



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 phases out the tangible personal property tax and corporation franchise tax for the vast majority of Ohio businesses.

In fiscal year 2008, the CAT produced \$961.4 million in total revenue. Of this amount, \$673 million, or 70 percent, was deposited in the School District Property Tax Replacement Fund and \$288.4 million, or 30 percent, was placed in the Local Government Property Tax Replacement Fund. No revenue was deposited into the General Revenue Fund.

Tables in this chapter provide information by industrial classification and by taxpayer size. The information was drawn from the returns due and filed in fiscal year 2008. Manufacturing taxpayers accounted for the largest share of tax liability, reporting \$286.7 million or 30.8 percent of the total while accounting for 9.6 percent of all taxpayers. The retail sector represented the largest group of taxpayers – 12.8 percent – and represented 17.9 percent of total liability. Taxpayers with taxable gross receipts over \$100 million accounted for more than half (57.9 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 2.1 percent of total tax liability but made up 72.9 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.

Certain entities are exempt from the CAT, including non-profit organizations, which are non-persons for CAT purposes. The tax does not apply to certain other 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, which pay the corporation franchise tax; 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, 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 shall be the same as the taxpayer’s method of accounting 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 less than \$150,000 are not subject to the CAT.

Businesses with annual taxable gross receipts of \$150,000 or more 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 on receipts above \$1 million on a quarterly basis (with a \$250,000 quarterly exclusion) at the following tax rates:

- April 1, 2007 to March 31, 2008: 0.156 percent
- April 1, 2008 to March 31, 2009: 0.208 percent
- April 1, 2009 and thereafter: 0.26 percent

Credits

(R.C. 5751.98)

Eligible taxpayers may begin accumulating one or all of the following credits against their CAT liability beginning Jan. 1, 2008, and may begin claiming the credit beginning July 1, 2008 (on the return due Nov. 9, 2008):

- Jobs Creation Tax Credit.
- Jobs 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 will be available starting with the 2010 calendar year.

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 Feb. 9 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 40 days from the end of each calendar quarter (May 10, Aug. 9, Nov. 9, and Feb. 9).

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 Feb. 9 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)

During the 2008 fiscal year:

- 70 percent of the revenue generated by the CAT was dedicated to the School District Tangible Property Tax Replacement Fund.
- 30 percent of the revenue generated by the CAT was dedicated to the Local Government Tangible 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 Tangible 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 Information Releases

CAT 2008-02 – “Commercial Activity Tax: Business as usual after the Court of Appeals decision in **Ohio Grocers Association v. Wilkins**, Franklin App. No. 07AP-813, 2008-Ohio-4420,” September 2008, revised February 2009.

CAT 2008-01 – “Commercial Activity Tax: Voluntary Disclosure Agreements,” July 2008.

CAT 2007-03 – “Commercial Activity Tax: Commercial Activity Tax Credits, Explained,” December 2007, revised March 2008, revised June 2008.

CAT 2007-02 – “Commercial Activity Tax: Pre-Income Tax Trusts, Explained with Revocation Procedures,” February 2007, revised March 2007, revised May 2007, revised January 2008.

CAT 2006-03 – “Commercial Activity Tax: Definition of ‘Agent,’” April 2006, revised July 2006, revised October 2006, revised November 2007, revised April 2008.

