

As Introduced

132nd General Assembly

Regular Session

H. B. No. 177

2017-2018

Representatives West, Young

Cosponsors: Representatives Patterson, Vitale, Boggs, Riedel, Thompson, Boccieri, Sheehy, Dean, Howse, Antonio, Reece, Lepore-Hagan, Fedor

A BILL

To amend section 5739.01 of the Revised Code to
exempt memberships to gyms or other recreational
facilities operated by charitable organizations
from sales and use taxation.

1
2
3
4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5739.01 of the Revised Code be
amended to read as follows:

5
6

Sec. 5739.01. As used in this chapter:

7

(A) "Person" includes individuals, receivers, assignees,
trustees in bankruptcy, estates, firms, partnerships,
associations, joint-stock companies, joint ventures, clubs,
societies, corporations, the state and its political
subdivisions, and combinations of individuals of any form.

8
9
10
11
12

(B) "Sale" and "selling" include all of the following
transactions for a consideration in any manner, whether
absolutely or conditionally, whether for a price or rental, in
money or by exchange, and by any means whatsoever:

13
14
15
16

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;	17 18 19 20
(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;	21 22
(3) All transactions by which:	23
(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;	24 25 26 27
(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;	28 29 30 31 32 33 34
(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;	35 36
(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;	37 38 39 40
(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the	41 42 43 44 45

receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.	46 47 48 49 50 51 52 53 54 55 56
(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;	57 58 59 60
(g) Landscaping and lawn care service is or is to be provided;	61 62
(h) Private investigation and security service is or is to be provided;	63 64
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	65 66
(j) Building maintenance and janitorial service is or is to be provided;	67 68
(k) Employment service is or is to be provided;	69
(l) Employment placement service is or is to be provided;	70
(m) Exterminating service is or is to be provided;	71
(n) Physical fitness facility service is or is to be provided, unless such service is or is to be provided by an	72 73

<u>organization that is exempt from taxation under section 501(c)</u>	74
<u>(3) of the Internal Revenue Code;</u>	75
(o) Recreation and sports club service is or is to be provided, unless such service is or is to be provided by an	76
<u>organization that is exempt from taxation under section 501(c)</u>	77
<u>(3) of the Internal Revenue Code;</u>	78
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	79
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services.	80
"Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	81
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	82
(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	83
	99
	100
	101
	102

- (t) On and after August 1, 2003, snow removal service is 103
or is to be provided. As used in this division, "snow removal 104
service" means the removal of snow by any mechanized means, but 105
does not include the providing of such service by a person that 106
has less than five thousand dollars in sales of such service 107
during the calendar year. 108
- (u) Electronic publishing service is or is to be provided 109
to a consumer for use in business, except that such transactions 110
occurring between members of an affiliated group, as defined in 111
division (B) (3) (e) of this section, are not sales. 112
- (4) All transactions by which printed, imprinted, 113
overprinted, lithographic, multilithic, blueprinted, 114
photostatic, or other productions or reproductions of written or 115
graphic matter are or are to be furnished or transferred; 116
- (5) The production or fabrication of tangible personal 117
property for a consideration for consumers who furnish either 118
directly or indirectly the materials used in the production of 119
fabrication work; and include the furnishing, preparing, or 120
serving for a consideration of any tangible personal property 121
consumed on the premises of the person furnishing, preparing, or 122
serving such tangible personal property. Except as provided in 123
section 5739.03 of the Revised Code, a construction contract 124
pursuant to which tangible personal property is or is to be 125
incorporated into a structure or improvement on and becoming a 126
part of real property is not a sale of such tangible personal 127
property. The construction contractor is the consumer of such 128
tangible personal property, provided that the sale and 129
installation of carpeting, the sale and installation of 130
agricultural land tile, the sale and erection or installation of 131
portable grain bins, or the provision of landscaping and lawn 132

care service and the transfer of property as part of such service is never a construction contract.	133
	134
As used in division (B)(5) of this section:	135
(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.	136
	137
	138
	139
	140
	141
	142
	143
	144
(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.	145
	146
	147
	148
(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;	149
	150
	151
	152
	153
	154
	155
	156
(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;	157
	158
	159
	160
	161

