Top 10 Things an Out of State Business Should Know About the Ohio Commercial Activity Tax



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Construction companies doing work in Ohio and their subcontractors providing services for job sites in Ohio need to understand the basics of this tax in order to protect their profit margins.

1. Ohio Commercial Activity Tax (CAT) is NOT an income tax or sales tax. It is a gross receipts tax imposed on the privilege of doing business in Ohio.
2. CAT has its own unique nexus standards for determining who is subject to the tax. Traditional physical presence is NOT the only standard. Simply having sales of $500,000 into the state can create a “bright line presence” in Ohio and create a filing obligation.
3. The CAT applies to most businesses with enough Ohio gross receipts regardless of form: sole proprietorships, partnerships, C and S corporations, disregarded entities, trusts, LLCs, etc.
4. Specific rules apply to both sales of goods and services when determining Ohio gross receipts.
5. Combined filing can be required of businesses that have a common owner who owns or controls more than 50% of the value of each business. This can pull in entities without $150,000 of Ohio gross receipts, limit the combined group to a single $1 million annual exclusion, and disallow elimination of intercompany transactions. Ohio is actively auditing taxpayers to determine if combined filing is required.
6. Consolidated filing can be elected which allows for elimination of intercompany transactions. An election can be made based upon either 50% or 80% of common ownership.
7. Ohio has new penalty provisions that impose an automatic 50% penalty on taxpayers that have an unmet filing obligation (see #2) that is identified through an audit.
8. A voluntary disclosure program is available. Both the number of years open to audit and the amount of penalty assessed can be reduced by participating in the program.
9. The Commercial Activity Tax is filed annually or quarterly online via the Ohio Business Gateway which is the same system used for sales tax, income tax withholding, state unemployment tax, etc. Taxpayers can easily comply on an ongoing basis once they understand how the tax applies to their business.
10. Businesses with $150,000 of Ohio gross receipts in a calendar year AND either:

- owned or rented property (inventory, land, buildings, etc.), or
- employees working in the state must register and pay at least the minimum CAT