

COMMERCIAL ACTIVITY TAX

The commercial activity tax (CAT) is a tax imposed on the privilege of doing business in Ohio. It is not a tax on the transaction, like the sales tax. The CAT is paid either quarterly or annually and is applicable to all business types, located both in Ohio and outside Ohio, that operate in Ohio. The revenue from the CAT replaces the revenue from the phase-out of the corporation franchise tax and the tangible personal property tax. The CAT was enacted in 2005 as part of the tax reform measures contained in House Bill 66, and became effective July 1, 2005.

In fiscal year 2006, the CAT produced \$273.4 million in total revenue. Of this amount, \$185.1 million, or 67.7 percent, was deposited in the General Revenue Fund. The School District Property Tax Replacement Fund received \$61.8 million, or 22.6 percent. The remaining \$26.5 million, or 9.7 percent, was placed in the Local Government Property Tax Replacement Fund. Beginning in fiscal year 2007 and for a number of years thereafter, all CAT revenues will be deposited in the school district and local government property tax replacement funds and no revenues will be deposited in the General Revenue Fund.

Tables in this chapter provide information by industrial classification and by taxpayer size. The information was taken from the returns due and filed in fiscal year 2006 (specifically, from returns due in February 2006 and May 2006). Manufacturing taxpayers accounted for the largest share of tax liability, reporting \$71.5 million or 27.5 percent of the total; they accounted for 8.6 percent of all taxpayers. The retail sector produced the largest number of taxpayers, at 13.9 percent, and had 18.7 percent of total liability (the second-largest group). Taxpayers with taxable gross receipts over \$100 million accounted for nearly one-half (47.5 percent) of total CAT liability and just 0.3 percent of the number of taxpayers. In contrast, taxpayers whose receipts were \$1.0 million and below reported only 10.9 percent of total tax liability but made up 81.4 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. This includes sole proprietors, partnerships, or corporations, as well as service providers such as medical professionals, attorneys, and accountants, and persons engaged in the sale or rental of most types of real property. The tax also applies to out of state businesses that either: (a) have at least \$500,000 in taxable gross receipts in Ohio; (b) have at least \$50,000 in real or personal property in Ohio; (c) expend at least \$50,000 in payroll for work in Ohio; or (d) have at least 25 percent of their total property, payroll, or gross receipts in Ohio.

There are a limited number of exceptions to the CAT, namely nonprofit organizations; financial institutions; insurance companies; affiliates of financial institutions and insurance companies; dealers in intangibles; and certain receipts by public utilities that are subject to the public utility excise tax. Sales of motor fuel are exempted from inclusion in gross receipts for two years. In addition, there is an exception for distribution centers whose annual costs to their suppliers for goods shipped into their facility equal or exceed \$500 million and that ship more than 50 percent of their goods out of state. However, such qualified distribution centers are subject to a \$100,000 annual fee (effective January 1, 2007;

this replaced a temporary exception for qualified foreign trade zone areas that expired December 31, 2006).

TAX BASE (R. C. 5751.001 (F)):

The base of the CAT is 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 are sales; performance of services; and rentals or leases. A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxable year that includes the tax period (i.e., accrual or cash basis).

RATES (R. C. 5751.03 AND 5751.031):

The tax is being phased-in over a five-year period that began July 1, 2005. By tax year 2010, when the full rate is in effect, the rate is 0.26 percent on annual gross receipts over \$1.0 million.

- The CAT rate for the first tax period from July 1 to December 31, 2005 was 0.06 percent on gross receipts over \$500,000; the rate for January 1, 2006 to March 31, 2006 was 0.06 percent on gross receipts over \$1.0 million; and the rate for the remainder of 2006 was 0.10 percent.
- The rate is being phased in by approximately 20 percent increments over the next three years.
- The rate for January 1, 2007 to March 31, 2007 is 0.10 percent; the rate from April 1, 2007 to December 31, 2007 is 0.16 percent.
- The rate from January 1, 2008 to March 31, 2008, is 0.16 percent; the rate from April 1, 2008 to December 31, 2008 is 0.21 percent.
- The rate from January 1, 2009 to March 31, 2009 is 0.21 percent; the rate from April 1, 2009 to December 31, 2009 is 0.26 percent.
- On January 1, 2010, the permanent rate of the CAT is 0.26 percent.
- Annual gross receipts from \$150,001 - \$1.0 million are subject to a minimum \$150 tax (the minimum tax for the first tax period was \$75).
- Businesses with annual gross receipts of \$150,000 or less are not subject to the CAT.

