



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 all 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 2010, the CAT produced \$1,342.12 million in total revenue. Of the amount remaining after 0.85 percent was deposited in the tax reform administration fund, \$930.4 million, or 70 percent, was deposited in the School District Property Tax Replacement Fund and \$398.8 million, or 30 percent, was placed in the Local Government Property Tax Replacement Fund. No revenue was deposited into the General Revenue Fund.

The returns due and filed during fiscal year 2010 show that manufacturing taxpayers accounted for the largest share of tax liability, reporting \$343.2 million or 26.5 percent of the total while accounting for 10.3 percent of all taxpayers. The retail sector represented the largest group of taxpayers – 12.9 percent – and represented 20.5 percent of total liability. Taxpayers with taxable gross receipts over \$100 million accounted for more than half (58 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 1.0 percent of total tax liability but made up 72.1 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, as well as persons engaged in the sale or rental of most types of real property. 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 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 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 base of the CAT is 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 and also pay tax of .26% on receipts above \$1 million on a quarterly basis (with a \$250,000 quarterly exclusion) at the following tax rates:

- April 1, 2008 to March 31, 2009: 0.208 percent.
- April, 2009 and thereafter: 0.26 percent.

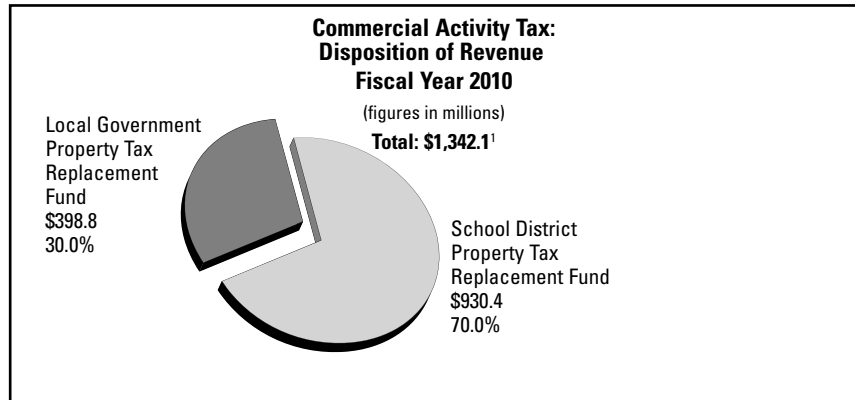
Credits

(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.

Chart

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 2010 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.

Current law maintains this distribution formula until fiscal year 2011. Beginning in fiscal year 2012, the CAT revenue apportioned to the Local Government Property Tax Replacement Fund will be drawn down at an average rate of 3.5 percentage points annually and deposited into the General Revenue Fund. Starting with fiscal year 2019, the General Revenue Fund will receive 30 percent of CAT revenue, and the remaining 70 percent will be allocated to the School District Property Tax Replacement Fund.

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]."

¹ Includes \$12.9 million for the Attorney General Claims Fund and Tax Reform System Implementation Fund. From total CAT revenue, 0.85 percent is dedicated to the Tax Reform System Implementation Fund. Additionally, a portion of all state tax revenues collected by the Attorney General is deposited into the Attorney General Claims Fund as prescribed by law.

