

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 is applicable to all business types that operate in Ohio, regardless of whether such business is located within Ohio. The revenue from the CAT partially replaces revenue from the corporation franchise tax and the tangible personal property tax, which are being phased out as part of tax reform legislation enacted in 2005. The CAT was enacted in 2005 as part of House Bill 66, the same tax reform measure.

In Fiscal Year 2007, the CAT produced \$594.9 million in total revenue. Of this amount, \$416.4 million, or 70 percent, was deposited in the School District Property Tax Replacement Fund and \$178.5 million, or 30 percent, was placed in the Local Government Property Tax Replacement Fund. No revenues were deposited into 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 2007. Manufacturing taxpayers accounted for the largest share of tax liability, reporting \$172.3 million or 30.6 percent of the total; manufacturers accounted for 9.3 percent of all taxpayers. The retail sector produced the largest number of taxpayers at 13 percent, and had the second-largest share of liability at 18.4 percent of the total. Taxpayers with taxable gross receipts over \$100 million accounted for over one-half (55.2 percent) of total CAT liability and just 0.4 percent of the taxpayer population. In contrast, taxpayers whose receipts were \$1 million and below reported only 3.6 percent of total tax liability but made up 75.1 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 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; (d) have at least 25 percent of their total property, payroll, or gross receipts in Ohio; or (e) are domiciled in Ohio.

Certain entities are exempt from the CAT, including nonprofit organizations (which are non-persons for CAT

purposes), and certain other types of entities liable for another Ohio tax, such as financial institutions that pay the corporation franchise tax; insurance companies that pay the Ohio insurance tax; affiliates of financial institutions and insurance companies; dealers in intangibles that pay the Ohio dealers in intangibles tax; and certain receipts by public utilities that are subject to the public utility excise tax. Receipts from the sale of certain types of motor fuel were exempt from a taxpayer's gross receipts until June 30, 2007. 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. Qualified distribution centers must apply for this exemption and are subject to a \$100,000 annual fee (this replaced a temporary exception for qualified foreign trade zone areas that expired Dec. 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 shall be the same as the taxpayer's method of accounting for federal income tax purposes (i.e., 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 in excess of \$150,000 are subject to an annual minimum tax of \$150. In addition, businesses with annual taxable gross receipts in excess of \$1 million are subject to the annual minimum tax of \$150, and pay tax on receipts above \$1 million on a quarterly basis (with a \$250,000 quarterly exclusion) at the following tax rates:

- Jan. 1 to March 31, 2006: 0.0598 percent.
- April 1, 2006 to March 31, 2007: 0.104 percent
- 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

For the first reporting period, July 1 to Dec. 31, 2005, the annual minimum tax rate on businesses with taxable gross receipts in excess of \$150,000 was \$75, and the rate component of the tax on businesses with taxable gross receipts in excess of \$500,000 was 0.06 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):

- 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 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 of \$1 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, Aug. 9, Nov. 9, and Feb. 9).

Taxpayers with taxable gross receipts of less than \$1 million file on an annual basis on or before Feb. 9 of each year. The return reflects the prior year's activity, but with each return, taxpayers pay the annual minimum tax for the current (privilege) year.

Disposition of Revenue (R.C. 5751.20)**School District Tangible Property****Tax Replacement Fund:**

In Fiscal Year 2007, 70 percent of the revenue generated by the CAT was dedicated to the School District Tangible Property Tax Replacement Fund.

Local Government Tangible Property**Tax Replacement Fund:**

In Fiscal Year 2007, 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 until FY 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 percent annually and deposited into the General Revenue Fund. Starting with Fiscal Year 2019, the General Revenue Fund will receive 30 percent of CAT distributions, 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 Legislation**Amended Substitute House Bill 119, 127th General Assembly (FY 2008-2009 biennium budget bill, effective July 1, 2007).**

Extended for fiscal years 2019 and thereafter, the provision that 70 percent of the CAT revenues are to be deposited into the School District Tangible Property Tax Replacement Fund. Changed the distribution from the lesser of one-fourth of the amount determined or the balance of the School District Tangible Property Tax Replacement Fund to simply one-fourth of the amount determined for each distribution period. (R.C. 5751.20)

Amended Substitute House Bill 67, 127th General Assembly (effective March 31, 2007).

Eliminated the provision that would allow the CAT rate to increase automatically if targeted revenues are not met. Maintained the provision that would allow the rate to decrease if revenues exceed target. (R.C. 5751.032)

Amended Substitute House Bill 699, 126th General Assembly (effective March 29, 2007).

