

# ***A CAT's Life: Ohio's Gross Receipts Tax in Operation***

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Department of  
Taxation

## ***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

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

- 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

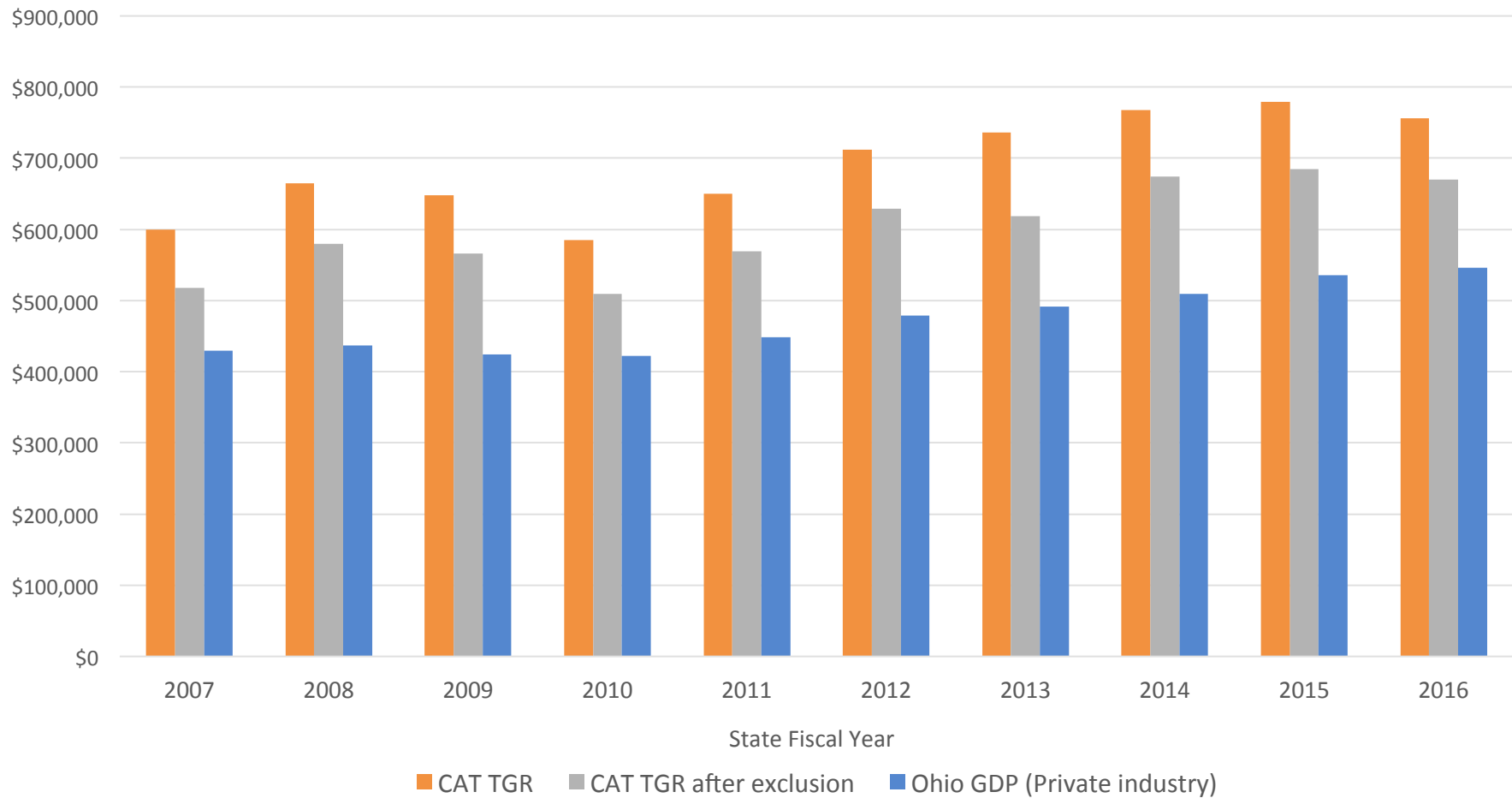
- Ohio Grocers Assn v. Levin
  - Gross receipts from food
- Beaver Excavating Co. v. Testa
  - Gross receipts from motor fuel
- Crutchfield Corp. v. Testa
  - Bright line nexus standard applicability to out of state entities

