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Representative Arndt

Cosponsors: Representatives Romanchuk, Schaffer, Riedel, Becker, Hood, Lang, Scherer, Hambley, Patmon, Rogers, Anielski, Boyd, Cera, Green, Henne, Ramos, Retherford, Ryan, Antani, Antonio, Ashford, Boggs, Brenner, Brown, Carfagna, Celebrezze, Craig, Cupp, Edwards, Galonski, Gavarone, Ginter, Greenspan, Hagan, Holmes, Householder, Howse, Hughes, Ingram, Kelly, Kent, Lanese, Leland, Lepore-Hagan, Manning, McClain, Merrin, Miller, O'Brien, Patterson, Patton, Pelanda, Reece, Reineke, Schuring, Slaby, Smith, K., Smith, T., Stein, Strahorn, Sweeney, B., Sykes, West, Young, Speaker Smith

A BILL

To amend sections 5739.02, 5739.03, and 5739.121 of 1
the Revised Code to authorize small retailers to 2
remit sales taxes when the retailer receives 3
payment from the purchaser if the payment is 4
received after the purchased item is delivered 5
or the service is provided and to exempt from 6
sales and use tax tampons and other feminine 7
hygiene products associated with menstruation. 8

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

Section 1. That sections 5739.02, 5739.03, and 5739.121 of 9
the Revised Code be amended to read as follows: 10

Sec. 5739.02. For the purpose of providing revenue with 11
which to meet the needs of the state, for the use of the general 12
revenue fund of the state, for the purpose of securing a 13

thorough and efficient system of common schools throughout the 14
state, for the purpose of affording revenues, in addition to 15
those from general property taxes, permitted under 16
constitutional limitations, and from other sources, for the 17
support of local governmental functions, and for the purpose of 18
reimbursing the state for the expense of administering this 19
chapter, an excise tax is hereby levied on each retail sale made 20
in this state. 21

(A) (1) The tax shall be collected as provided in section 22
5739.025 of the Revised Code. The rate of the tax shall be five 23
and three-fourths per cent. The tax applies and is collectible 24
when the sale is made, regardless of the time when the price is 25
paid or delivered. 26

(2) In the case of the lease or rental, with a fixed term 27
of more than thirty days or an indefinite term with a minimum 28
period of more than thirty days, of any motor vehicles designed 29
by the manufacturer to carry a load of not more than one ton, 30
watercraft, outboard motor, or aircraft, or of any tangible 31
personal property, other than motor vehicles designed by the 32
manufacturer to carry a load of more than one ton, to be used by 33
the lessee or renter primarily for business purposes, the tax 34
shall be collected by the vendor at the time the lease or rental 35
is consummated and shall be calculated by the vendor on the 36
basis of the total amount to be paid by the lessee or renter 37
under the lease agreement. If the total amount of the 38
consideration for the lease or rental includes amounts that are 39
not calculated at the time the lease or rental is executed, the 40
tax shall be calculated and collected by the vendor at the time 41
such amounts are billed to the lessee or renter. In the case of 42
an open-end lease or rental, the tax shall be calculated by the 43
vendor on the basis of the total amount to be paid during the 44

initial fixed term of the lease or rental, and for each 45
subsequent renewal period as it comes due. As used in this 46
division, "motor vehicle" has the same meaning as in section 47
4501.01 of the Revised Code, and "watercraft" includes an 48
outdrive unit attached to the watercraft. 49

A lease with a renewal clause and a termination penalty or 50
similar provision that applies if the renewal clause is not 51
exercised is presumed to be a sham transaction. In such a case, 52
the tax shall be calculated and paid on the basis of the entire 53
length of the lease period, including any renewal periods, until 54
the termination penalty or similar provision no longer applies. 55
The taxpayer shall bear the burden, by a preponderance of the 56
evidence, that the transaction or series of transactions is not 57
a sham transaction. 58

(3) Except as provided in division (A) (2) of this section, 59
in the case of a sale, the price of which consists in whole or 60
in part of the lease or rental of tangible personal property, 61
the tax shall be measured by the installments of that lease or 62
rental. 63

(4) In the case of a sale of a physical fitness facility 64
service or recreation and sports club service, the price of 65
which consists in whole or in part of a membership for the 66
receipt of the benefit of the service, the tax applicable to the 67
sale shall be measured by the installments thereof. 68

(B) The tax does not apply to the following: 69

(1) Sales to the state or any of its political 70
subdivisions, or to any other state or its political 71
subdivisions if the laws of that state exempt from taxation 72
sales made to this state and its political subdivisions; 73

