Commercial Activity Tax (CAT)

Taxpayer

Generally, the CAT is paid by any person that has substantial nexus with the State of Ohio and with taxable gross receipts of more than $150,000 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, as well as persons engaged in the sale or rental of property. A person has substantial nexus if they have any one of the following in a calendar year:

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

Tax Base

The CAT is a business privilege tax measured by gross receipts, defined as the total amount realized, without deduction for the cost of goods sold or other expenses incurred, from activities that contribute to the production of gross income. Examples of gross receipts include sales, performance of services, and rentals or leases. A taxpayer accounts for gross receipts using the same method of accounting as for federal income tax (i.e., accrual or cash basis).

Rates

- Generally, taxpayers with annual taxable gross receipts of $150,000 or less are not subject to the CAT.
- Taxpayers with taxable gross receipts between $1 million and $2 million pay $800 plus 0.26% of the taxable gross receipts in excess of $1 million.
- Taxpayers with taxable gross receipts between $2 million and $4 million pay $2,100 plus 0.26% of the taxable gross receipts in excess of $1 million.
- Taxpayers with taxable gross receipts in excess of $4 million pay $2,600 plus 0.26% of the taxable gross receipts in excess of $1 million.

Major Exemptions

The CAT does not apply to:

- nonprofit organizations;
- financial institutions and certain affiliates of financial institutions, which, depending on the privilege year, pay the corporation franchise tax or the financial institutions tax;
- insurance companies, which pay the Ohio premiums tax;
- dealers in intangibles; and
- certain receipts by public utilities that are subject to the public utility excise tax.
- receipts from the sale or exchange of motor fuel.

Revenue (in millions)	
Fiscal Year	**Total**
2009	$1,179.4
2010	1,342.1
2011	1,451.6
2012	1,656.3
2013	1,595.1

Disposition of Revenue

In fiscal year 2012, the General Revenue Fund received 25 percent of CAT revenue, while the School District Tangible Property Tax Replacement Fund and Local Government Tangible Property Tax Replacement Fund received 52.5 percent and 22.5 percent of tax revenue, respectively. In fiscal year 2013 and thereafter, the General Revenue Fund receives 50 percent of CAT revenue, with the School District and Local Government Tangible Property Tax Replacement Funds receiving 35 percent and 15 percent, respectively.

Payment Dates

All persons liable for the CAT must register prior to filing a return. All taxpayers are subject to the annual minimum tax, which is due by May 10th 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 on or before 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 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.

Special Provisions and Credits

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.

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 is available against the CAT. For more information about these credits, see the **Business Tax Credits** chapter.

Sections of Ohio Revised Code

Chapter 5751.

Responsibility for Administration

Tax Commissioner.

History of Major Changes

2005	The CAT is enacted as part of H.B. 66.
2006	Legislation allows for certain corporations to claim an unused tax credit that was previously available against corporation franchise tax. 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".
2007	Legislation devoted 70 percent of the CAT revenue to the School District Tangible Property Tax Replacement Fund. 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.
2009	In Ohio Grocers Assn. v. Levin, 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." 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.
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	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 (CAT) as applied to gross receipts from motor-vehicle-fuel sales. The decision was issued on December 7, 2012 and is given prospective application. The 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	House Bill 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.

Comparisons with Other States

(As of September, 2013)

None of the states selected for comparison in this publication impose a tax which is exclusively measured by gross receipts. The tax most closely resembling the CAT is the Texas 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.

See the **Corporation Franchise Tax** chapter for further comparative information on state business taxes.