Tax Base – Revenue - Forecasting

***PERFORMANCE &  
QUANTITATIVE***

# How Broad is the CAT Base?

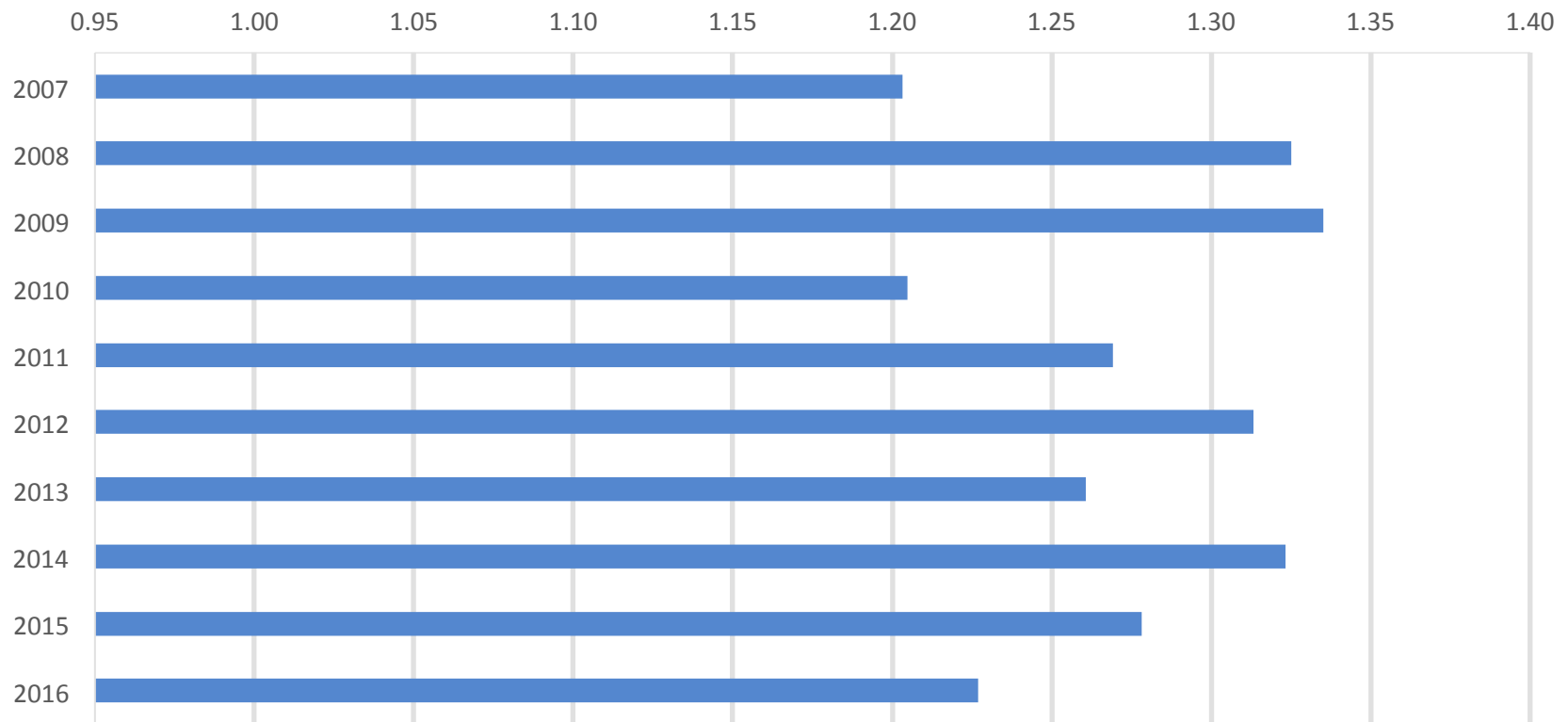
CAT Taxable Gross Receipts vs Ohio GDP  
(Millions of \$'s)



