A CAT’s Life: Ohio’s Gross Receipts Tax in Operation

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Disclaimer

• This presentation represents the opinions of the presenter and does not represent official positions of the Ohio Department of Taxation.

• This presentation is for educational purposes only. It is meant to accompany an oral presentation and not to be used as a standalone document.
Overview

• Overview of the Commercial Activity Tax (CAT)
• High profile cases
• Performance & quantitative information
The Ohio Commercial Activity Tax (CAT)

- Annual privilege tax
- Broad base / low rate (0.26%)
- Bright line economic presence test
  - Is domiciled in Ohio (commercially or legally)
  - Property of at least $50,000 within Ohio
  - Payroll of at least $50,000 within Ohio
  - Taxable gross receipts in Ohio of at least $500,000
  - At least 25% of the entity’s total property, payroll, or receipts are in Ohio
Taxable Gross Receipts

- Tax Base - gross receipts generated in Ohio
  - Broadly defined
    - Sale of property
    - Performance of a service
  - Situs

- Excluded gross receipt types
- Excluded entities
Common Ownership Election

- **Combined**
  - More than 50% common ownership
  - Only includes entities with nexus in Ohio
  - Gross receipts between members are subject to the CAT

- **Consolidated**
  - At least 50% or 80% common ownership
  - Includes all entities (non-US entities optional)
  - Gross receipts between members are excluded
  - Election persists for at least 8 quarters
**Structure of the Tax**

<table>
<thead>
<tr>
<th>Taxable Gross Receipts</th>
<th>Annual Minimum Tax</th>
<th>CAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 Million or less</td>
<td>$150</td>
<td>No Additional Tax</td>
</tr>
<tr>
<td>More than $1 Million but less than or equal to $2 Million</td>
<td>$800</td>
<td>0.26% x (Taxable Gross Receipts - $1 Million)</td>
</tr>
<tr>
<td>More than $2 Million but less than or equal to $4 Million</td>
<td>$2,100</td>
<td>0.26% x (Taxable Gross Receipts - $1 Million)</td>
</tr>
<tr>
<td>More than $4 Million</td>
<td>$2,600</td>
<td>0.26% x (Taxable Gross Receipts - $1 Million)</td>
</tr>
</tbody>
</table>

- **Tax = Annual Minimum Tax + CAT**
- **Filing frequency**
  - Taxpayers with taxable gross receipts < $1 million file annually
  - Taxpayers with taxable gross receipts > $1 million must file quarterly
Constitutionality – Bright Line Nexus

LEGAL CHALLENGES
Legal Challenges

Supreme Court of Ohio

- Ohio Grocers Assn v. Levin
  - Gross receipts from food
- Beaver Excavating Co. v. Testa
  - Gross receipts from motor fuel
- Crutchfield Corp. v. Testa
  - Bright line nexus standard applicability to out of state entities
How Broad is the CAT Base?

CAT Taxable Gross Receipts vs Ohio GDP
(Millions of $'s)

Sources: U.S. Bureau of Economic Analysis, Ohio Department of Taxation
How Broad is the CAT Base?

Ratio of CAT Taxable Gross Receipts to Ohio Private Industry GDP

Sources: U.S. Bureau of Economic Analysis, Ohio Department of Taxation
How much does the CAT pyramid?

• Pyramiding refers to the fact that the tax potentially applies multiple times to the sale of the same good or service.

• The CAT has some important features which reduce the degree of pyramiding:
  – Exemption for exports
  – Exemption for receipts within a consolidated group
  – Exemption for annual receipts below $150,000
  – Flat tax amount for annual receipts below $1 million

• The results on the following slide must be interpreted with some caution:
  – The above factors influence the amount of calculated pyramiding
  – Some CAT taxpayers report as groups of many companies, and the industry code that is assigned to the group is based on the reporting entity
  – Some industries are more likely to have more exempt gross receipts than others.
## How much does the CAT pyramid?