CREDITS (R.C. 5751.98):

The following credits are allowed against CAT liability beginning July 1, 2008:

- Job Creation Tax Credit.
- Job Retention Tax Credit.
- Credit for Qualified Research Expenses.
- Credit for Research and Development Loan Payments.



(R.C. 5751.051):

- All businesses liable for the CAT must register prior to filing a return.
- Taxpayers with taxable gross receipts of \$1.0 million or more must

file quarterly returns on the Ohio Business Gateway. The due date is 40 days from the end of each calendar quarter (i.e., May 10, August 9, November 9, and February 9).

- Taxpayers with taxable gross receipts of less than \$1.0 million are liable for the annual minimum tax of \$150. Annual returns are due on or before February 9 of the next succeeding year for the prior year's activity. The minimum tax for the current year is due along with this return.
- The initial return, for the semi-annual period July 1, 2005 to December 31, 2005, was due February 10, 2006.
- For calendar year 2006, the annual minimum tax of \$150 was due May 10, 2006.

DISPOSITION OF REVENUE (R.C. 5751.20):

School District Tangible Property Tax Replacement Fund: In fiscal year 2006, 22.6 percent of the revenue generated by the CAT was dedicated to the School District Tangible Property Tax Replacement Fund. Thereafter, until fiscal year 2018, 70 percent of the revenue is dedicated to this fund.

Local Government Tangible Property Tax Replacement Fund: In fiscal year 2006, 9.7 percent of the revenue generated by the CAT was dedicated to the Local Government Tangible Property Tax Replacement Fund. Thereafter, until fiscal year 2011, 30 percent of the revenue is dedicated to this fund.

General Revenue Fund: The remainder of the revenue generated by the CAT in fiscal year 2006 was paid into the General Revenue Fund.

ADMINISTRATION:

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

OHIO REVISED CODE CITATIONS:

Sections 5751.01 – 5751.99.



Amended Substitute House Bill 66, 126th General Assembly (FY 2006-2007 biennium budget bill, effective July 1, 2005).

Added a new chapter, Ohio Revised Code 5751, establishing the CAT.

Sub. H.B. 530, 126th General Assembly (various effective dates). R.C. 5751.01, 5751.011, 5751.04, 5751.051, 5751.10:

Excludes certain pre-income tax trusts from the CAT unless the trustee makes an election for the trust to be subject to the CAT. Excludes from gross receipts reimbursements of tax liability made between members of a consolidated or combined group. Excludes from gross receipts any taxes that are required to be collected by a taxpayer from a consumer. Excludes certain gross receipts

that a supplier receives from shipments of property to a Qualified Distribution Center (QDC). Establishes the registration procedure and the criteria that must be met in order to qualify as a QDC. Clarifies deductions from gross receipts and taxable gross receipts. Clarifies the definition of "foreign corporation" as non-U.S. entities. Limits the information required on a CAT registration and clarifies the registration fee. Extends the time allowed for a taxpayer that has gone out of business to file a final CAT return. Changed the date that the temporary exclusion extended to qualified foreign trade zones expires from June 30, 2007 to December 31, 2006.

RECENT INFORMATION RELEASES:

CAT 2006-07 – "Commercial Activity Tax: Qualified Distribution Centers," June 2006.

CAT 2006-06 – "Commercial Activity Tax Credit for Unused Franchise Net Operating Losses," April 2006.

CAT 2006-05 – "Highway Transportation Services: Bright-Line Presence and Siting," April 2006.

CAT 2006-04 – "Commercial Activity Tax Cash Discounts, Defined," April 2006.

CAT 2006-03 – "Commercial Activity Tax Definition of 'Agent'," April 2006.

CAT 2006-02 – "Suggested Document for the Exclusion for Automobile Dealers to Meet a Customer's Preference," March 2006.

CAT 2006-01 – "Applicable Excise Tax Rates for Purposes of the Commercial Activity Tax," March 2006.

CAT 2005-18 – "Temporary Motor Fuel Exemptions from the Commercial Activity Tax," November 2005.

CAT 2005-17 – "'Taxable Gross Receipt' Defined," January 2006.

CAT 2005-16 – "Examples of 'Common Owners' and Joint Ventures," November 2005.

CAT 2005-15 – "Taxpayers Allowed to Change Registration Status until Due Date of First Return," November 2005.

CAT 2005-14 – "Nonprofit Organizations," December 2005.

CAT 2005-13 – "Estimated Payments for Calendar Quarter Taxpayers," October 2005.

CAT 2005-12 – "Request for Member of a Combined Taxpayer Group to File Separately," December 2005.

CAT 2005-11 – "Qualified Foreign Trade Zone Area (Additional Information)," December 2005.

CAT 2005-10 – "Qualified Foreign Trade Zone Area," December 2005.