(2) Sales of food for human consumption off the premises	74
where sold;	75
(3) Sales of food sold to students only in a cafeteria,	76
dormitory, fraternity, or sorority maintained in a private,	77
public, or parochial school, college, or university;	78
(4) Sales of newspapers and sales or transfers of	79
magazines distributed as controlled circulation publications;	80
(5) The furnishing, preparing, or serving of meals without	81
charge by an employer to an employee provided the employer	82
records the meals as part compensation for services performed or	83
work done;	84
(6) Sales of motor fuel upon receipt, use, distribution,	85
or sale of which in this state a tax is imposed by the law of	86
this state, but this exemption shall not apply to the sale of	87
motor fuel on which a refund of the tax is allowable under	88
division (A) of section 5735.14 of the Revised Code; and the tax	89
commissioner may deduct the amount of tax levied by this section	90
applicable to the price of motor fuel when granting a refund of	91
motor fuel tax pursuant to division (A) of section 5735.14 of	92
the Revised Code and shall cause the amount deducted to be paid	93
into the general revenue fund of this state;	94
(7) Sales of natural gas by a natural gas company or	95
municipal gas utility, of water by a water-works company, or of	96
steam by a heating company, if in each case the thing sold is	97
delivered to consumers through pipes or conduits, and all sales	98
of communications services by a telegraph company, all terms as	99
defined in section 5727.01 of the Revised Code, and sales of	100
electricity delivered through wires;	101
(8) Casual sales by a person, or auctioneer employed	102

directly by the person to conduct such sales, except as to such 103
sales of motor vehicles, watercraft or outboard motors required 104
to be titled under section 1548.06 of the Revised Code, 105
watercraft documented with the United States coast guard, 106
snowmobiles, and all-purpose vehicles as defined in section 107
4519.01 of the Revised Code; 108

(9) (a) Sales of services or tangible personal property, 109
other than motor vehicles, mobile homes, and manufactured homes, 110
by churches, organizations exempt from taxation under section 111
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 112
organizations operated exclusively for charitable purposes as 113
defined in division (B) (12) of this section, provided that the 114
number of days on which such tangible personal property or 115
services, other than items never subject to the tax, are sold 116
does not exceed six in any calendar year, except as otherwise 117
provided in division (B) (9) (b) of this section. If the number of 118
days on which such sales are made exceeds six in any calendar 119
year, the church or organization shall be considered to be 120
engaged in business and all subsequent sales by it shall be 121
subject to the tax. In counting the number of days, all sales by 122
groups within a church or within an organization shall be 123
considered to be sales of that church or organization. 124

(b) The limitation on the number of days on which tax- 125
exempt sales may be made by a church or organization under 126
division (B) (9) (a) of this section does not apply to sales made 127
by student clubs and other groups of students of a primary or 128
secondary school, or a parent-teacher association, booster 129
group, or similar organization that raises money to support or 130
fund curricular or extracurricular activities of a primary or 131
secondary school. 132

(c) Divisions (B) (9) (a) and (b) of this section do not 133
apply to sales by a noncommercial educational radio or 134
television broadcasting station. 135

(10) Sales not within the taxing power of this state under 136
the Constitution or laws of the United States or the 137
Constitution of this state; 138

(11) Except for transactions that are sales under division 139
(B) (3) (r) of section 5739.01 of the Revised Code, the 140
transportation of persons or property, unless the transportation 141
is by a private investigation and security service; 142

(12) Sales of tangible personal property or services to 143
churches, to organizations exempt from taxation under section 144
501(c) (3) of the Internal Revenue Code of 1986, and to any other 145
nonprofit organizations operated exclusively for charitable 146
purposes in this state, no part of the net income of which 147
inures to the benefit of any private shareholder or individual, 148
and no substantial part of the activities of which consists of 149
carrying on propoganda or otherwise attempting to influence 150
legislation; sales to offices administering one or more homes 151
for the aged or one or more hospital facilities exempt under 152
section 140.08 of the Revised Code; and sales to organizations 153
described in division (D) of section 5709.12 of the Revised 154
Code. 155

"Charitable purposes" means the relief of poverty; the 156
improvement of health through the alleviation of illness, 157
disease, or injury; the operation of an organization exclusively 158
for the provision of professional, laundry, printing, and 159
purchasing services to hospitals or charitable institutions; the 160
operation of a home for the aged, as defined in section 5701.13 161
of the Revised Code; the operation of a radio or television 162

broadcasting station that is licensed by the federal 163
communications commission as a noncommercial educational radio 164
or television station; the operation of a nonprofit animal 165
adoption service or a county humane society; the promotion of 166
education by an institution of learning that maintains a faculty 167
of qualified instructors, teaches regular continuous courses of 168
study, and confers a recognized diploma upon completion of a 169
specific curriculum; the operation of a parent-teacher 170
association, booster group, or similar organization primarily 171
engaged in the promotion and support of the curricular or 172
extracurricular activities of a primary or secondary school; the 173
operation of a community or area center in which presentations 174
in music, dramatics, the arts, and related fields are made in 175
order to foster public interest and education therein; the 176
production of performances in music, dramatics, and the arts; or 177
the promotion of education by an organization engaged in 178
carrying on research in, or the dissemination of, scientific and 179
technological knowledge and information primarily for the 180
public. 181

Nothing in this division shall be deemed to exempt sales 182
to any organization for use in the operation or carrying on of a 183
trade or business, or sales to a home for the aged for use in 184
the operation of independent living facilities as defined in 185
division (A) of section 5709.12 of the Revised Code. 186

