these fields was, therefore, calculated. The "Exclusion" field was calculated by subtracting "Net Taxable Gross Receipts" from "Taxable Gross Receipts" for each filer. The "Tax at 0.26% rate plus Minimum Tax, before all credits", field was calculated by summing "Tax at 0.26% Rate", and "Annual Minimum Tax" for each filer.