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?*

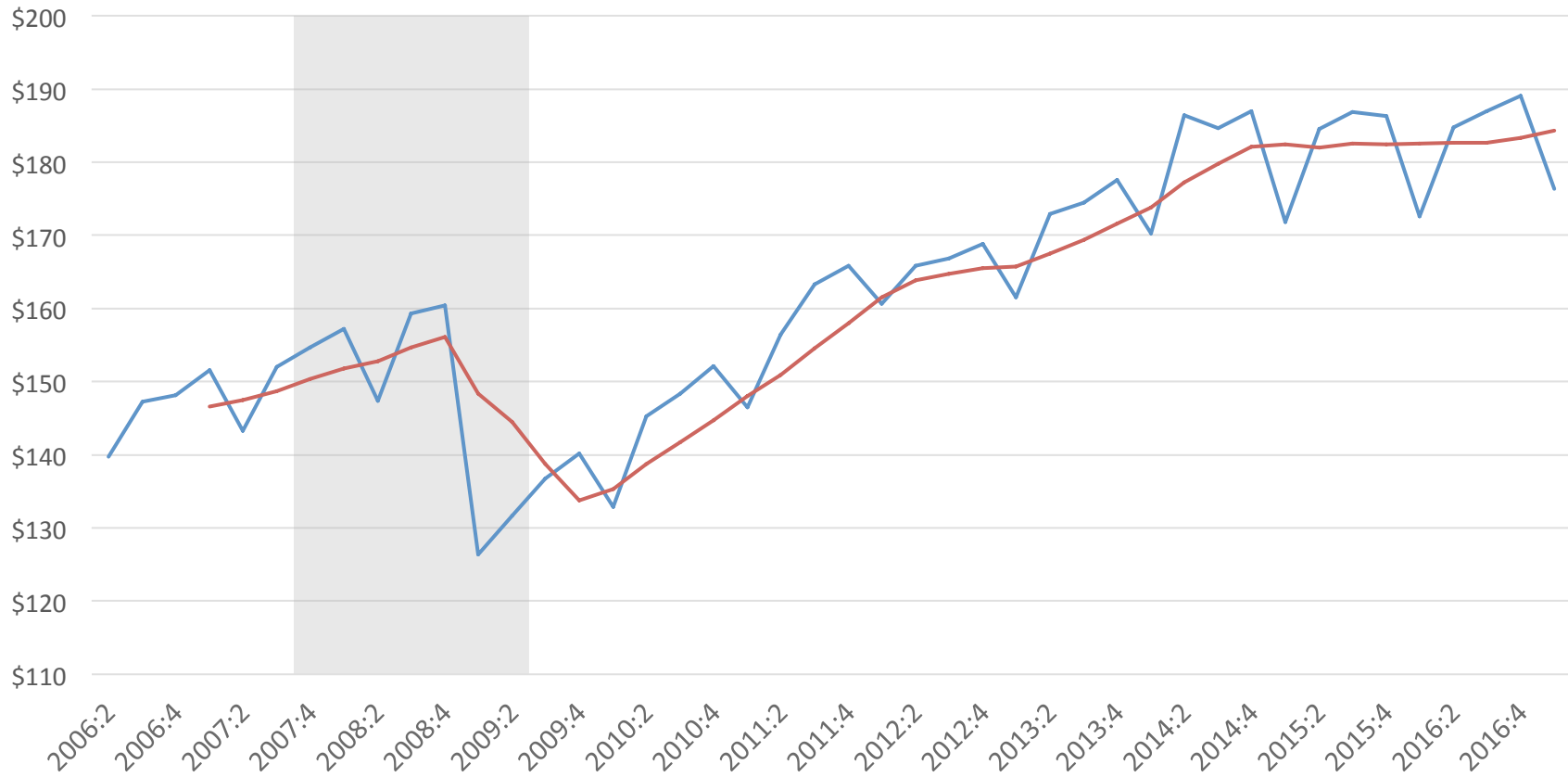
- Pyramiding refers to the fact that the tax potentially applies multiple times to the sale of the same good or service
- The CAT has some important features which reduce the degree of pyramiding:
  - Exemption for exports
  - Exemption for receipts within a consolidated group
  - Exemption for annual 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?