(8) The transfer of copyrighted motion picture films used
solely for advertising purposes, except that the transfer of
such films for exhibition purposes is not a sale; 162
163
164

(9) On and after August 1, 2003, all transactions by which
tangible personal property is or is to be stored, except such
property that the consumer of the storage holds for sale in the
regular course of business; 165
166
167
168

(10) All transactions in which "guaranteed auto
protection" is provided whereby a person promises to pay to the
consumer the difference between the amount the consumer receives
from motor vehicle insurance and the amount the consumer owes to
a person holding title to or a lien on the consumer's motor
vehicle in the event the consumer's motor vehicle suffers a
total loss under the terms of the motor vehicle insurance policy
or is stolen and not recovered, if the protection and its price
are included in the purchase or lease agreement; 169
170
171
172
173
174
175
176
177

(11) (a) Except as provided in division (B) (11) (b) of this
section, on and after October 1, 2009, all transactions by which
health care services are paid for, reimbursed, provided,
delivered, arranged for, or otherwise made available by a
medicaid health insuring corporation pursuant to the
corporation's contract with the state. 178
179
180
181
182
183

(b) If the centers for medicare and medicaid services of
the United States department of health and human services
determines that the taxation of transactions described in
division (B) (11) (a) of this section constitutes an impermissible
health care-related tax under the "Social Security Act," section
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder,
the medicaid director shall notify the tax commissioner of that
determination. Beginning with the first day of the month 184
185
186
187
188
189
190
191

following that notification, the transactions described in
division (B) (11) (a) of this section are not sales for the
purposes of this chapter or Chapter 5741. of the Revised Code.
The tax commissioner shall order that the collection of taxes
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02,
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease
for transactions occurring on or after that date.

(12) All transactions by which a specified digital product
is provided for permanent use or less than permanent use,
regardless of whether continued payment is required.

Except as provided in this section, "sale" and "selling"
do not include transfers of interest in leased property where
the original lessee and the terms of the original lease
agreement remain unchanged, or professional, insurance, or
personal service transactions that involve the transfer of
tangible personal property as an inconsequential element, for
which no separate charges are made.

(C) "Vendor" means the person providing the service or by
whom the transfer effected or license given by a sale is or is
to be made or given and, for sales described in division (B) (3)
(i) of this section, the telecommunications service vendor that
provides the nine hundred telephone service; if two or more
persons are engaged in business at the same place of business
under a single trade name in which all collections on account of
sales by each are made, such persons shall constitute a single
vendor.

Physicians, dentists, hospitals, and veterinarians who are
engaged in selling tangible personal property as received from
others, such as eyeglasses, mouthwashes, dentifrices, or similar
articles, are vendors. Veterinarians who are engaged in

transferring to others for a consideration drugs, the dispensing
of which does not require an order of a licensed veterinarian or
physician under federal law, are vendors. 222
223
224

(D) (1) "Consumer" means the person for whom the service is
provided, to whom the transfer effected or license given by a
sale is or is to be made or given, to whom the service described
in division (B)(3)(f) or (i) of this section is charged, or to
whom the admission is granted. 225
226
227
228
229

(2) Physicians, dentists, hospitals, and blood banks
operated by nonprofit institutions and persons licensed to
practice veterinary medicine, surgery, and dentistry are
consumers of all tangible personal property and services
purchased by them in connection with the practice of medicine,
dentistry, the rendition of hospital or blood bank service, or
the practice of veterinary medicine, surgery, and dentistry. In
addition to being consumers of drugs administered by them or by
their assistants according to their direction, veterinarians
also are consumers of drugs that under federal law may be
dispensed only by or upon the order of a licensed veterinarian
or physician, when transferred by them to others for a
consideration to provide treatment to animals as directed by the
veterinarian. 230
231
232
233
234
235
236
237
238
239
240
241
242
243

(3) A person who performs a facility management, or
similar service contract for a contractee is a consumer of all
tangible personal property and services purchased for use in
connection with the performance of such contract, regardless of
whether title to any such property vests in the contractee. The
purchase of such property and services is not subject to the
exception for resale under division (E)(1) of this section. 244
245
246
247
248
249
250