(13) Building and construction materials and services sold 187
to construction contractors for incorporation into a structure 188
or improvement to real property under a construction contract 189
with this state or a political subdivision of this state, or 190
with the United States government or any of its agencies; 191
building and construction materials and services sold to 192
construction contractors for incorporation into a structure or 193

improvement to real property that are accepted for ownership by 194
this state or any of its political subdivisions, or by the 195
United States government or any of its agencies at the time of 196
completion of the structures or improvements; building and 197
construction materials sold to construction contractors for 198
incorporation into a horticulture structure or livestock 199
structure for a person engaged in the business of horticulture 200
or producing livestock; building materials and services sold to 201
a construction contractor for incorporation into a house of 202
public worship or religious education, or a building used 203
exclusively for charitable purposes under a construction 204
contract with an organization whose purpose is as described in 205
division (B) (12) of this section; building materials and 206
services sold to a construction contractor for incorporation 207
into a building under a construction contract with an 208
organization exempt from taxation under section 501(c) (3) of the 209
Internal Revenue Code of 1986 when the building is to be used 210
exclusively for the organization's exempt purposes; building and 211
construction materials sold for incorporation into the original 212
construction of a sports facility under section 307.696 of the 213
Revised Code; building and construction materials and services 214
sold to a construction contractor for incorporation into real 215
property outside this state if such materials and services, when 216
sold to a construction contractor in the state in which the real 217
property is located for incorporation into real property in that 218
state, would be exempt from a tax on sales levied by that state; 219
building and construction materials for incorporation into a 220
transportation facility pursuant to a public-private agreement 221
entered into under sections 5501.70 to 5501.83 of the Revised 222
Code; and, until one calendar year after the construction of a 223
convention center that qualifies for property tax exemption 224
under section 5709.084 of the Revised Code is completed, 225

building and construction materials and services sold to a 226
construction contractor for incorporation into the real property 227
comprising that convention center; 228

(14) Sales of ships or vessels or rail rolling stock used 229
or to be used principally in interstate or foreign commerce, and 230
repairs, alterations, fuel, and lubricants for such ships or 231
vessels or rail rolling stock; 232

(15) Sales to persons primarily engaged in any of the 233
activities mentioned in division (B) (42) (a), (g), or (h) of this 234
section, to persons engaged in making retail sales, or to 235
persons who purchase for sale from a manufacturer tangible 236
personal property that was produced by the manufacturer in 237
accordance with specific designs provided by the purchaser, of 238
packages, including material, labels, and parts for packages, 239
and of machinery, equipment, and material for use primarily in 240
packaging tangible personal property produced for sale, 241
including any machinery, equipment, and supplies used to make 242
labels or packages, to prepare packages or products for 243
labeling, or to label packages or products, by or on the order 244
of the person doing the packaging, or sold at retail. "Packages" 245
includes bags, baskets, cartons, crates, boxes, cans, bottles, 246
bindings, wrappings, and other similar devices and containers, 247
but does not include motor vehicles or bulk tanks, trailers, or 248
similar devices attached to motor vehicles. "Packaging" means 249
placing in a package. Division (B) (15) of this section does not 250
apply to persons engaged in highway transportation for hire. 251

(16) Sales of food to persons using supplemental nutrition 252
assistance program benefits to purchase the food. As used in 253
this division, "food" has the same meaning as in 7 U.S.C. 2012 254
and federal regulations adopted pursuant to the Food and 255

Nutrition Act of 2008.	256
(17) Sales to persons engaged in farming, agriculture,	257
horticulture, or floriculture, of tangible personal property for	258
use or consumption primarily in the production by farming,	259
agriculture, horticulture, or floriculture of other tangible	260
personal property for use or consumption primarily in the	261
production of tangible personal property for sale by farming,	262
agriculture, horticulture, or floriculture; or material and	263
parts for incorporation into any such tangible personal property	264
for use or consumption in production; and of tangible personal	265
property for such use or consumption in the conditioning or	266
holding of products produced by and for such use, consumption,	267
or sale by persons engaged in farming, agriculture,	268
horticulture, or floriculture, except where such property is	269
incorporated into real property;	270
(18) Sales of drugs for a human being that may be	271
dispensed only pursuant to a prescription; insulin as recognized	272
in the official United States pharmacopoeia; urine and blood	273
testing materials when used by diabetics or persons with	274
hypoglycemia to test for glucose or acetone; hypodermic syringes	275
and needles when used by diabetics for insulin injections;	276
epoetin alfa when purchased for use in the treatment of persons	277
with medical disease; hospital beds when purchased by hospitals,	278
nursing homes, or other medical facilities; and medical oxygen	279
and medical oxygen-dispensing equipment when purchased by	280
hospitals, nursing homes, or other medical facilities;	281
(19) Sales of prosthetic devices, durable medical	282
equipment for home use, or mobility enhancing equipment, when	283
made pursuant to a prescription and when such devices or	284
equipment are for use by a human being.	285