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

# Quarterly Taxable Gross Receipts History

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

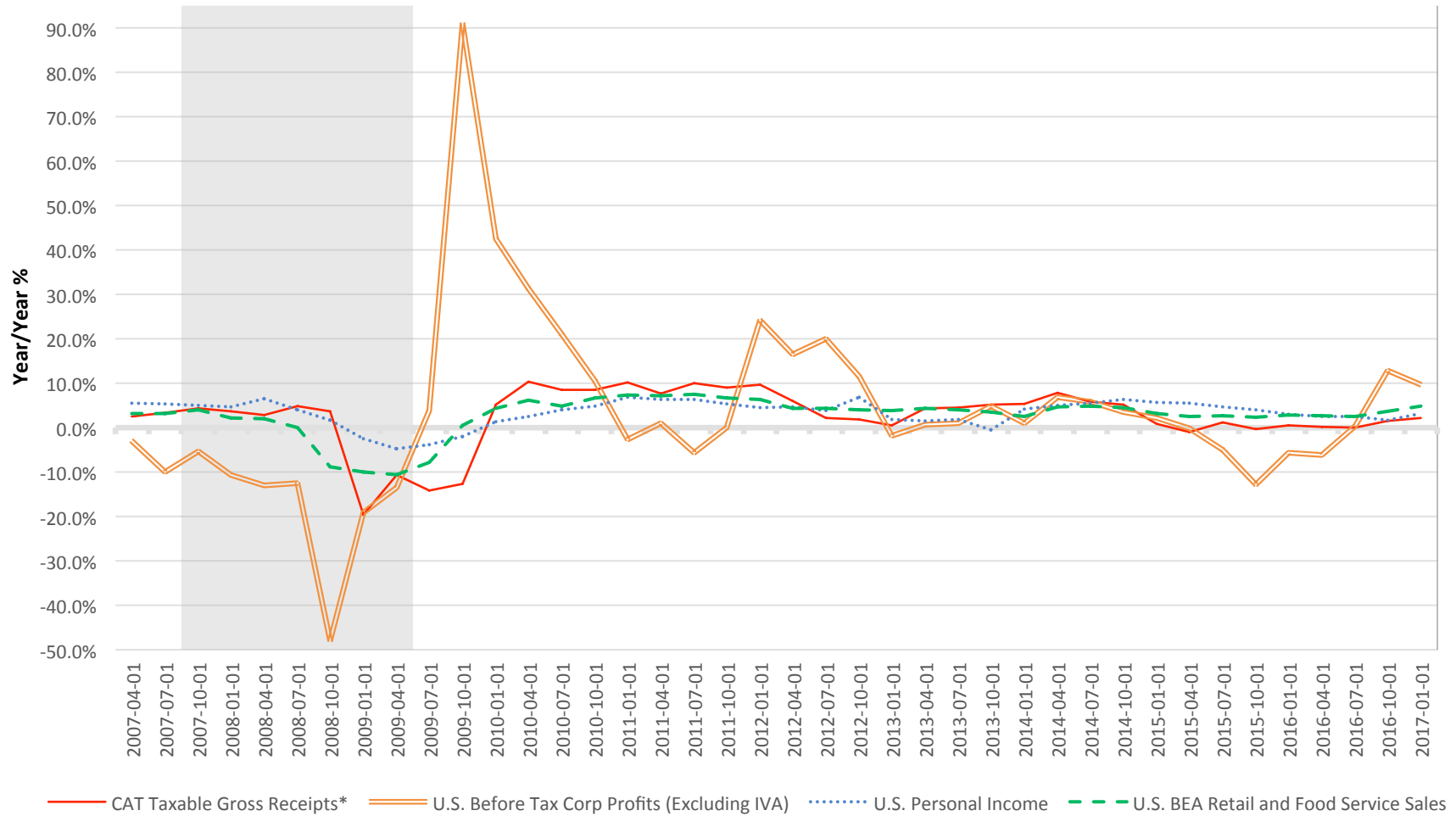


\*Excludes entities that pay Ohio's Petroleum Activity Tax  
Source: Ohio Department of Taxation