(4) (a) In the case of a person who purchases printed 251

matter for the purpose of distributing it or having it
distributed to the public or to a designated segment of the
public, free of charge, that person is the consumer of that
printed matter, and the purchase of that printed matter for that
purpose is a sale. 252
253
254
255
256

(b) In the case of a person who produces, rather than
purchases, printed matter for the purpose of distributing it or
having it distributed to the public or to a designated segment
of the public, free of charge, that person is the consumer of
all tangible personal property and services purchased for use or
consumption in the production of that printed matter. That
person is not entitled to claim exemption under division (B) (42)
(f) of section 5739.02 of the Revised Code for any material
incorporated into the printed matter or any equipment, supplies,
or services primarily used to produce the printed matter. 257
258
259
260
261
262
263
264
265
266

(c) The distribution of printed matter to the public or to
a designated segment of the public, free of charge, is not a
sale to the members of the public to whom the printed matter is
distributed or to any persons who purchase space in the printed
matter for advertising or other purposes. 267
268
269
270
271

(5) A person who makes sales of any of the services listed
in division (B) (3) of this section is the consumer of any
tangible personal property used in performing the service. The
purchase of that property is not subject to the resale exception
under division (E) (1) of this section. 272
273
274
275
276

(6) A person who engages in highway transportation for
hire is the consumer of all packaging materials purchased by
that person and used in performing the service, except for
packaging materials sold by such person in a transaction
separate from the service. 277
278
279
280
281

(7) In the case of a transaction for health care services under division (B) (11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E) (1) of this section or to the exemptions provided under divisions (B) (12), (18), (19), and (22) of section 5739.02 of the Revised Code.	282 283 284 285 286 287 288 289
(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.	290 291 292 293 294
(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.	295 296 297 298
(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.	299 300 301 302
(H) (1) (a) "Price," except as provided in divisions (H) (2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:	303 304 305 306 307 308
(i) The vendor's cost of the property sold;	309
(ii) The cost of materials used, labor or service costs,	310

interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;	311 312 313 314
(iii) Charges by the vendor for any services necessary to complete the sale;	315 316
(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.	317 318 319 320 321 322
(v) Installation charges;	323
(vi) Credit for any trade-in.	324
(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:	325 326 327 328 329 330 331 332 333
(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;	334 335 336 337 338 339

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.	340 341 342 343 344
(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.	345 346 347 348
(c) "Price" does not include any of the following:	349
(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;	350 351 352
(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;	353 354 355 356
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.	357 358 359 360 361 362
(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.	363 364 365 366 367
(v) The dollar value of a gift card that is not sold by a	368

vendor or purchased by a consumer and that is redeemed by the 369
consumer in purchasing tangible personal property or services if 370
the vendor is not reimbursed and does not receive compensation 371
from a third party to cover all or part of the gift card value. 372
For the purposes of this division, a gift card is not sold by a 373
vendor or purchased by a consumer if it is distributed pursuant 374
to an awards, loyalty, or promotional program. Past and present 375
purchases of tangible personal property or services by the 376
consumer shall not be treated as consideration exchanged for a 377
gift card. 378

(2) In the case of a sale of any new motor vehicle by a 379
new motor vehicle dealer, as defined in section 4517.01 of the 380
Revised Code, in which another motor vehicle is accepted by the 381
dealer as part of the consideration received, "price" has the 382
same meaning as in division (H)(1) of this section, reduced by 383
the credit afforded the consumer by the dealer for the motor 384
vehicle received in trade. 385

(3) In the case of a sale of any watercraft or outboard 386
motor by a watercraft dealer licensed in accordance with section 387
1547.543 of the Revised Code, in which another watercraft, 388
watercraft and trailer, or outboard motor is accepted by the 389
dealer as part of the consideration received, "price" has the 390
same meaning as in division (H)(1) of this section, reduced by 391
the credit afforded the consumer by the dealer for the 392
watercraft, watercraft and trailer, or outboard motor received 393
in trade. As used in this division, "watercraft" includes an 394
outdrive unit attached to the watercraft. 395

