



MEMORANDUM

TO: Kerrie Ryan, Ohio Department of Taxation

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: September 26, 2016

RE: **CSI Review – Commercial Activity Tax (OAC 5703-29-06 and 5703-29-08)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package from the Ohio Department of Taxation consists of two rules – one no-change and one amended – related to the commercial activity tax (CAT). The rule package was submitted to the CSI Office for its statutorily-required five-year review on August 1, 2016. The public comment period ended on August 19 with no comments received.

Ohio Administrative Code (OAC) 5703-29-06 clarifies when the value of property brought into Ohio must be included as a taxable gross receipt in accordance with ORC 5751.013. OAC 5703-29-08 explains the process for a member of a combined taxpayer group under ORC 5751.012 to file separately. The amendments change “primary taxpayer” to “reporting person,” incorporate changes from House Bill 508 of the 129th General Assembly, and state an increase in the CAT rate from .06% to .26% to reflect the actual CAT rate rather than the phase-in rate that was in use when the rule was originally written.

Currently there are approximately 185,000 filers for the commercial activity tax affected by these rules. If a purchaser attempts to avoid the commercial activity tax by not properly reporting a transfer into Ohio, then the Commissioner may impose a penalty on the purchaser. The Department posted the rules to its website and sent an early stakeholder outreach email to all

persons subscribed for commercial activity tax notifications. Three emails were received, but two contained unrelated questions and one recommended rescission of another rule, which the Department has stated it will consider. No comments were received during the CSI review.

After reviewing the proposed rules and associated BIA, the CSI Office has determined the purpose of the rules is justified.

Recommendations

For the reasons explained above this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Taxation should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.