Created an exemption from gross receipts from certain hedging transactions. Changed the handling of receipts of a dealer in intangibles subject to the dealer in intangibles tax and a member of a consolidated elected taxpayer group. Authorized the use of an alternative method for siting receipts from services if the alternative method is applied in a reasonable, consistent, and uniform manner that is supported by the taxpayer's business records at the time the service was provided or within a reasonable time thereafter. (R.C. 5751.01, 5751.011, 5751.033)

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

Added a new chapter, R.C. 5751, establishing the CAT.

Sub. H.B. 530, 126th General Assembly (various effective dates).

Excluded certain pre-income tax trusts from the CAT unless the trustee makes an election for the trust to be subject to the CAT. Excluded from gross receipts reimbursements of tax liability made between members of a consolidated elected taxpayer group or a combined taxpayer group. Excluded from gross receipts any taxes that are required to be collected by a taxpayer from a consumer. Excluded certain gross receipts that a supplier receives from shipments of property to a qualified distribution center (QDC). Established the registration procedure and the criteria that must be met in order to qualify as a QDC. Extended 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 expired from

June 30, 2007 to Dec. 31, 2006. (R.C. 5751.01, 5751.011, 5751.04, 5751.051, 5751.10)

Recent Information Releases:

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

CAT 2007-01 – “Commercial Activity Tax: Rule Estimation and Statutory Estimation Procedures, Compared,” January 2007.

CAT 2006-10 – “Commercial Activity Tax: Changes in Ownership,” October 2006, revised January 2007.

CAT 2006-09 – “Commercial Activity Tax: Records Retention Requirements,” September 2006, revised October 2006, revised January 2007.

CAT 2006-08 – “Commercial Activity Tax: Situating Receipts from Periodic Payments for Mobile Property,” October 2006, revised January 2007.

CAT 2006-07 – “Commercial Activity Tax: Qualified Distribution Centers,” June 2006, revised July 2006, revised September 2006.

Chart
Commercial Activity Tax Disposition of Revenue:
Fiscal Year 2007
(figures in millions)

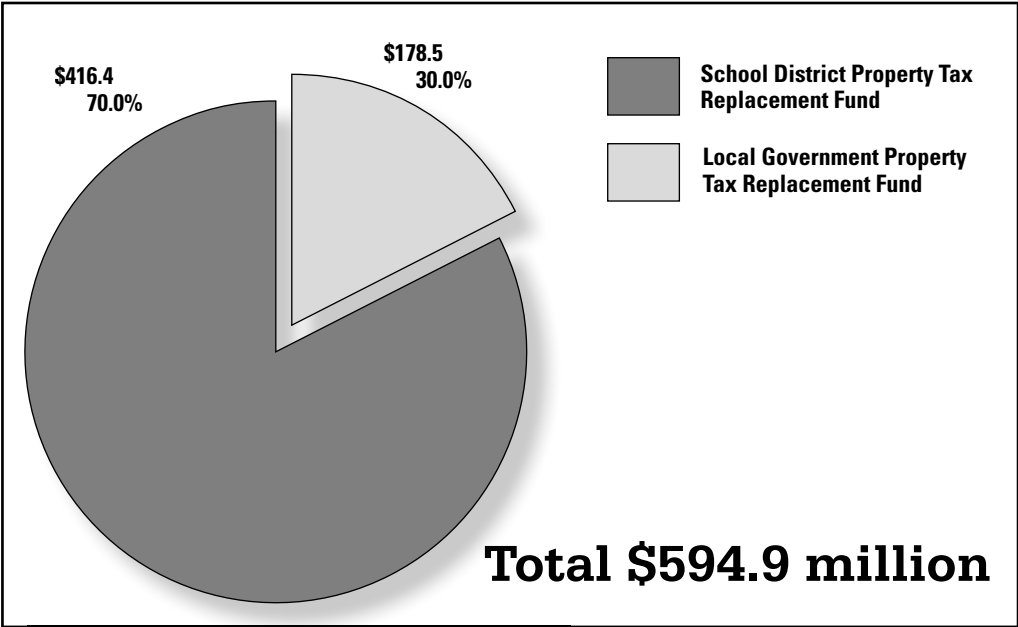


Table 1
Fiscal Year 2007 Tax Returns:
by Industrial Classification¹
 (Dollar amounts are in thousands)