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;	286 287 288 289 290
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	291 292 293 294 295 296 297
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	298 299 300 301 302
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	303 304 305
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for	306 307 308 309 310 311 312 313 314 315

sale, when the plant or plants within or between which such	316
transfers or shipments occur are operated by the same person.	317
"Packages" includes containers, cases, baskets, flats, fillers,	318
filler flats, cartons, closure materials, labels, and labeling	319
materials, and "packaging" means placing therein.	320
(25) (a) Sales of water to a consumer for residential use;	321
(b) Sales of water by a nonprofit corporation engaged	322
exclusively in the treatment, distribution, and sale of water to	323
consumers, if such water is delivered to consumers through pipes	324
or tubing.	325
(26) Fees charged for inspection or reinspection of motor	326
vehicles under section 3704.14 of the Revised Code;	327
(27) Sales to persons licensed to conduct a food service	328
operation pursuant to section 3717.43 of the Revised Code, of	329
tangible personal property primarily used directly for the	330
following:	331
(a) To prepare food for human consumption for sale;	332
(b) To preserve food that has been or will be prepared for	333
human consumption for sale by the food service operator, not	334
including tangible personal property used to display food for	335
selection by the consumer;	336
(c) To clean tangible personal property used to prepare or	337
serve food for human consumption for sale.	338
(28) Sales of animals by nonprofit animal adoption	339
services or county humane societies;	340
(29) Sales of services to a corporation described in	341
division (A) of section 5709.72 of the Revised Code, and sales	342
of tangible personal property that qualifies for exemption from	343

taxation under section 5709.72 of the Revised Code;	344
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	345 346 347
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	348 349 350
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	351 352 353 354 355 356
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	357 358 359 360 361
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B) (42) (a) or	362 363 364 365 366 367 368 369 370 371 372

(n) of this section to which the vendor may otherwise be 373
entitled, based upon the use of the thing purchased in providing 374
the telecommunications, mobile telecommunications, or satellite 375
broadcasting service. 376

(35) (a) Sales where the purpose of the consumer is to use 377
or consume the things transferred in making retail sales and 378
consisting of newspaper inserts, catalogues, coupons, flyers, 379
gift certificates, or other advertising material that prices and 380
describes tangible personal property offered for retail sale. 381

(b) Sales to direct marketing vendors of preliminary 382
materials such as photographs, artwork, and typesetting that 383
will be used in printing advertising material; and of printed 384
matter that offers free merchandise or chances to win sweepstake 385
prizes and that is mailed to potential customers with 386
advertising material described in division (B) (35) (a) of this 387
section; 388

(c) Sales of equipment such as telephones, computers, 389
facsimile machines, and similar tangible personal property 390
primarily used to accept orders for direct marketing retail 391
sales. 392

(d) Sales of automatic food vending machines that preserve 393
food with a shelf life of forty-five days or less by 394
refrigeration and dispense it to the consumer. 395

For purposes of division (B) (35) of this section, "direct 396
marketing" means the method of selling where consumers order 397
tangible personal property by United States mail, delivery 398
service, or telecommunication and the vendor delivers or ships 399
the tangible personal property sold to the consumer from a 400
warehouse, catalogue distribution center, or similar fulfillment 401

facility by means of the United States mail, delivery service,	402
or common carrier.	403
(36) Sales to a person engaged in the business of	404
horticulture or producing livestock of materials to be	405
incorporated into a horticulture structure or livestock	406
structure;	407
(37) Sales of personal computers, computer monitors,	408
computer keyboards, modems, and other peripheral computer	409
equipment to an individual who is licensed or certified to teach	410
in an elementary or a secondary school in this state for use by	411
that individual in preparation for teaching elementary or	412
secondary school students;	413
(38) Sales to a professional racing team of any of the	414
following:	415
(a) Motor racing vehicles;	416
(b) Repair services for motor racing vehicles;	417
(c) Items of property that are attached to or incorporated	418
in motor racing vehicles, including engines, chassis, and all	419
other components of the vehicles, and all spare, replacement,	420
and rebuilt parts or components of the vehicles; except not	421
including tires, consumable fluids, paint, and accessories	422
consisting of instrumentation sensors and related items added to	423
the vehicle to collect and transmit data by means of telemetry	424
and other forms of communication.	425
(39) Sales of used manufactured homes and used mobile	426
homes, as defined in section 5739.0210 of the Revised Code, made	427
on or after January 1, 2000;	428
(40) Sales of tangible personal property and services to a	429

provider of electricity used or consumed directly and primarily 430
in generating, transmitting, or distributing electricity for use 431
by others, including property that is or is to be incorporated 432
into and will become a part of the consumer's production, 433
transmission, or distribution system and that retains its 434
classification as tangible personal property after 435
incorporation; fuel or power used in the production, 436
transmission, or distribution of electricity; energy conversion 437
equipment as defined in section 5727.01 of the Revised Code; and 438
tangible personal property and services used in the repair and 439
maintenance of the production, transmission, or distribution 440
system, including only those motor vehicles as are specially 441
designed and equipped for such use. The exemption provided in 442
this division shall be in lieu of all other exemptions in 443
division (B) (42) (a) or (n) of this section to which a provider 444
of electricity may otherwise be entitled based on the use of the 445
tangible personal property or service purchased in generating, 446
transmitting, or distributing electricity. 447

