



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Sam Benham

### **H.B. 569**

132nd General Assembly  
(As Introduced)

**Reps.** Lipps and Reineke, Brenner, Merrin, K. Smith, Antani, Romanchuk, Lang, Riedel

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### **BILL SUMMARY**

- Modifies standards for determining whether sales or use tax applies to business-related electronic services when provided together with other services.
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### **CONTENT AND OPERATION**

#### **Sales and use tax on business electronic services**

The bill modifies the standards for determining whether certain business-related electronic services provided in conjunction with other services are subject to sales and use tax. Continuing law subjects to sales and use tax a business' purchase of automatic data processing, computer services, and electronic information services (hereafter referred to collectively as "electronic services") unless purchased from an affiliated company or, under some circumstances, when provided in conjunction with other services.<sup>1</sup> Continuing law similarly subjects to sales and use tax business-related electronic publishing services.<sup>2</sup>

Currently, when an electronic service is purchased in conjunction with another, nontaxable service, the electronic service is taxable only if the electronic service is the "true object" of the transaction. An electronic service is not considered to be the true object if it is only "incidental or supplemental" to the other service. An administrative rule further elaborates on this true object test: an electronic service is considered to be the true object if the electronic service "render[s] a significant benefit" to the purchaser, and is only incidental or supplemental to another service (and therefore not the true

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<sup>1</sup> R.C. 5739.01(B)(3)(e).

<sup>2</sup> R.C. 5739.01(B)(3)(e) and (B)(3)(u).

object) if (1) it is "merely utilized by the [service] provider" to perform or deliver the other service, or (2) the purchaser is seeking the benefit of the other service, or (3) the electronic service itself does not provide any significant benefit to the purchaser.<sup>3</sup> The test is applied on a case-by-case basis.

The bill modifies the statutory true object test by specifying that an electronic service is not the true object of a transaction, and is thus not subject to sales and use tax, if either (1) the electronic service is provided primarily for the performance, delivery, receipt, or use of the other service or (2) the primary benefit sought by the customer is the other service.<sup>4</sup>

Additionally, the bill subjects electronic publishing services to this modified true object test, exempting such services from sales and use tax if provided in conjunction with another, nontaxable service in a manner that satisfies either of the bill's modified standards described above.<sup>5</sup> Under current law, electronic publishing services, unlike electronic services, are not subject to the true object test and may thus be subject to tax even if they are incidental or supplemental to a nontaxable service.

The bill's modified standards apply beginning on the first day of the first month beginning after the bill's effective date.<sup>6</sup>

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## HISTORY

ACTION	DATE
Introduced	03-21-18

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<sup>3</sup> Ohio Administrative Code 5703-9-46(B)(3). The rule also states that a single transaction might include several separable component services, each of which could be tested separately.

<sup>4</sup> R.C. 5739.01(B)(3)(e).

<sup>5</sup> R.C. 5739.01(B)(3)(e) and (u), (Y), and (LLL).

<sup>6</sup> Section 3.