(4) In the case of transactions for health care services 396
under division (B)(11) of this section, "price" means the amount 397
of managed care premiums received each month by a medicaid 398

health insuring corporation. 399

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit. 400
401
402
403
404
405
406
407
408
409

(J) "Place of business" means any location at which a person engages in business. 410
411

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person. 412
413
414
415
416
417

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year. 418
419
420
421
422
423
424
425
426
427
428

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.	429 430 431 432 433 434 435
(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.	436 437 438
(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed.	439 440 441 442 443 444 445 446 447 448
(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially	449 450 451 452 453 454 455 456 457 458

designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.	459 460 461 462 463 464 465
(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.	466 467 468
(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.	469 470 471
(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.	472 473 474 475 476 477 478
(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.	479 480 481 482 483 484 485
(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a	486 487

county in which a county transit system is created pursuant to 488
section 306.01 of the Revised Code. For the purposes of this 489
chapter, a transit authority must extend to at least the entire 490
area of a single county. A transit authority that includes 491
territory in more than one county must include all the area of 492
the most populous county that is a part of such transit 493
authority. County population shall be measured by the most 494
recent census taken by the United States census bureau. 495

(V) "Legislative authority" means, with respect to a 496
regional transit authority, the board of trustees thereof, and 497
with respect to a county that is a transit authority, the board 498
of county commissioners. 499

(W) "Territory of the transit authority" means all of the 500
area included within the territorial boundaries of a transit 501
authority as they from time to time exist. Such territorial 502
boundaries must at all times include all the area of a single 503
county or all the area of the most populous county that is a 504
part of such transit authority. County population shall be 505
measured by the most recent census taken by the United States 506
census bureau. 507

(X) "Providing a service" means providing or furnishing 508
anything described in division (B) (3) of this section for 509
consideration. 510

(Y) (1) (a) "Automatic data processing" means processing of 511
others' data, including keypunching or similar data entry 512
services together with verification thereof, or providing access 513
to computer equipment for the purpose of processing data. 514

(b) "Computer services" means providing services 515
consisting of specifying computer hardware configurations and 516

evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.	517 518 519 520
(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:	521 522 523
(i) Examining or acquiring data stored in or accessible to the computer equipment;	524 525
(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.	526 527 528
For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.	529 530 531 532 533
(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.	534 535 536
(2) As used in divisions (B) (3) (e) and (Y) (1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:	537 538 539 540
(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;	541 542 543 544 545

(b) Analyzing business policies and procedures;	546
(c) Identifying management information needs;	547
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	548 549 550
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	551 552 553 554 555
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	556 557 558
(g) Testing of business procedures;	559
(h) Training personnel in business procedure applications;	560
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	561 562 563 564 565 566 567
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	568 569
(k) Providing digital advertising services.	570
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	571 572

(Z) "Highway transportation for hire" means the	573
transportation of personal property belonging to others for	574
consideration by any of the following:	575
(1) The holder of a permit or certificate issued by this	576
state or the United States authorizing the holder to engage in	577
transportation of personal property belonging to others for	578
consideration over or on highways, roadways, streets, or any	579
similar public thoroughfare;	580
(2) A person who engages in the transportation of personal	581
property belonging to others for consideration over or on	582
highways, roadways, streets, or any similar public thoroughfare	583
but who could not have engaged in such transportation on	584
December 11, 1985, unless the person was the holder of a permit	585
or certificate of the types described in division (Z)(1) of this	586
section;	587
(3) A person who leases a motor vehicle to and operates it	588
for a person described by division (Z)(1) or (2) of this	589
section.	590
(AA) (1) "Telecommunications service" means the electronic	591
transmission, conveyance, or routing of voice, data, audio,	592
video, or any other information or signals to a point, or	593
between or among points. "Telecommunications service" includes	594
such transmission, conveyance, or routing in which computer	595
processing applications are used to act on the form, code, or	596
protocol of the content for purposes of transmission,	597
conveyance, or routing without regard to whether the service is	598
referred to as voice-over internet protocol service or is	599
classified by the federal communications commission as enhanced	600
or value-added. "Telecommunications service" does not include	601
any of the following:	602