(41) Sales to a person providing services under division 448
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 449
personal property and services used directly and primarily in 450
providing taxable services under that section. 451

(42) Sales where the purpose of the purchaser is to do any 452
of the following: 453

(a) To incorporate the thing transferred as a material or 454
a part into tangible personal property to be produced for sale 455
by manufacturing, assembling, processing, or refining; or to use 456
or consume the thing transferred directly in producing tangible 457
personal property for sale by mining, including, without 458
limitation, the extraction from the earth of all substances that 459

are classed geologically as minerals, production of crude oil 460
and natural gas, or directly in the rendition of a public 461
utility service, except that the sales tax levied by this 462
section shall be collected upon all meals, drinks, and food for 463
human consumption sold when transporting persons. Persons 464
engaged in rendering services in the exploration for, and 465
production of, crude oil and natural gas for others are deemed 466
engaged directly in the exploration for, and production of, 467
crude oil and natural gas. This paragraph does not exempt from 468
"retail sale" or "sales at retail" the sale of tangible personal 469
property that is to be incorporated into a structure or 470
improvement to real property. 471

(b) To hold the thing transferred as security for the 472
performance of an obligation of the vendor; 473

(c) To resell, hold, use, or consume the thing transferred 474
as evidence of a contract of insurance; 475

(d) To use or consume the thing directly in commercial 476
fishing; 477

(e) To incorporate the thing transferred as a material or 478
a part into, or to use or consume the thing transferred directly 479
in the production of, magazines distributed as controlled 480
circulation publications; 481

(f) To use or consume the thing transferred in the 482
production and preparation in suitable condition for market and 483
sale of printed, imprinted, overprinted, lithographic, 484
multilithic, blueprinted, photostatic, or other productions or 485
reproductions of written or graphic matter; 486

(g) To use the thing transferred, as described in section 487
5739.011 of the Revised Code, primarily in a manufacturing 488

operation to produce tangible personal property for sale;	489
(h) To use the benefit of a warranty, maintenance or	490
service contract, or similar agreement, as described in division	491
(B) (7) of section 5739.01 of the Revised Code, to repair or	492
maintain tangible personal property, if all of the property that	493
is the subject of the warranty, contract, or agreement would not	494
be subject to the tax imposed by this section;	495
(i) To use the thing transferred as qualified research and	496
development equipment;	497
(j) To use or consume the thing transferred primarily in	498
storing, transporting, mailing, or otherwise handling purchased	499
sales inventory in a warehouse, distribution center, or similar	500
facility when the inventory is primarily distributed outside	501
this state to retail stores of the person who owns or controls	502
the warehouse, distribution center, or similar facility, to	503
retail stores of an affiliated group of which that person is a	504
member, or by means of direct marketing. This division does not	505
apply to motor vehicles registered for operation on the public	506
highways. As used in this division, "affiliated group" has the	507
same meaning as in division (B) (3) (e) of section 5739.01 of the	508
Revised Code and "direct marketing" has the same meaning as in	509
division (B) (35) of this section.	510
(k) To use or consume the thing transferred to fulfill a	511
contractual obligation incurred by a warrantor pursuant to a	512
warranty provided as a part of the price of the tangible	513
personal property sold or by a vendor of a warranty, maintenance	514
or service contract, or similar agreement the provision of which	515
is defined as a sale under division (B) (7) of section 5739.01 of	516
the Revised Code;	517

(l) To use or consume the thing transferred in the	518
production of a newspaper for distribution to the public;	519
(m) To use tangible personal property to perform a service	520
listed in division (B) (3) of section 5739.01 of the Revised	521
Code, if the property is or is to be permanently transferred to	522
the consumer of the service as an integral part of the	523
performance of the service;	524
(n) To use or consume the thing transferred primarily in	525
producing tangible personal property for sale by farming,	526
agriculture, horticulture, or floriculture. Persons engaged in	527
rendering farming, agriculture, horticulture, or floriculture	528
services for others are deemed engaged primarily in farming,	529
agriculture, horticulture, or floriculture. This paragraph does	530
not exempt from "retail sale" or "sales at retail" the sale of	531
tangible personal property that is to be incorporated into a	532
structure or improvement to real property.	533
(o) To use or consume the thing transferred in acquiring,	534
formatting, editing, storing, and disseminating data or	535
information by electronic publishing;	536
(p) To provide the thing transferred to the owner or	537
lessee of a motor vehicle that is being repaired or serviced, if	538
the thing transferred is a rented motor vehicle and the	539
purchaser is reimbursed for the cost of the rented motor vehicle	540
by a manufacturer, warrantor, or provider of a maintenance,	541
service, or other similar contract or agreement, with respect to	542
the motor vehicle that is being repaired or serviced.	543
As used in division (B) (42) of this section, "thing"	544
includes all transactions included in divisions (B) (3) (a), (b),	545
and (e) of section 5739.01 of the Revised Code.	546