CAT 2005-09 – "Sampling," December 2005.

CAT 2005-08 – "I.R.C. Section 1221 and 1231 Assets Excluded from 'Gross Receipts'," September 2005.

CAT 2005-07 – "Transfers of Property Into the State," December 2005.

CAT 2005-06 – "Siting Rules for Certain Services," September 2005.

CAT 2005-05 – "Application of 'Common Owners' and Joint Ventures," September 2005.

CAT 2005-04 – "Quarterly Taxpayers Must File and Pay Electronically," December 2005.

CAT 2005-03 – "Excluded Person -- Consolidated Elected and Combined Taxpayer Groups," December 2005.

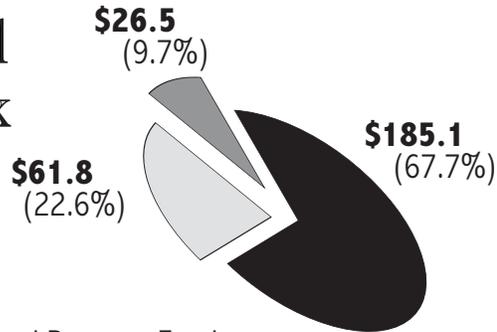
CAT 2005-02 – "Nexus Standards," September 2005.

CAT 2005-01 – "Commercial Activity Tax: Definition of 'Foreign Corporation' in Chapter 5751," December 2005.

COMMERCIAL ACTIVITY TAX

Commercial Activity Tax

Fiscal Year 2006
(figures in millions)



- General Revenue Fund
- Local Government Property Tax Replacement Fund
- School District Property Tax Replacement Fund

Total \$273.4 million



COMMERCIAL ACTIVITY TAX

TABLE 1
FISCAL YEAR 2006
FEBRUARY & MAY TAX RETURNS, BY INDUSTRIAL CLASSIFICATION (a)(b)
(DOLLAR AMOUNTS ARE IN THOUSANDS)

Industrial Classification	NAICS Code Ranges	Number of Taxpayers	Taxable Gross Receipts	Exclusion (c)	Net Taxable Gross Receipts	Tax at 0.06%		Annual Minimum Tax (d)	Total Tax Due: 0.06% Tax and Minimum Tax (e)
						Rate	Minimum Tax (d)		
Agriculture, Forestry, and Fishing	111100-115310	5,711	\$4,858,172	\$2,540,750	\$2,317,422	\$1,390	\$1,141	\$1,141	\$2,531
Mining	211110-213110	758	3,114,240	387,000	2,727,240	1,636	148	148	1,785
Utilities (excluding telecommunications)	221100-221300	126	13,830,010	67,500	13,762,510	8,258	25	25	8,282
Construction	236110-238900	18,192	29,278,775	8,826,250	20,452,525	12,272	3,510	3,510	15,781
Manufacturing	311110-339900	14,651	122,452,398	7,985,500	114,466,898	68,680	2,831	2,831	71,511
Wholesale Trade	423100-425120	8,853	48,858,503	4,754,500	44,104,003	26,462	1,718	1,718	28,181
Retail Trade	441110-454390	23,691	85,248,092	11,572,250	73,675,842	44,206	4,553	4,553	48,758
Transportation and Warehousing	481000-493100	4,867	10,555,740	2,291,000	8,264,740	4,959	926	926	5,884
Information (including telecommunications)	511110-519100	1,708	19,450,748	843,750	18,606,998	11,164	325	325	11,489
Finance and Insurance	522110-525990	5,478	8,438,010	2,482,250	5,955,760	3,573	1,066	1,066	4,639
Real Estate, and Rental & Leasing of Property	531110-533110	14,377	14,903,978	6,593,250	8,310,728	4,986	2,806	2,806	7,792
Professional, Scientific and Technical Services	541110-541990	15,145	24,146,188	7,093,500	17,052,688	10,232	2,940	2,940	13,171
Management of Companies (holding companies)	551111-551112	917	15,820,800	537,000	15,283,800	9,170	178	178	9,348
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	4,382	6,876,800	2,054,000	4,822,800	2,894	843	843	3,736
Education, Health Care, and Social Assistance	611000-624410	12,790	15,557,617	6,321,750	9,235,867	5,542	2,531	2,531	8,072
Arts, Entertainment, and Recreation	711100-713900	1,692	1,928,607	779,750	1,148,857	689	325	325	1,015
Accommodation and Food Services	721110-722410	8,903	9,650,013	4,107,750	5,542,263	3,325	1,711	1,711	5,036
Other Services	811110-812990	8,759	6,918,875	3,966,750	2,952,125	1,771	1,708	1,708	3,479
Unclassified	n/a	19,660	18,166,547	8,175,000	9,991,547	5,995	3,717	3,717	9,712
TOTAL		170,660	\$460,054,113	\$81,379,500	\$378,674,613	\$227,205	\$32,999	\$32,999	\$260,204

(a) The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2006. This is due to several reasons. For one thing, this table reflects reported tax liability, not actual payments made. Furthermore, the table reflects information from tax returns on the computer system as of the dates when the February 2006 and May 2006 return data was extracted; any subsequently filed tax returns or subsequent corrections made to the tax returns are not reflected in this table.