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;	603 604 605 606 607
(b) Installation or maintenance of wiring or equipment on a customer's premises;	608 609
(c) Tangible personal property;	610
(d) Advertising, including directory advertising;	611
(e) Billing and collection services provided to third parties;	612 613
(f) Internet access service;	614
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	615 616 617 618 619 620 621 622
(h) Ancillary service;	623
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	624 625
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this	626 627 628 629 630

division:	631
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	632 633 634 635 636
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	637 638 639
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	640 641
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.	642 643 644 645 646
(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.	647 648 649 650 651
(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the	652 653 654 655 656 657 658 659

subscriber, or services or products sold by the subscriber to the subscriber's customer.	660 661
(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.	662 663 664 665 666 667 668
(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non- telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount.	669 670 671 672 673 674 675 676
(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.	677 678 679 680 681
(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.	682 683 684
(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.	685 686
(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other	687 688

fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items. 689
690
691
692
693
694

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them. 695
696
697
698
699
700
701
702
703

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year. 704
705
706
707
708
709
710
711
712
713
714
715

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of 716
717
718

the Revised Code, or would be required to be so licensed in 719
performing such services in this state, and also includes the 720
services of conducting polygraph examinations and of monitoring 721
or overseeing the activities on or in, or the condition of, the 722
consumer's home, business, or other facility by means of 723
electronic or similar monitoring devices. "Private investigation 724
and security service" does not include special duty services 725
provided by off-duty police officers, deputy sheriffs, and other 726
peace officers regularly employed by the state or a political 727
subdivision. 728

(FF) "Information services" means providing conversation, 729
giving consultation or advice, playing or making a voice or 730
other recording, making or keeping a record of the number of 731
callers, and any other service provided to a consumer by means 732
of a nine hundred telephone call, except when the nine hundred 733
telephone call is the means by which the consumer makes a 734
contribution to a recognized charity. 735

(GG) "Research and development" means designing, creating, 736
or formulating new or enhanced products, equipment, or 737
manufacturing processes, and also means conducting scientific or 738
technological inquiry and experimentation in the physical 739
sciences with the goal of increasing scientific knowledge which 740
may reveal the bases for new or enhanced products, equipment, or 741
manufacturing processes. 742

(HH) "Qualified research and development equipment" means 743
capitalized tangible personal property, and leased personal 744
property that would be capitalized if purchased, used by a 745
person primarily to perform research and development. Tangible 746
personal property primarily used in testing, as defined in 747
division (A) (4) of section 5739.011 of the Revised Code, or used 748

for recording or storing test results, is not qualified research
and development equipment unless such property is primarily used
by the consumer in testing the product, equipment, or
manufacturing process being created, designed, or formulated by
the consumer in the research and development activity or in
recording or storing such test results.

(II) "Building maintenance and janitorial service" means
cleaning the interior or exterior of a building and any tangible
personal property located therein or thereon, including any
services incidental to such cleaning for which no separate
charge is made. However, "building maintenance and janitorial
service" does not include the providing of such service by a
person who has less than five thousand dollars in sales of such
service during the calendar year. As used in this division,
"cleaning" does not include sanitation services necessary for an
establishment described in 21 U.S.C. 608 to comply with rules
and regulations adopted pursuant to that section.

(JJ) "Employment service" means providing or supplying
personnel, on a temporary or long-term basis, to perform work or
labor under the supervision or control of another, when the
personnel so provided or supplied receive their wages, salary,
or other compensation from the provider or supplier of the
employment service or from a third party that provided or
supplied the personnel to the provider or supplier. "Employment
service" does not include:

(1) Acting as a contractor or subcontractor, where the
personnel performing the work are not under the direct control
of the purchaser.

(2) Medical and health care services.