(43) Sales conducted through a coin operated device that 547
activates vacuum equipment or equipment that dispenses water, 548
whether or not in combination with soap or other cleaning agents 549
or wax, to the consumer for the consumer's use on the premises 550
in washing, cleaning, or waxing a motor vehicle, provided no 551
other personal property or personal service is provided as part 552
of the transaction. 553

(44) Sales of replacement and modification parts for 554
engines, airframes, instruments, and interiors in, and paint 555
for, aircraft used primarily in a fractional aircraft ownership 556
program, and sales of services for the repair, modification, and 557
maintenance of such aircraft, and machinery, equipment, and 558
supplies primarily used to provide those services. 559

(45) Sales of telecommunications service that is used 560
directly and primarily to perform the functions of a call 561
center. As used in this division, "call center" means any 562
physical location where telephone calls are placed or received 563
in high volume for the purpose of making sales, marketing, 564
customer service, technical support, or other specialized 565
business activity, and that employs at least fifty individuals 566
that engage in call center activities on a full-time basis, or 567
sufficient individuals to fill fifty full-time equivalent 568
positions. 569

(46) Sales by a telecommunications service vendor of 900 570
service to a subscriber. This division does not apply to 571
information services, as defined in division (FF) of section 572
5739.01 of the Revised Code. 573

(47) Sales of value-added non-voice data service. This 574
division does not apply to any similar service that is not 575
otherwise a telecommunications service. 576

(48) (a) Sales of machinery, equipment, and software to a 577
qualified direct selling entity for use in a warehouse or 578
distribution center primarily for storing, transporting, or 579
otherwise handling inventory that is held for sale to 580
independent salespersons who operate as direct sellers and that 581
is held primarily for distribution outside this state; 582

(b) As used in division (B) (48) (a) of this section: 583

(i) "Direct seller" means a person selling consumer 584
products to individuals for personal or household use and not 585
from a fixed retail location, including selling such product at 586
in-home product demonstrations, parties, and other one-on-one 587
selling. 588

(ii) "Qualified direct selling entity" means an entity 589
selling to direct sellers at the time the entity enters into a 590
tax credit agreement with the tax credit authority pursuant to 591
section 122.17 of the Revised Code, provided that the agreement 592
was entered into on or after January 1, 2007. Neither 593
contingencies relevant to the granting of, nor later 594
developments with respect to, the tax credit shall impair the 595
status of the qualified direct selling entity under division (B) 596
(48) of this section after execution of the tax credit agreement 597
by the tax credit authority. 598

(c) Division (B) (48) of this section is limited to 599
machinery, equipment, and software first stored, used, or 600
consumed in this state within the period commencing June 24, 601
2008, and ending on the date that is five years after that date. 602

(49) Sales of materials, parts, equipment, or engines used 603
in the repair or maintenance of aircraft or avionics systems of 604
such aircraft, and sales of repair, remodeling, replacement, or 605

maintenance services in this state performed on aircraft or on 606
an aircraft's avionics, engine, or component materials or parts. 607
As used in division (B) (49) of this section, "aircraft" means 608
aircraft of more than six thousand pounds maximum certified 609
takeoff weight or used exclusively in general aviation. 610

(50) Sales of full flight simulators that are used for 611
pilot or flight-crew training, sales of repair or replacement 612
parts or components, and sales of repair or maintenance services 613
for such full flight simulators. "Full flight simulator" means a 614
replica of a specific type, or make, model, and series of 615
aircraft cockpit. It includes the assemblage of equipment and 616
computer programs necessary to represent aircraft operations in 617
ground and flight conditions, a visual system providing an out- 618
of-the-cockpit view, and a system that provides cues at least 619
equivalent to those of a three-degree-of-freedom motion system, 620
and has the full range of capabilities of the systems installed 621
in the device as described in appendices A and B of part 60 of 622
chapter 1 of title 14 of the Code of Federal Regulations. 623

(51) Any transfer or lease of tangible personal property 624
between the state and JobsOhio in accordance with section 625
4313.02 of the Revised Code. 626

(52) (a) Sales to a qualifying corporation. 627

(b) As used in division (B) (52) of this section: 628

(i) "Qualifying corporation" means a nonprofit corporation 629
organized in this state that leases from an eligible county 630
land, buildings, structures, fixtures, and improvements to the 631
land that are part of or used in a public recreational facility 632
used by a major league professional athletic team or a class A 633
to class AAA minor league affiliate of a major league 634

professional athletic team for a significant portion of the 635
team's home schedule, provided the following apply: 636

(I) The facility is leased from the eligible county 637
pursuant to a lease that requires substantially all of the 638
revenue from the operation of the business or activity conducted 639
by the nonprofit corporation at the facility in excess of 640
operating costs, capital expenditures, and reserves to be paid 641
to the eligible county at least once per calendar year. 642

(II) Upon dissolution and liquidation of the nonprofit 643
corporation, all of its net assets are distributable to the 644
board of commissioners of the eligible county from which the 645
corporation leases the facility. 646