(b) Table reflects nine months of gross receipts: July 2005 - March 2006. In future years, this table will reflect 12 months of activity. This will result in significantly higher dollar amounts for this table (except for the "minimum tax", which should go down in fiscal year 2007).

(c) On a quarterly basis, each taxpayer's first \$250,000 in taxable gross receipts is excluded from the 0.06% tax. For the July-December 2005 period the exclusion was \$500,000. The total exclusion on returns filed in fiscal year 2006 was \$750,000.

(d) The July-December 2005 minimum tax was \$75 (due in February 2006); the calendar year 2006 minimum tax was \$150 (due in May 2006).

(e) Tax due before the registration fee credit.

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TABLE 2
FISCAL YEAR 2006
FEBRUARY & MAY TAX RETURNS,
BY TAXABLE GROSS RECEIPTS (a)
(DOLLAR AMOUNTS ARE IN THOUSANDS)

Size of Taxable Gross Receipts as reported on February 2006 and May 2006 returns (b)	Number of Taxpayers	Taxable Gross Receipts	Exclusion (c)	Net Taxable Gross Receipts	Tax at 0.06% Rate	Annual Minimum Tax (d)	Total Tax Due: 0.06% Tax and Minimum Tax (e)
\$1,000,000 and below (f)	138,946	\$62,026,108	\$59,314,000	\$2,712,108	\$1,627	\$26,596	\$28,223
\$1,000,001 - \$2,000,000	12,576	18,009,507	8,594,250	9,415,257	5,649	2,471	8,120
\$2,000,001 - \$3,000,000	5,516	13,473,692	3,848,000	9,625,692	5,775	1,119	6,895
\$3,000,001 - \$4,000,000	2,843	9,816,145	1,991,500	7,824,645	4,695	579	5,273
\$4,000,001 - \$5,000,000	1,907	8,485,918	1,337,500	7,148,418	4,289	390	4,679
\$5,000,001 - \$10,000,000	4,043	28,235,117	2,850,500	25,384,617	15,231	835	16,066
\$10,000,001 - \$25,000,000	2,787	42,809,222	1,976,250	40,832,972	24,500	579	25,079
\$25,000,001 - \$50,000,000	965	32,988,592	691,250	32,297,342	19,378	202	19,581
\$50,000,001 - \$100,000,000	544	37,940,278	391,750	37,548,528	22,529	116	22,645
Over \$100,000,000	533	206,269,535	384,500	205,885,035	123,531	113	123,644
TOTAL	170,660	\$460,054,113	\$81,379,500	\$378,674,613	\$227,205	\$32,999	\$260,204

- (a) The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2006. This is largely because the table reflects reported tax liability, not actual payments made. Furthermore, the table reflects information from tax returns on the computer system as of the dates when the February 2006 and May 2006 return data was extracted; any subsequently filed tax returns or subsequent corrections made to the tax returns are not reflected in this table.
- (b) Table reflects nine months of gross receipts: July 2005 - March 2006. In future years, this table will reflect 12 months of activity. This will cause some taxpayers to shift to a higher taxable gross receipts category and also result in significantly higher dollar amounts for this table (except for the "minimum tax", which should go down in fiscal year 2007).
- (c) On a quarterly basis, each taxpayer's first \$250,000 in taxable gross receipts is excluded from the 0.06% tax. However, for the one-time six-month reporting period during July-December 2005, the exclusion was \$500,000. The total combined exclusion on returns filed during fiscal year 2006 was \$750,000.
- (d) The July-December 2005 minimum tax was \$75 (due in February 2006), the calendar year 2006 minimum tax was \$150 (due in May 2006).
- (e) Tax due before the registration fee credit.
- (f) The taxable gross receipts of most May 2006 minimum taxpayers are not included. This is because the May 2006 return required such taxpayers to report only their \$150 tax liability. In addition, there were \$2.7 billion in net taxable gross receipts for this category because some of the taxpayers had taxable gross receipts over \$500,000 on their February 2006 return, had over \$250,000 on their May 2006 return, or both, and thus were subject to the 0.06% tax on such receipts.