- (3) Supplying personnel to a purchaser pursuant to a
contract of at least one year between the service provider and
the purchaser that specifies that each employee covered under
the contract is assigned to the purchaser on a permanent basis. 778
779
780
781
- (4) Transactions between members of an affiliated group,
as defined in division (B) (3) (e) of this section. 782
783
- (5) Transactions where the personnel so provided or
supplied by a provider or supplier to a purchaser of an
employment service are then provided or supplied by that
purchaser to a third party as an employment service, except
"employment service" does include the transaction between that
purchaser and the third party. 784
785
786
787
788
789
- (KK) "Employment placement service" means locating or
finding employment for a person or finding or locating an
employee to fill an available position. 790
791
792
- (LL) "Exterminating service" means eradicating or
attempting to eradicate vermin infestations from a building or
structure, or the area surrounding a building or structure, and
includes activities to inspect, detect, or prevent vermin
infestation of a building or structure. 793
794
795
796
797
- (MM) "Physical fitness facility service" means all
transactions by which a membership is granted, maintained, or
renewed, including initiation fees, membership dues, renewal
fees, monthly minimum fees, and other similar fees and dues, by
a physical fitness facility such as an athletic club, health
spa, or gymnasium, which entitles the member to use the facility
for physical exercise. 798
799
800
801
802
803
804
- (NN) "Recreation and sports club service" means all
transactions by which a membership is granted, maintained, or 805
806

renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural

products when done in conjunction with the production of those
products. 837
838

(SS) "Newspaper" means an unbound publication bearing a
title or name that is regularly published, at least as
frequently as biweekly, and distributed from a fixed place of
business to the public in a specific geographic area, and that
contains a substantial amount of news matter of international,
national, or local events of interest to the general public. 839
840
841
842
843
844

(TT) "Professional racing team" means a person that
employs at least twenty full-time employees for the purpose of
conducting a motor vehicle racing business for profit. The
person must conduct the business with the purpose of racing one
or more motor racing vehicles in at least ten competitive
professional racing events each year that comprise all or part
of a motor racing series sanctioned by one or more motor racing
sanctioning organizations. A "motor racing vehicle" means a
vehicle for which the chassis, engine, and parts are designed
exclusively for motor racing, and does not include a stock or
production model vehicle that may be modified for use in racing.
For the purposes of this division: 845
846
847
848
849
850
851
852
853
854
855
856

(1) A "competitive professional racing event" is a motor
vehicle racing event sanctioned by one or more motor racing
sanctioning organizations, at which aggregate cash prizes in
excess of eight hundred thousand dollars are awarded to the
competitors. 857
858
859
860
861

(2) "Full-time employee" means an individual who is
employed for consideration for thirty-five or more hours a week,
or who renders any other standard of service generally accepted
by custom or specified by contract as full-time employment. 862
863
864
865

- (UU) (1) "Lease" or "rental" means any transfer of the
possession or control of tangible personal property for a fixed
or indefinite term, for consideration. "Lease" or "rental"
includes future options to purchase or extend, and agreements
described in 26 U.S.C. 7701(h)(1) covering motor vehicles and
trailers where the amount of consideration may be increased or
decreased by reference to the amount realized upon the sale or
disposition of the property. "Lease" or "rental" does not
include:
- (a) A transfer of possession or control of tangible
personal property under a security agreement or a deferred
payment plan that requires the transfer of title upon completion
of the required payments;
- (b) A transfer of possession or control of tangible
personal property under an agreement that requires the transfer
of title upon completion of required payments and payment of an
option price that does not exceed the greater of one hundred
dollars or one per cent of the total required payments;
- (c) Providing tangible personal property along with an
operator for a fixed or indefinite period of time, if the
operator is necessary for the property to perform as designed.
For purposes of this division, the operator must do more than
maintain, inspect, or set up the tangible personal property.
- (2) "Lease" and "rental," as defined in division (UU) of
this section, shall not apply to leases or rentals that exist
before June 26, 2003.
- (3) "Lease" and "rental" have the same meaning as in
division (UU)(1) of this section regardless of whether a
transaction is characterized as a lease or rental under

generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.	895 896 897
(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.	898 899 900 901 902 903 904 905
(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.	906 907
(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.	908 909 910 911 912 913 914 915 916 917
(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.	918 919 920 921 922 923