— CAT TGR — CAT TGR - 4Q moving average

# How Stable is CAT?

Tax Base Stability by Type of Base

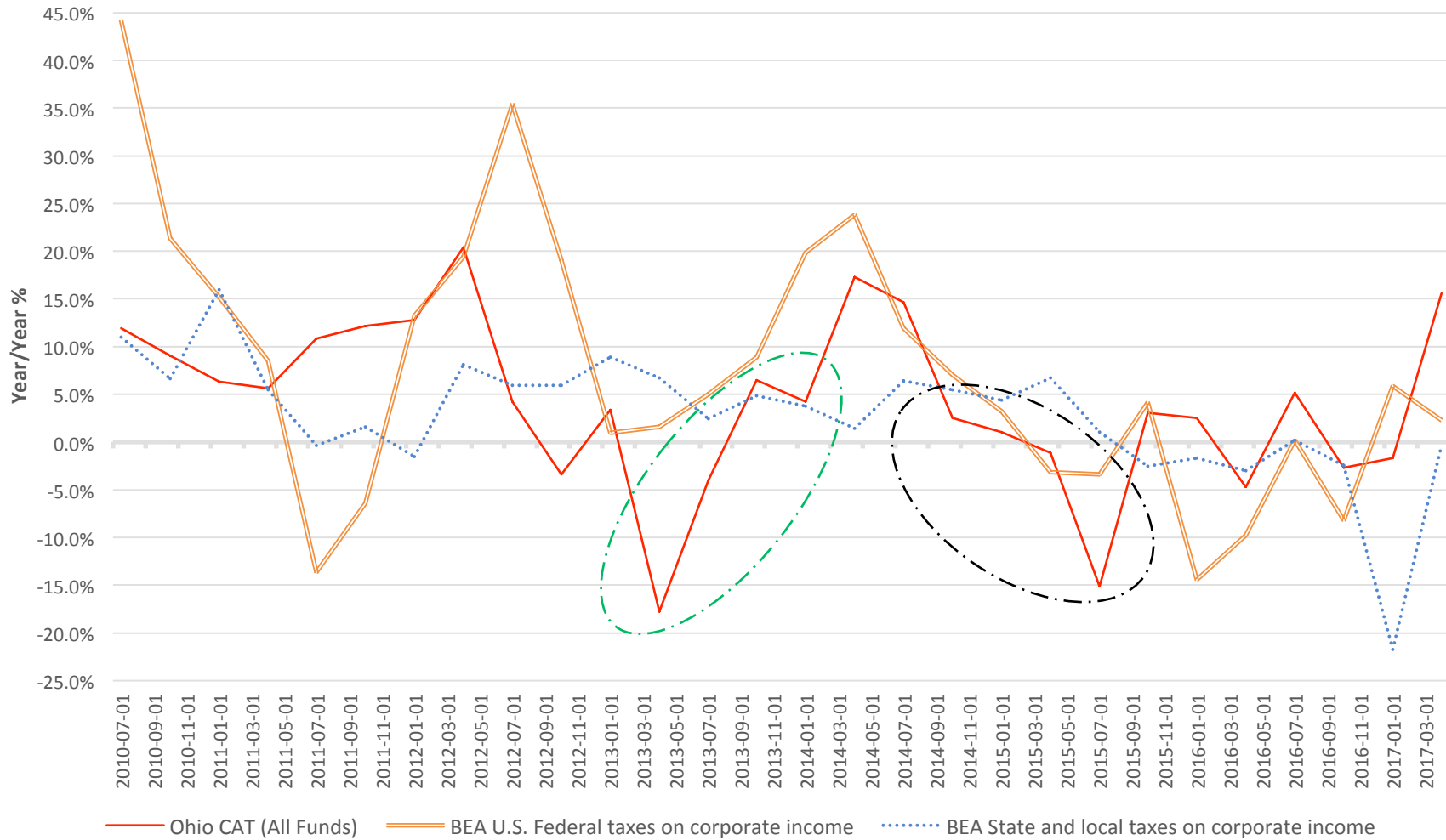


\*Excludes entities that pay Ohio's Petroleum Activity Tax; Source: U.S. Bureau of Economic Analysis, Ohio Department of Taxation