(ii) "Eligible county" has the same meaning as in section 647
307.695 of the Revised Code. 648

(53) Sales to or by a cable service provider, video 649
service provider, or radio or television broadcast station 650
regulated by the federal government of cable service or 651
programming, video service or programming, audio service or 652
programming, or electronically transferred digital audiovisual 653
or audio work. As used in division (B) (53) of this section, 654
"cable service" and "cable service provider" have the same 655
meanings as in section 1332.01 of the Revised Code, and "video 656
service," "video service provider," and "video programming" have 657
the same meanings as in section 1332.21 of the Revised Code. 658

(54) Sales of investment metal bullion and investment 659
coins. "Investment metal bullion" means any bullion described in 660
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 661
whether that bullion is in the physical possession of a trustee. 662
"Investment coin" means any coin composed primarily of gold, 663

silver, platinum, or palladium.	664
(55) Sales of a digital audio work electronically	665
transferred for delivery through use of a machine, such as a	666
juke box, that does all of the following:	667
(a) Accepts direct payments to operate;	668
(b) Automatically plays a selected digital audio work for	669
a single play upon receipt of a payment described in division	670
(B) (55) (a) of this section;	671
(c) Operates exclusively for the purpose of playing	672
digital audio works in a commercial establishment.	673
(56) (a) Sales of the following occurring on the first	674
Friday of August and the following Saturday and Sunday of each	675
year, beginning in 2018:	676
(i) An item of clothing, the price of which is seventy-	677
five dollars or less;	678
(ii) An item of school supplies, the price of which is	679
twenty dollars or less;	680
(iii) An item of school instructional material, the price	681
of which is twenty dollars or less.	682
(b) As used in division (B) (56) of this section:	683
(i) "Clothing" means all human wearing apparel suitable	684
for general use. "Clothing" includes, but is not limited to,	685
aprons, household and shop; athletic supporters; baby receiving	686
blankets; bathing suits and caps; beach capes and coats; belts	687
and suspenders; boots; coats and jackets; costumes; diapers,	688
children and adult, including disposable diapers; ear muffs	689
<u> earmuffs</u> ; footlets; formal wear; garters and garter belts;	690

girdles; gloves and mittens for general use; hats and caps; 691
hosiery; insoles for shoes; lab coats; neckties; overshoes; 692
pantyhose; rainwear; rubber pants; sandals; scarves; shoes and 693
shoe laces; slippers; sneakers; socks and stockings; steel-toed 694
shoes; underwear; uniforms, athletic and nonathletic; and 695
wedding apparel. "Clothing" does not include items purchased for 696
use in a trade or business; clothing accessories or equipment; 697
protective equipment; sports or recreational equipment; belt 698
buckles sold separately; costume masks sold separately; patches 699
and emblems sold separately; sewing equipment and supplies 700
including, but not limited to, knitting needles, patterns, pins, 701
scissors, sewing machines, sewing needles, tape measures, and 702
thimbles; and sewing materials that become part of "clothing" 703
including, but not limited to, buttons, fabric, lace, thread, 704
yarn, and zippers. 705

(ii) "School supplies" means items commonly used by a 706
student in a course of study. "School supplies" includes only 707
the following items: binders; book bags; calculators; cellophane 708
tape; blackboard chalk; compasses; composition books; crayons; 709
erasers; folders, expandable, pocket, plastic, and manila; glue, 710
paste, and paste sticks; highlighters; index cards; index card 711
boxes; legal pads; lunch boxes; markers; notebooks; paper, 712
loose-leaf ruled notebook paper, copy paper, graph paper, 713
tracing paper, manila paper, colored paper, poster board, and 714
construction paper; pencil boxes and other school supply boxes; 715
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 716
and writing tablets. "School supplies" does not include any item 717
purchased for use in a trade or business. 718

(iii) "School instructional material" means written 719
material commonly used by a student in a course of study as a 720
reference and to learn the subject being taught. "School 721

instructional material" includes only the following items: 722
reference books, reference maps and globes, textbooks, and 723
workbooks. "School instructional material" does not include any 724
material purchased for use in a trade or business. 725

(57) On and after July 1, 2019, sales of tampons, panty 726
liners, menstrual cups, sanitary napkins, and other similar 727
tangible personal property the principal purpose of which is 728
feminine hygiene in connection with the menstrual cycle. 729

(C) For the purpose of the proper administration of this 730
chapter, and to prevent the evasion of the tax, it is presumed 731
that all sales made in this state are subject to the tax until 732
the contrary is established. 733

(D) The levy of this tax on retail sales of recreation and 734
sports club service shall not prevent a municipal corporation 735
from levying any tax on recreation and sports club dues or on 736
any income generated by recreation and sports club dues. 737

(E) The tax collected by the vendor from the consumer 738
under this chapter is not part of the price, but is a tax 739
collection for the benefit of the state, and of counties levying 740
an additional sales tax pursuant to section 5739.021 or 5739.026 741
of the Revised Code and of transit authorities levying an 742
additional sales tax pursuant to section 5739.023 of the Revised 743
Code. Except for the discount authorized under section 5739.12 744
of the Revised Code and the effects of any rounding pursuant to 745
section 5703.055 of the Revised Code, no person other than the 746
state or such a county or transit authority shall derive any 747
benefit from the collection or payment of the tax levied by this 748
section or section 5739.021, 5739.023, or 5739.026 of the 749
Revised Code. 750

