Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Kerrie Ryan, Ohio Department of Taxation

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: **November 24, 2020**

RE: **CSI Review – Commercial Activity Tax (CAT) Five-Year Rule Review (OAC 5703-29-04, 5703-29-05, and 5703-29-16)**

On behalf of Lt. Governor Jon Husted, 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 Ohio Department of Taxation (Department) rule package consists of two amended rules and one no change rule, submitted as part of the statutory five-year rule review requirement. It was submitted to the CSI Office on October 9, 2020, and the public comment period was open through October 29, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 9, 2020.

The rules proposed in this package cover commercial activity tax (CAT) formation of consolidated elected taxpayer groups by election and combined taxpayer groups, requirements for payment, and guidance on the exclusion of qualifying distribution center receipts from gross receipts. Amendments are proposed to update references and clarify filing options for calendar year taxpayers.

During the period of early stakeholder outreach, the Department posted the proposed rules on its website and emailed them to subscribers of the Tax Alert notification system. No comments were received during either the early stakeholder outreach period or the CSI public comment period.

Impacted communities include taxpayers subject to the CAT. Adverse impacts identified by the Department include costs associated with the reporting of required information, meeting registration deadlines, payment of the tax, and filing taxes electronically (unless exempt). The Department states that the rules are necessary to provide guidance on the application of CAT statutes and provide additional clarity to avoid confusion and increased appeals or litigation.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.