# How Stable is CAT?

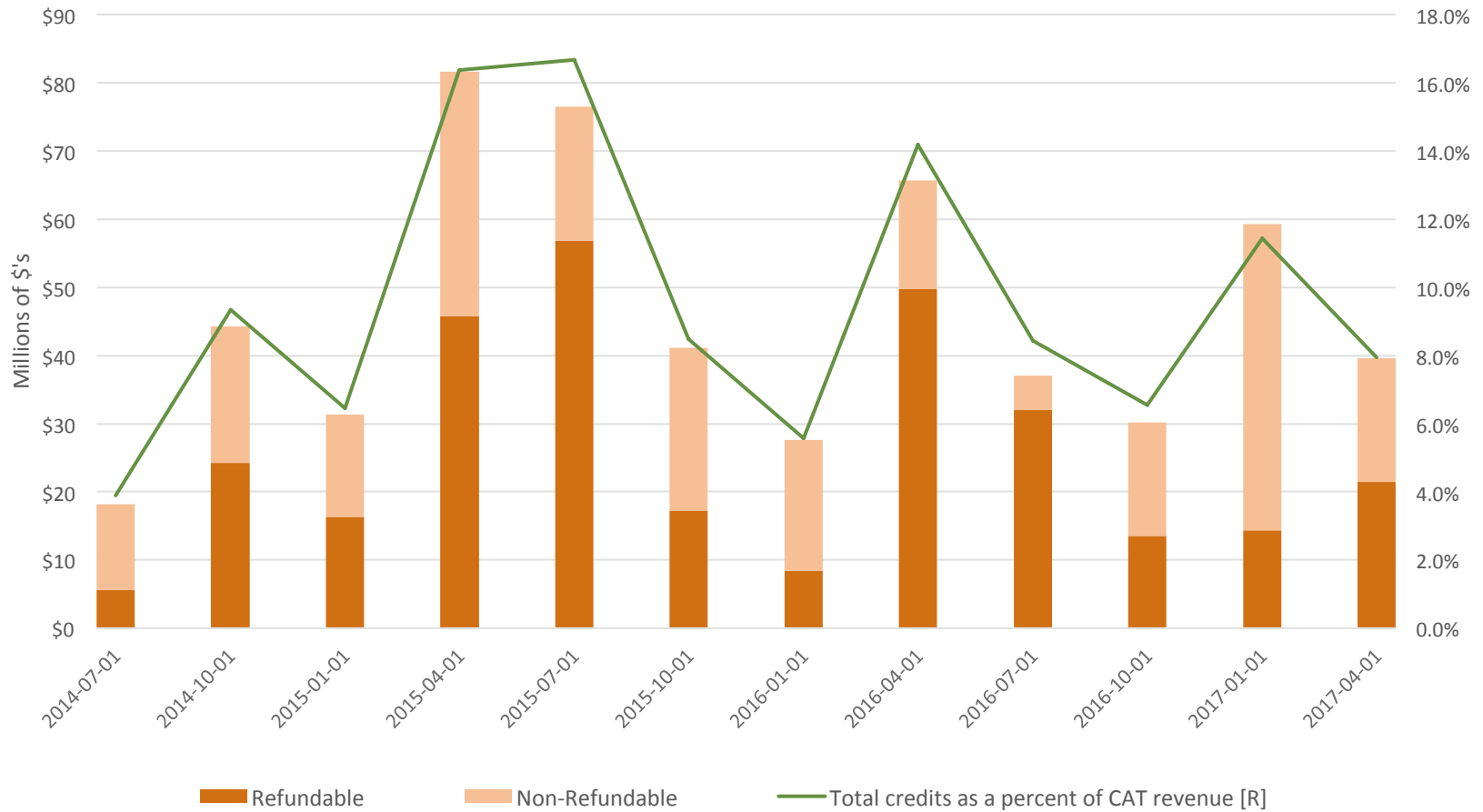
Revenue History



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