Industrial Classification	NAICS Code Ranges	Number of Taxpayers	Taxable Gross Receipts	Exclusion ²	Net Taxable Gross Receipts	Tax at 0.104% Rate	Annual Minimum Tax ³	Total Tax Due: 0.104% Tax and Minimum
Agriculture, Forestry, and Fishing	111100-115310	5,756	\$4,239,643	\$2,058,153	\$2,181,489	\$2,269	\$863	\$3,131
Mining	211110-213110	760	4,472,586	433,284	4,039,302	4,201	112	4,313
Utilities (excluding telecommunications)	221100-221300	134	16,497,086	74,502	16,422,585	17,079	20	17,100
Construction	236110-239900	18,018	36,662,810	8,940,671	27,722,138	28,831	2,696	31,527
Manufacturing	311110-339900	15,874	173,624,816	10,195,260	163,429,556	169,967	2,366	172,333
Wholesale Trade	423100-425120	9,164	71,436,618	5,629,854	65,806,764	68,439	1,354	69,793
Retail Trade	441110-454390	22,266	107,852,064	11,606,706	96,245,358	100,095	3,327	103,423
Transportation and Warehousing	481000-493100	4,948	14,460,135	2,505,447	11,954,688	12,433	739	13,172
Information (including telecommunications)	511110-519100	1,679	22,211,583	887,795	21,323,788	22,177	250	22,427
Finance and Insurance	522110-525990	6,630	10,006,817	2,105,793	7,901,024	8,217	996	9,213
Real Estate, and Rental & Leasing of Property	531110-533110	14,386	16,139,083	5,831,380	10,307,703	10,720	2,188	12,908
Professional, Scientific and Technical Services	541110-541990	15,314	31,202,437	7,072,588	24,129,848	25,095	2,322	27,417
Management of Companies (Holding Companies)	551111-551112	899	24,736,298	630,037	24,106,261	25,071	130	25,201
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	4,193	8,423,597	1,892,256	6,531,340	6,793	633	7,426
Education, Health Care and Social Assistance	611000-624410	12,830	20,261,834	7,045,575	13,216,259	13,745	1,946	15,691
Arts, Entertainment, and Recreation	711100-713900	1,699	2,317,938	701,749	1,616,188	1,681	256	1,937
Accommodation and Food Services	721110-722410	8,774	12,520,805	4,115,861	8,404,944	8,741	1,328	10,069
Other Services	811110-812990	8,798	7,122,434	3,639,391	3,483,042	3,622	1,346	4,968
Unclassified	n/a	19,038	15,124,071	6,637,911	8,486,161	8,826	2,822	11,647
TOTAL		171,160	\$599,312,652	\$82,004,215	\$517,308,438	\$538,001	\$25,696	\$563,696

1 The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2007. 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 2006, November 2006, February 2007 and May 2007 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 0.104% tax, resulting in an annual exclusion of \$1 million per taxpayer.

3 The annual minimum tax is \$150.

Table 2
Fiscal Year 2007 Tax Returns, by Taxable Gross Receipts¹
 (Dollar amounts are in thousands)

Size of FY 2007 Taxable Gross Receipts ²	Number of Taxpayers	Taxable Gross Receipts	Exclusion ³	Net Taxable Gross Receipts	Tax at 0.104% Rate	Annual Minimum Tax ⁴	Total Tax Due: 0.104% Tax and Minimum Tax
Less than \$1,000,000	128,475	\$42,125,810	\$41,229,660	\$896,151	\$932	\$19,382	\$20,314
\$1,000,000 - 1,999,999	17,272	24,894,559	16,614,948	8,279,611	8,611	2,573	11,184
2,000,000 - 2,999,999	7,414	18,114,891	7,102,537	11,012,354	11,453	1,102	12,554
3,000,000 - 3,999,999	3,798	13,135,197	3,578,649	9,556,547	9,939	555	10,494
4,000,000 - 4,999,999	2,341	10,444,501	2,205,220	8,239,281	8,569	345	8,914
5,000,000 - 9,999,999	5,424	37,881,044	5,089,840	32,791,204	34,103	795	34,898
10,000,000 - 24,999,999	3,615	55,908,295	3,424,696	52,483,599	54,583	530	55,113
25,000,000 - 49,999,999	1,369	46,836,868	1,298,510	45,538,359	47,360	200	47,560
50,000,000 - 99,999,999	716	50,395,541	687,308	49,708,233	51,697	105	51,802
\$100,000,000 and above	736	299,575,947	772,847	298,803,100	310,755	108	310,863
TOTAL	171,160	\$599,312,652	\$82,004,215	\$517,308,438	\$538,001	\$25,696	\$563,696

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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 2007. For example, a taxpayer whose taxable gross receipts were \$5 million, \$6 million, \$4 million, and \$7 million, on returns filed in August 2006, November 2006, February 2007 and May 2007, respectively, would have total fiscal year 2007 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 0.104% tax, resulting in an annual exclusion of \$1 million per taxpayer.

4 The minimum tax is \$150 (due in February 2007).