(ZZ) "Direct mail" means printed material delivered or	924
distributed by United States mail or other delivery service to a	925
mass audience or to addressees on a mailing list provided by the	926
consumer or at the direction of the consumer when the cost of	927
the items are not billed directly to the recipients. "Direct	928
mail" includes tangible personal property supplied directly or	929
indirectly by the consumer to the direct mail vendor for	930
inclusion in the package containing the printed material.	931
"Direct mail" does not include multiple items of printed	932
material delivered to a single address.	933
(AAA) "Computer" means an electronic device that accepts	934
information in digital or similar form and manipulates it for a	935
result based on a sequence of instructions.	936
(BBB) "Computer software" means a set of coded	937
instructions designed to cause a computer or automatic data	938
processing equipment to perform a task.	939
(CCC) "Delivered electronically" means delivery of	940
computer software from the seller to the purchaser by means	941
other than tangible storage media.	942
(DDD) "Prewritten computer software" means computer	943
software, including prewritten upgrades, that is not designed	944
and developed by the author or other creator to the	945
specifications of a specific purchaser. The combining of two or	946
more prewritten computer software programs or prewritten	947
portions thereof does not cause the combination to be other than	948
prewritten computer software. "Prewritten computer software"	949
includes software designed and developed by the author or other	950
creator to the specifications of a specific purchaser when it is	951
sold to a person other than the purchaser. If a person modifies	952
or enhances computer software of which the person is not the	953

author or creator, the person shall be deemed to be the author 954
or creator only of such person's modifications or enhancements. 955
Prewritten computer software or a prewritten portion thereof 956
that is modified or enhanced to any degree, where such 957
modification or enhancement is designed and developed to the 958
specifications of a specific purchaser, remains prewritten 959
computer software; provided, however, that where there is a 960
reasonable, separately stated charge or an invoice or other 961
statement of the price given to the purchaser for the 962
modification or enhancement, the modification or enhancement 963
shall not constitute prewritten computer software. 964

(EEE) (1) "Food" means substances, whether in liquid, 965
concentrated, solid, frozen, dried, or dehydrated form, that are 966
sold for ingestion or chewing by humans and are consumed for 967
their taste or nutritional value. "Food" does not include 968
alcoholic beverages, dietary supplements, soft drinks, or 969
tobacco. 970

(2) As used in division (EEE) (1) of this section: 971

(a) "Alcoholic beverages" means beverages that are 972
suitable for human consumption and contain one-half of one per 973
cent or more of alcohol by volume. 974

(b) "Dietary supplements" means any product, other than 975
tobacco, that is intended to supplement the diet and that is 976
intended for ingestion in tablet, capsule, powder, softgel, 977
gelcap, or liquid form, or, if not intended for ingestion in 978
such a form, is not represented as conventional food for use as 979
a sole item of a meal or of the diet; that is required to be 980
labeled as a dietary supplement, identifiable by the "supplement 981
facts" box found on the label, as required by 21 C.F.R. 101.36; 982
and that contains one or more of the following dietary 983

ingredients:	984
(i) A vitamin;	985
(ii) A mineral;	986
(iii) An herb or other botanical;	987
(iv) An amino acid;	988
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	989 990
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b)	991 992
(i) to (v) of this section.	993
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	994 995 996 997 998
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	999 1000
(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	1001 1002 1003 1004 1005 1006 1007 1008 1009
(GGG) "Prescription" means an order, formula, or recipe	1010

issued in any form of oral, written, electronic, or other means
of transmission by a duly licensed practitioner authorized by
the laws of this state to issue a prescription. 1011
1012
1013

(HHH) "Durable medical equipment" means equipment,
including repair and replacement parts for such equipment, that
can withstand repeated use, is primarily and customarily used to
serve a medical purpose, generally is not useful to a person in
the absence of illness or injury, and is not worn in or on the
body. "Durable medical equipment" does not include mobility
enhancing equipment. 1014
1015
1016
1017
1018
1019
1020

(III) "Mobility enhancing equipment" means equipment,
including repair and replacement parts for such equipment, that
is primarily and customarily used to provide or increase the
ability to move from one place to another and is appropriate for
use either in a home or a motor vehicle, that is not generally
used by persons with normal mobility, and that does not include
any motor vehicle or equipment on a motor vehicle normally
provided by a motor vehicle manufacturer. "Mobility enhancing
equipment" does not include durable medical equipment. 1021
1022
1023
1024
1025
1026
1027
1028
1029