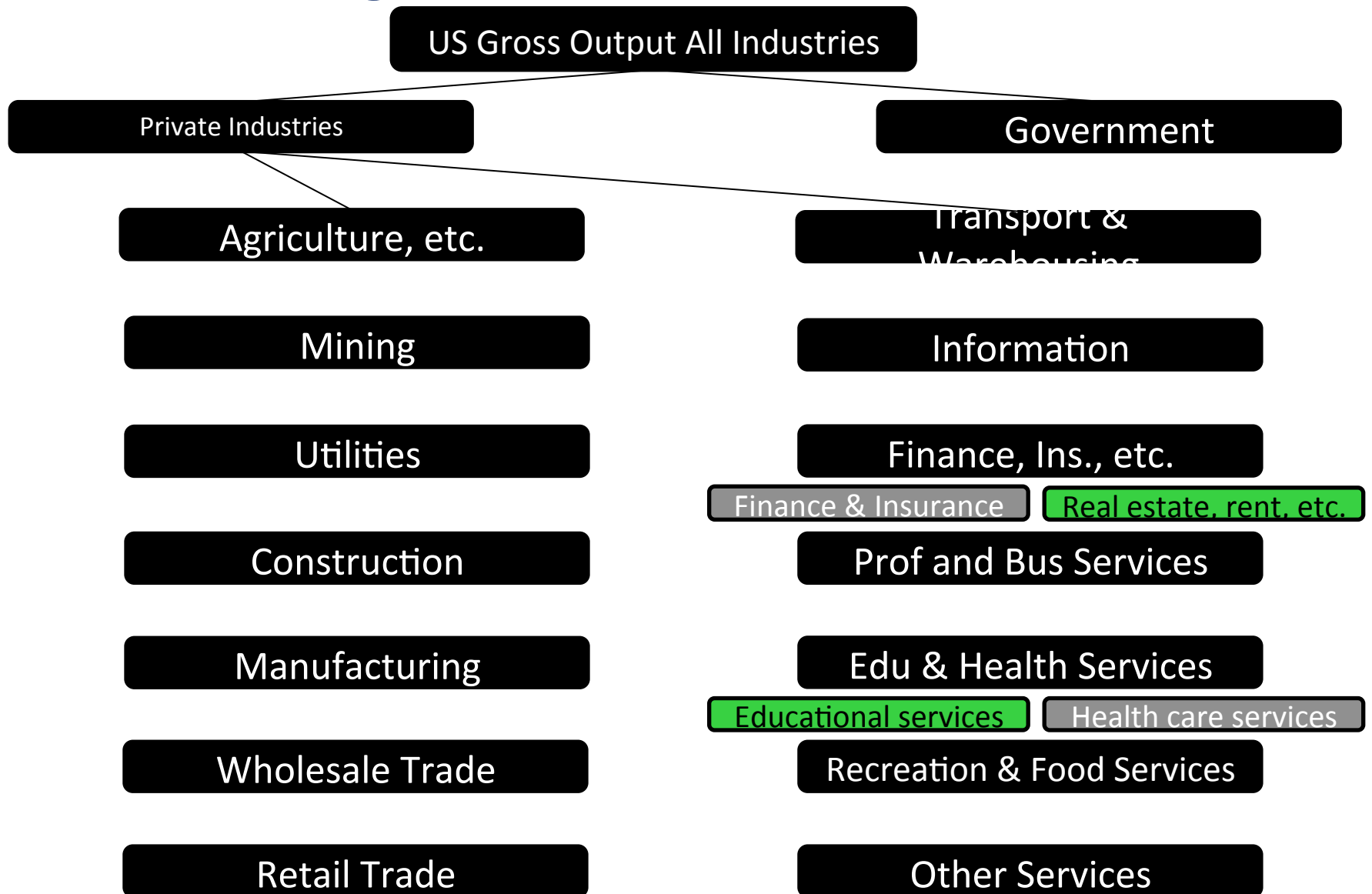
# Credits

## Credits taken against CAT



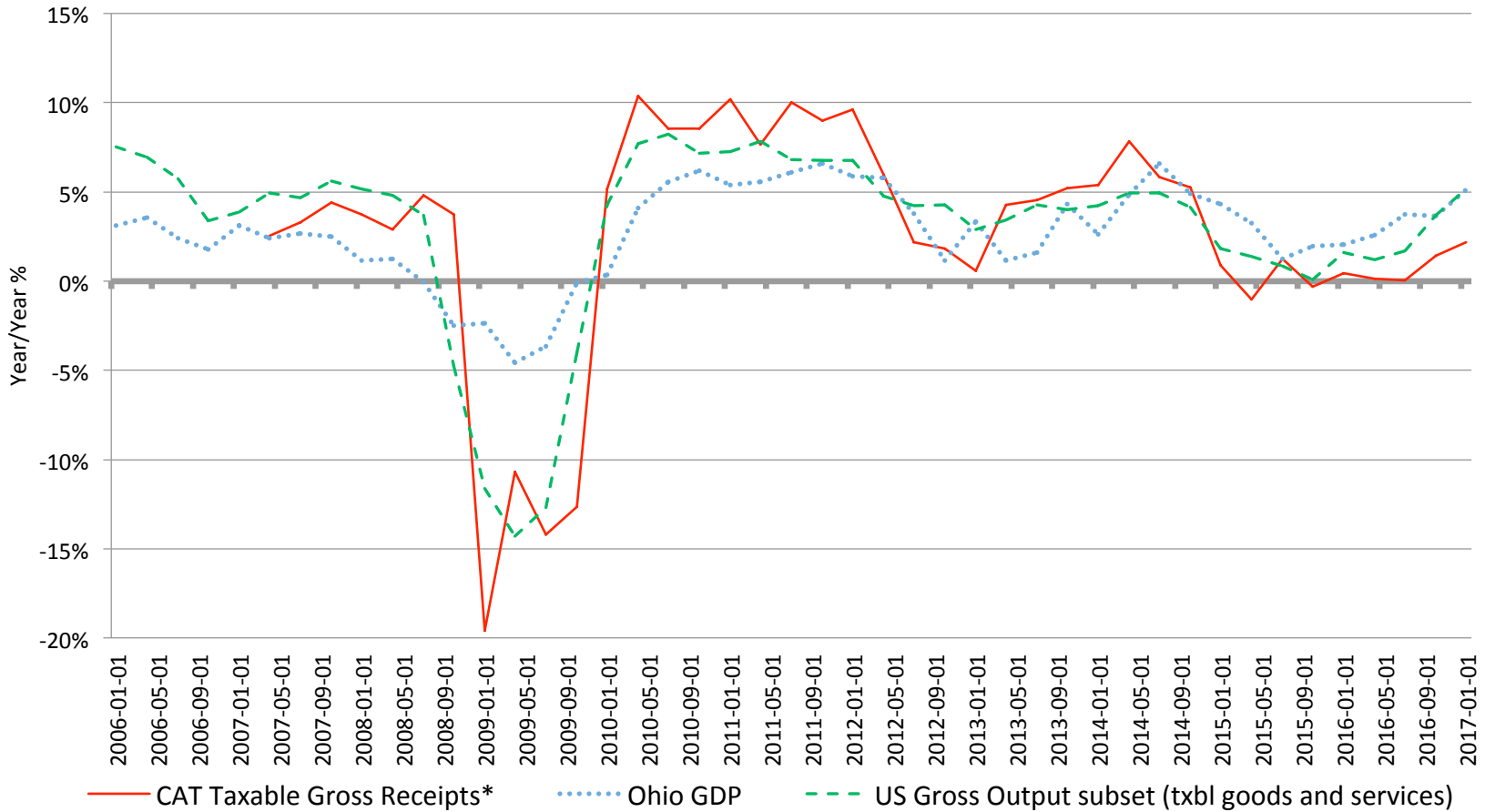
Source: Ohio Department of Taxation

# Forecasting CAT



# 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

# Questions?



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