<table>
<thead>
<tr>
<th>Industry</th>
<th>FY 2016 ($’s in millions)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ohio GDP</td>
<td>CAT Net TGR</td>
<td>TGR/GDP</td>
</tr>
<tr>
<td>Retail trade</td>
<td>$38,136</td>
<td>$134,536</td>
<td>3.53</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>37,731</td>
<td>83,720</td>
<td>2.22</td>
</tr>
<tr>
<td>Information</td>
<td>16,780</td>
<td>31,309</td>
<td>1.87</td>
</tr>
<tr>
<td>Management of companies and enterprises</td>
<td>20,697</td>
<td>37,251</td>
<td>1.80</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>105,141</td>
<td>188,548</td>
<td>1.79</td>
</tr>
<tr>
<td>Construction</td>
<td>23,053</td>
<td>35,113</td>
<td>1.52</td>
</tr>
<tr>
<td>Utilities</td>
<td>11,053</td>
<td>14,301</td>
<td>1.29</td>
</tr>
<tr>
<td>Agriculture, forestry, fishing, and hunting</td>
<td>3,564</td>
<td>3,730</td>
<td>1.05</td>
</tr>
<tr>
<td>Professional, scientific, and technical services</td>
<td>31,499</td>
<td>32,202</td>
<td>1.02</td>
</tr>
<tr>
<td>Accommodation and food services</td>
<td>14,993</td>
<td>14,162</td>
<td>0.94</td>
</tr>
<tr>
<td>Mining</td>
<td>8,204</td>
<td>7,650</td>
<td>0.93</td>
</tr>
<tr>
<td>Transportation and warehousing</td>
<td>18,645</td>
<td>17,299</td>
<td>0.93</td>
</tr>
<tr>
<td>Arts, entertainment, and recreation</td>
<td>6,277</td>
<td>3,871</td>
<td>0.62</td>
</tr>
<tr>
<td>Administrative and waste management services</td>
<td>20,656</td>
<td>10,114</td>
<td>0.49</td>
</tr>
<tr>
<td>Other services, except government</td>
<td>13,332</td>
<td>4,876</td>
<td>0.37</td>
</tr>
<tr>
<td>Education, health care and social assistance</td>
<td>57,619</td>
<td>20,069</td>
<td>0.35</td>
</tr>
<tr>
<td>Finance and insurance</td>
<td>51,862</td>
<td>13,937</td>
<td>0.27</td>
</tr>
<tr>
<td>Real estate and rental and leasing</td>
<td>66,767</td>
<td>14,383</td>
<td>0.22</td>
</tr>
<tr>
<td><strong>Private industry total</strong></td>
<td><strong>$546,006</strong></td>
<td><strong>$669,867</strong></td>
<td><strong>1.23</strong></td>
</tr>
</tbody>
</table>


Quarterly Taxable Gross Receipts History

CAT Taxable Gross Receipts*
(Billions of $'s)

*Excludes entities that pay Ohio's Petroleum Activity Tax
Source: Ohio Department of Taxation
How Stable is CAT?

Tax Base Stability by Type of Base

*Excludes entities that pay Ohio’s Petroleum Activity Tax;
Source: U.S. Bureau of Economic Analysis, Ohio Department of Taxation
How Stable is CAT?

Revenue History

Source: U.S. Bureau of Economic Analysis, Ohio Department of Taxation
Credits

Credits taken against CAT

Source: Ohio Department of Taxation
Forecasting CAT

US Gross Output All Industries

Private Industries
- Agriculture, etc.
- Mining
- Utilities
- Construction
- Manufacturing
- Wholesale Trade
- Retail Trade

Government
- Transport & Warehousing
- Information
- Finance, Ins., etc.
- Real estate, rent, etc.
- Prof and Bus Services
- Edu & Health Services
- Educational services
- Health care services
- Recreation & Food Services
- Other Services
Forecasting CAT

CAT Taxable Gross Receipts vs. Forecast series

*Excludes entities that pay Ohio’s Petroleum Activity Tax;  Source: U.S. Bureau of Economic Analysis, Ohio Department of Taxation
Questions?

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More information at:
http://www.tax.ohio.gov/commercial_activities.aspx
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