Table 1

Industrial Classification	NAICS Code Ranges	Number of Returns and Reported Financial Data, by Industrial Classification ¹ (Dollar amounts are in thousands)		Net Taxable Gross Receipts	Exclusion ²	Tax Rate at 0.26%	Annual Minimum Tax ³	Tax Before Credits	Non-refundable Tax Credits ⁴	Refundable Tax Credits ⁵	Total Tax Due: 0.26% Tax and Minimum Tax
		Number of Taxpayers	Number of Taxable Gross Receipts								
Agriculture, Forestry, and Fishing	111100-115310	5,695	\$5,068,432	\$2,444,880	\$6,821	\$854	\$7,675	\$0	\$0	\$0	\$7,675
Mining	211110-213110	730	4,271,488	403,448	10,057	110	10,166	164	81	81	9,922
Utilities (excluding telecommunications)	221100-221300	125	15,264,127	76,855	39,487	19	39,506	0	0	0	39,506
Construction	236110-238900	14,878	27,345,126	7,078,663	52,693	2,232	54,925	190	0	0	54,734
Manufacturing	311110-339900	15,460	150,921,902	9,822,054	366,860	2,319	369,179	16,787	9,203	9,203	343,188
Wholesale Trade	423100-425120	8,565	83,460,971	5,460,770	202,801	1,285	204,085	91	3,598	3,598	200,397
Retail Trade	441110-454390	19,290	113,181,314	10,834,329	266,102	2,894	268,996	311	2,445	2,445	266,240
Transportation and Warehousing	481000-493100	4,257	12,787,775	2,157,085	27,640	639	28,278	52	2,121	2,121	26,106
Information (including telecommunications)	511110-519100	1,488	24,893,352	839,814	62,539	223	62,762	264	977	977	61,521
Finance and Insurance	522110-525990	5,496	8,674,572	1,833,302	17,787	824	18,612	290	405	405	17,916
Real Estate, and Rental & Leasing of Property	531110-533110	12,682	14,405,303	5,405,553	23,399	1,902	25,302	5	0	0	25,297
Professional, Scientific and Technical Services	541110-541990	13,870	32,448,756	6,664,390	67,039	2,081	69,120	347	1,465	1,465	67,307
Management of Companies (Holding Companies)	551111-551112	869	26,895,276	646,110	68,248	130	68,378	1,988	7,924	7,924	58,467
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	3,710	7,893,512	1,779,808	15,896	557	16,452	89	102	102	16,261
Education, Health Care and Social Assistance	611000-624410	11,932	23,480,481	6,937,740	43,011	1,790	44,801	100	25	25	44,676
Arts, Entertainment, and Recreation	711100-713900	1,441	2,375,041	649,331	4,487	216	4,703	0	0	0	4,703
Accommodation and Food Services	721110-722410	7,847	13,599,655	4,162,413	24,537	1,177	25,714	0	0	0	25,714
Other Services	811110-812990	7,708	6,774,053	3,354,831	8,890	1,156	10,046	0	180	180	9,867
Unclassified	n/a	14,010	11,276,293	5,163,096	15,894	2,102	17,996	0	359	359	17,637
TOTAL		150,053	\$585,017,428	\$75,714,471	\$1,324,188	\$22,508	\$1,346,696	\$20,678	\$28,884	\$28,884	\$1,297,134

1 The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2010. 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 2009, November 2009, February 2010 and May 2010 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 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.

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

4 Beginning with the first quarter 2010 filing period (the tax return due in May 2010), an additional nonrefundable tax credit could be claimed by qualifying taxpayers: the credit for net operating loss carryforwards and other deferred tax assets.

Table 2

Fiscal Year 2010 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 2010 Taxable Gross Receipts ²	Number of Taxpayers	Taxable Gross Receipts	Exclusion ³	Net Taxable Gross Receipts	Tax at 0.28% Rate	Annual Minimum Tax ⁴	Tax Before Credits	Non- refundable Tax Credits ⁵	Refundable Tax Credits ⁶	Total Tax Due: 0.26% Tax and Minimum Tax
Less than \$1,000,000	108,125	\$35,913,470	\$35,277,356	\$636,114	\$1,654	\$16,219	\$17,873	\$0	\$4,551	\$13,322
\$1,000,000 -	1,999,999	17,615	16,803,509	8,029,043	20,876	2,642	23,518	14	212	23,292
2,000,000 -	2,999,999	7,054	17,259,519	6,814,739	27,156	1,058	28,215	28	331	27,855
3,000,000 -	3,999,999	3,623	12,518,649	3,515,872	23,407	543	23,951	19	67	23,865
4,000,000 -	4,999,999	2,388	10,665,873	2,310,519	21,724	358	22,082	23	119	21,940
5,000,000 -	9,999,999	5,052	35,233,338	4,902,478	78,860	758	79,618	77	1,192	78,349
10,000,000 -	24,999,999	3,487	53,623,223	3,400,487	130,579	523	131,102	499	3,653	126,950
25,000,000 -	49,999,999	1,312	45,750,851	1,290,244	115,598	197	115,794	283	2,719	112,792
50,000,000 -	99,999,999	668	46,997,322	659,237	120,479	100	120,579	1,864	3,134	115,582
100,000,000 -	499,999,999	608	126,428,982	619,030	327,106	91	327,197	9,012	4,363	313,822
\$500,000,000 -	\$999,999,999	73	49,744,337	73,000	129,145	11	129,156	1,327	1,818	126,011
\$1 billion and above	48	126,049,311	48,000	126,001,311	327,603	7	327,611	7,531	6,726	313,353
TOTAL	150,053	\$585,017,428	\$75,714,471	\$509,302,957	\$1,324,188	\$22,508	\$1,346,696	\$20,678	\$28,884	\$1,297,134

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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 2009. For example, a taxpayer whose taxable gross receipts were \$5 million, \$6 million, \$4 million, and \$7 million, on returns filed in August 2009, November 2009, February 2010 and May 2010, respectively, would have total fiscal year 2010 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.

5 Beginning with the first quarter 2010 filing period (the tax return due in May 2010), an additional nonrefundable tax credit could be claimed by qualifying taxpayers: the credit for net operating loss carryforwards and other deferred tax assets.