

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Taxation

Regulation/Package Title: Commercial Activity Tax Rule Rescission

Rule Number(s): 5703-29-07

Date: 09/20/2016

**Rule Type:**

- New  
 Amended

- 5-Year Review  
 Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

5703-29-07 Qualified foreign trade zone area.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

This rule describes an exclusion from gross receipts subject to the commercial activity tax that was authorized in uncodified section 557.09.09 of Am. Sub. H.B. 66 of the 126<sup>th</sup> General Assembly and expired on December 31, 2006 pursuant to uncodified section 690.06 of Am. Sub. H.B. 530 of the 126<sup>th</sup> General Assembly. This regulation described the exclusion and clarified its application.

The Department seeks to rescind this rule in its entirety. The exclusion described in this rule cannot be applied to tax periods after December 31, 2006. Accordingly, the regulation is obsolete and is not applicable to the regulated population after that date. The Department cannot justify maintaining this regulation.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

R.C. 5703.05 and 106.03

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

N/A

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The original purpose of this regulation was to describe an exclusion from gross receipts that was made available through an uncodified section of legislation. The Department no longer believes that the regulation is necessary because the exclusion is not available for tax periods after December 31, 2006.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

N/A

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

On April 28, 2016, the Department posted the proposed rule rescission on its website. A “Tax Alert” email was sent that same day to all persons subscribed to the commercial activity tax email notification system. The Tax Alert is attached as Exhibit 1. The Department requested that comments be received by May 12, 2016.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The Department received one email citing the proposed rule rescission in the subject line. The comment favored rescission of the rule.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

N/A

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

N/A

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

N/A

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

N/A

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

N/A

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

N/A – The regulation applies only to CAT taxpayers having gross receipts from shipments into and out of a qualified foreign trade zone area from July 1, 2005 to December 31, 2006.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

There is no adverse impact anticipated from the rescission of this rule.

- c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

There is no adverse impact anticipated from the rescission of this rule.

- 15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The rule’s rescission is not expected to have an adverse impact on the regulated community.

### **Regulatory Flexibility**

- 16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

N/A

- 17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

N/A

- 18. What resources are available to assist small businesses with compliance of the regulation?**

N/A