(JJJ) "Prosthetic device" means a replacement, corrective,
or supportive device, including repair and replacement parts for
the device, worn on or in the human body to artificially replace
a missing portion of the body, prevent or correct physical
deformity or malfunction, or support a weak or deformed portion
of the body. As used in this division, "prosthetic device" does
not include corrective eyeglasses, contact lenses, or dental
prostheses. 1030
1031
1032
1033
1034
1035
1036
1037

(KKK) (1) "Fractional aircraft ownership program" means a
program in which persons within an affiliated group sell and
manage fractional ownership program aircraft, provided that at 1038
1039
1040

least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:	1041 1042
(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.	1043 1044 1045
(b) Each program aircraft is owned or possessed by at least one fractional owner.	1046 1047
(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.	1048 1049 1050
(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.	1051 1052
(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.	1053 1054 1055
(2) As used in division (KKK) (1) of this section:	1056
(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.	1057 1058
(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK) (1) (e) of this section.	1059 1060 1061 1062
(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional	1063 1064 1065 1066 1067 1068

aircraft ownership program.	1069
(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK) (1) (e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.	1070 1071 1072 1073 1074 1075 1076 1077 1078 1079 1080 1081 1082 1083
(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK) (1) (e) of this section.	1084 1085 1086 1087
(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an	1088 1089 1090 1091 1092 1093 1094 1095 1096 1097 1098

electronic format. Providing electronic publishing includes the
functions necessary for the acquisition, formatting, editing,
storage, and dissemination of data or information that is the
subject of a sale. 1099
1100
1101
1102

(MMM) "Medicaid health insuring corporation" means a
health insuring corporation that holds a certificate of
authority under Chapter 1751. of the Revised Code and is under
contract with the department of ~~job and family services medicaid~~
pursuant to section 5111.17-5167.10 of the Revised Code. 1103
1104
1105
1106
1107

(NNN) "Managed care premium" means any premium,
capitation, or other payment a medicaid health insuring
corporation receives for providing or arranging for the
provision of health care services to its members or enrollees
residing in this state. 1108
1109
1110
1111
1112

(OOO) "Captive deer" means deer and other cervidae that
have been legally acquired, or their offspring, that are
privately owned for agricultural or farming purposes. 1113
1114
1115

(PPP) "Gift card" means a document, card, certificate, or
other record, whether tangible or intangible, that may be
redeemed by a consumer for a dollar value when making a purchase
of tangible personal property or services. 1116
1117
1118
1119

(QQQ) "Specified digital product" means an electronically
transferred digital audiovisual work, digital audio work, or
digital book. 1120
1121
1122

As used in division (QQQ) of this section: 1123

(1) "Digital audiovisual work" means a series of related
images that, when shown in succession, impart an impression of
motion, together with accompanying sounds, if any. 1124
1125
1126

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.	1127 1128 1129 1130 1131
(3) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.	1132 1133
(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.	1134 1135
(RRR) "Digital advertising services" means providing access, by means of telecommunications equipment, to computer equipment that is used to enter, upload, download, review, manipulate, store, add, or delete data for the purpose of electronically displaying, delivering, placing, or transferring promotional advertisements to potential customers about products or services or about industry or business brands.	1136 1137 1138 1139 1140 1141 1142
(SSS) "Municipal gas utility" means a municipal corporation that owns or operates a system for the distribution of natural gas.	1143 1144 1145
Section 2. That existing section 5739.01 of the Revised Code is hereby repealed.	1146 1147
Section 3. The amendment by this act of section 5739.01 of the Revised Code applies beginning on the first day of the first July after this act takes effect.	1148 1149 1150
Section 4. Section 5739.01 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 390 and H.B. 466 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments	1151 1152 1153 1154 1155

are to be harmonized if reasonably capable of simultaneous 1156
operation, finds that the composite is the resulting version of 1157
the section in effect prior to the effective date of the section 1158
as presented in this act. 1159