Chart

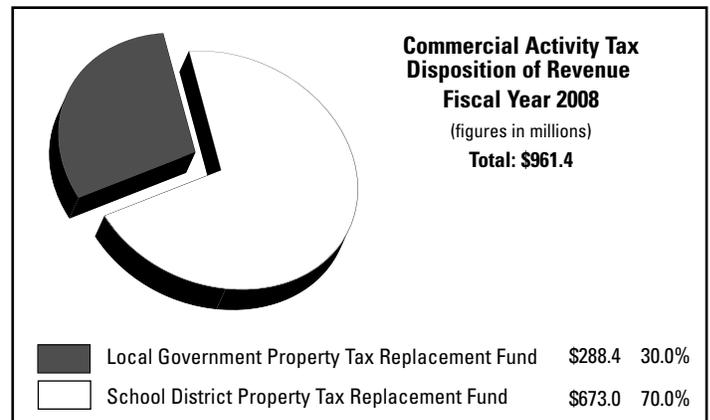


Table 1

Industrial Classification	NAICS Code Ranges	Number of Taxpayers	Fiscal Year 2008 Tax Returns, by Industrial Classification ¹ (Dollar amounts are in thousands)				Annual Minimum Tax ³	Total Tax Due: 0.156% Tax and Minimum Tax
			Taxable Gross Receipts	Exclusion ²	Net Taxable Gross Receipts	Tax at 0.156% Rate		
Agriculture, Forestry, and Fishing	11100-115310	5,852	\$5,123,897	\$2,376,913	\$2,746,985	\$4,285	\$5,163	
Mining	211110-213110	796	5,043,345	465,972	4,577,372	7,141	7,260	
Utilities (excluding telecommunications)	221100-221300	133	16,187,316	81,277	16,106,039	25,125	25,145	
Construction	236110-238900	17,895	37,764,243	9,028,462	28,735,781	44,828	47,512	
Manufacturing	311110-339900	16,323	193,194,879	10,983,868	182,211,011	284,249	286,698	
Wholesale Trade	423100-425120	9,227	92,400,037	6,014,453	86,385,585	134,762	136,146	
Retail Trade	441110-454390	21,818	116,757,288	12,093,433	104,663,855	163,276	166,548	
Transportation and Warehousing	481000-493100	4,960	15,959,986	2,577,565	13,382,421	20,877	21,621	
Information (including telecommunications)	511110-519100	1,654	22,412,495	900,793	21,511,702	33,558	33,806	
Finance and Insurance	522110-525990	6,571	9,713,822	2,177,922	7,535,900	11,756	12,742	
Real Estate, and Rental & Leasing of Property	531110-533110	14,336	16,386,768	5,918,142	10,468,626	16,331	18,481	
Professional, Scientific and Technical Services	541110-541990	15,503	34,037,104	7,436,575	26,600,529	41,497	43,822	
Management of Companies (Holding Companies)	551111-551112	896	28,681,076	653,618	28,027,458	43,723	43,857	
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	4,280	9,005,480	2,037,110	6,968,371	10,871	11,513	
Education, Health Care and Social Assistance	611000-624410	13,027	22,032,797	7,342,404	14,690,393	22,917	24,871	
Arts, Entertainment, and Recreation	711000-713900	1,648	2,391,544	719,482	1,672,062	2,608	2,856	
Accommodation and Food Services	721110-722410	8,696	13,757,056	4,314,174	9,442,882	14,731	16,035	
Other Services	811110-812990	8,693	7,470,843	3,729,260	3,741,583	5,837	7,141	
Unclassified	n/a	18,444	16,912,465	6,852,254	10,060,212	15,694	18,461	
TOTAL		170,752	\$665,232,442	\$85,703,676	\$579,528,766	\$904,065	\$929,678	

1 The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2008. This is because the 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 2007, November 2007, February 2008 and May 2008 return data was extracted; any subsequently filed tax returns or subsequent corrections made to the 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 0.156 percent tax, resulting in an annual exclusion of \$1 million per taxpayer.

3 The annual minimum tax is \$150 (due in February 2008).

Table 2

Size of FY 2008 Taxable Gross Receipts ²	Fiscal Year 2008 Tax Returns, by Taxable Gross Receipts ¹ (Dollar amounts are in thousands)							Total Tax Due: 0.156% Tax and Minimum Tax
	Number of Taxpayers	Taxable Gross Receipts	Exclusion ³	Net Taxable Gross Receipts	Tax at 0.156% Rate	Annual Minimum Tax ⁴		
Less than \$1,000,000	124,557	\$41,352,106	\$40,790,057	\$562,049	\$877	\$18,684	\$19,560	
\$1,000,001 - \$2,000,000	18,676	26,795,219	18,178,149	8,617,069	13,443	2,801	16,244	
\$2,000,001 - \$3,000,000	7,878	19,268,574	7,683,923	11,584,651	18,072	1,182	19,254	
\$3,000,001 - \$4,000,000	4,116	14,216,308	4,001,749	10,214,560	15,935	617	16,552	
\$4,000,001 - \$5,000,000	2,662	11,876,351	2,572,229	9,304,122	14,514	399	14,914	
\$5,000,001 - \$10,000,000	5,826	40,667,027	5,626,143	35,040,884	54,664	874	55,538	
\$10,000,001 - \$25,000,000	3,982	61,238,760	3,859,275	57,379,485	89,512	597	90,109	
\$25,000,001 - \$50,000,000	1,467	51,143,482	1,438,887	49,704,594	77,539	220	77,759	
\$50,000,001 - \$100,000,000	758	53,110,277	739,026	52,371,251	81,699	114	81,813	
\$100,000,001 - \$500,000,000	694	141,612,184	678,096	140,934,088	219,857	104	219,961	
\$500,000,001 - \$1 billion	74	48,925,421	73,647	48,851,774	76,209	11	76,220	
Above \$1 billion	62	155,026,734	62,496	154,964,238	241,744	9	241,754	
TOTAL	170,752	\$665,232,442	\$85,703,676	\$579,528,766	\$904,065	\$25,613	\$929,678	

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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 2008. For example, a taxpayer whose taxable gross receipts were \$5 million, \$6 million, \$4 million, and \$7 million, on returns filed in August 2007, November 2007, February 2008 and May 2008, respectively, would have total fiscal year 2008 taxable gross receipts of \$22 million, and thereby 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 0.156 percent tax, resulting in an annual exclusion of \$1 million per taxpayer.

4 The minimum tax is \$150 (due in February 2008).