

OHIO BUSINESS TAXES 2009 UPDATE

Over the past several years Ohio has been in the process of phasing-out its Tangible Personal Property Tax and Corporation Franchise Tax and phasing-in the Ohio Commercial Activity Tax (CAT).

Attached below is a chart produced by the Ohio Department of Revenue indicating the taxes in effect and rates for tax years 2005 through 2010.

To summarize:

- Ohio Commercial Activity Tax
 - Ohio CAT was first imposed for the second quarter of 2005 and is fully phased in as of the 2nd quarter of 2009 at a rate of 0.26% of Ohio Destination Gross Receipts in excess of \$1,000,000 per year or \$250,000 per quarter.
 - There is a \$150 minimum tax due on the first \$1,000,000 of receipts.
 - The Ohio CAT replaces the Ohio Franchise Tax for many taxpayers.
 - For companies that are incorporated in a state other than Ohio, certain minimum contacts must be satisfied before the CAT is imposed. These requirements include a minimum level of sales, property, and/or payroll in the state.
 - Depending upon the amount of taxable gross receipts in the state, the taxpayer may be categorized an annual or quarterly filer by the State of Ohio. All taxpayers are deemed to be calendar year taxpayers for the purpose of the Ohio CAT regardless of whether they are calendar or fiscal for federal reporting purposes.
 - The due dates for returns as well as the minimum tax was changed effective October 15, 2009.
 - Annual returns are now due May 10 instead of February 10.
 - For quarterly filers, the \$150 minimum tax which is to be prepaid each year is due with the first quarter report on May 10 rather than with the fourth quarter report filed February 10 for the previous year.

- Tangible Personal Property Tax
 - Phased out as of the return filed in 2008. No tangible personal property tax returns are due for years after 2008.

- Corporation Franchise Tax for C Corporations
 - Phased out as of the 2010 report. This means that the 2009 franchise report, which is based upon the taxable year ending in 2008, is the last franchise tax report for many taxpayers.
 - The franchise tax will remain in effect for financial institutes & affiliates, insurance companies & affiliates, and securitization companies. (NOTE: For these entities the Ohio CAT does not apply.)

- Corporation Franchise Tax for S Corporation
 - Effective October 29, 2009, Form FT 1120S, Notice of S Corporation Status, is no longer required by S Corporations starting with the 2010 report filed for the 2009 tax year.
 - Investor information normally reported on this Form will now be reported on either the IT 4708, Composite Income Tax Return for Certain Investors in a Pass-Through Entity, or IT 1140, Pass-Through Entity and Trust Withholding Tax Return.

With the phase-out of the Ohio franchise tax, there are some taxpayers who have unused nonrefundable franchise tax credit carryforwards. For those taxpayers with unused credits there are opportunities to utilize these credits against Ohio CAT liability in some cases and you should consult your tax advisor.

Additional information regarding Ohio taxes can be found on the Ohio website at www.ohio.gov by going to the business section of the website and choosing the tax finder.