Sec. 5739.03. (A) Except as provided in section 5739.05 or 751
section 5739.051 of the Revised Code, the tax imposed by or 752
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 753
the Revised Code shall be paid by the consumer to the vendor, 754
and each vendor shall collect from the consumer, as a trustee 755
for the state of Ohio, the full and exact amount of the tax 756
payable on each taxable sale, in the manner and at the times 757
provided as follows: 758

(1) If the price is, at or prior to the provision of the 759
service or the delivery of possession of the thing sold to the 760
consumer, paid in currency passed from hand to hand by the 761
consumer or the consumer's agent to the vendor or the vendor's 762
agent, the vendor or the vendor's agent shall collect the tax 763
with and at the same time as the price; 764

(2) If the price is otherwise paid or to be paid, the 765
vendor or the vendor's agent shall, at or prior to the provision 766
of the service or the delivery of possession of the thing sold 767
to the consumer, charge the tax imposed by or pursuant to 768
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 769
Code to the account of the consumer, which amount shall be 770
collected by the vendor from the consumer in addition to the 771
price. Such—The amount of the tax shall become a legal charge in 772
favor of the vendor and against the consumer. Except as 773
authorized in division (G)(1) of this section, such a sale shall 774
be reported on and the amount of the tax applicable thereto 775
shall be remitted with the return for the period in which the 776
sale is made, ~~and the amount of the tax shall become a legal~~ 777
~~charge in favor of the vendor and against the consumer.~~ 778

(B) (1) (a) If any sale is claimed to be exempt under 779
division (E) of section 5739.01 of the Revised Code or under 780

section 5739.02 of the Revised Code, with the exception of 781
divisions (B) (1) to (11) or (28) of section 5739.02 of the 782
Revised Code, or if the consumer claims the transaction is not a 783
taxable sale due to one or more of the exclusions provided under 784
divisions (JJ) (1) to (5) of section 5739.01 of the Revised Code, 785
the consumer must provide to the vendor, and the vendor must 786
obtain from the consumer, a certificate specifying the reason 787
that the sale is not legally subject to the tax. The certificate 788
shall be in such form, and shall be provided either in a hard 789
copy form or electronic form, as the tax commissioner 790
prescribes. 791

(b) A vendor that obtains a fully completed exemption 792
certificate from a consumer is relieved of liability for 793
collecting and remitting tax on any sale covered by that 794
certificate. If it is determined the exemption was improperly 795
claimed, the consumer shall be liable for any tax due on that 796
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 797
Chapter 5741. of the Revised Code. Relief under this division 798
from liability does not apply to any of the following: 799

(i) A vendor that fraudulently fails to collect tax; 800

(ii) A vendor that solicits consumers to participate in 801
the unlawful claim of an exemption; 802

(iii) A vendor that accepts an exemption certificate from 803
a consumer that claims an exemption based on who purchases or 804
who sells property or a service, when the subject of the 805
transaction sought to be covered by the exemption certificate is 806
actually received by the consumer at a location operated by the 807
vendor in this state, and this state has posted to its web site 808
an exemption certificate form that clearly and affirmatively 809
indicates that the claimed exemption is not available in this 810

state; 811

(iv) A vendor that accepts an exemption certificate from a 812
consumer who claims a multiple points of use exemption under 813
division (D) of section 5739.033 of the Revised Code, if the 814
item purchased is tangible personal property, other than 815
prewritten computer software. 816

(2) The vendor shall maintain records, including exemption 817
certificates, of all sales on which a consumer has claimed an 818
exemption, and provide them to the tax commissioner on request. 819

(3) The tax commissioner may establish an identification 820
system whereby the commissioner issues an identification number 821
to a consumer that is exempt from payment of the tax. The 822
consumer must present the number to the vendor, if any sale is 823
claimed to be exempt as provided in this section. 824

(4) If no certificate is provided or obtained within 825
ninety days after the date on which such sale is consummated, it 826
shall be presumed that the tax applies. Failure to have so 827
provided or obtained a certificate shall not preclude a vendor, 828
within one hundred twenty days after the tax commissioner gives 829
written notice of intent to levy an assessment, from either 830
establishing that the sale is not subject to the tax, or 831
obtaining, in good faith, a fully completed exemption 832
certificate. 833

(5) Certificates need not be obtained nor provided where 834
the identity of the consumer is such that the transaction is 835
never subject to the tax imposed or where the item of tangible 836
personal property sold or the service provided is never subject 837
to the tax imposed, regardless of use, or when the sale is in 838
interstate commerce. 839

(6) If a transaction is claimed to be exempt under 840
division (B) (13) of section 5739.02 of the Revised Code, the 841
contractor shall obtain certification of the claimed exemption 842
from the contractee. This certification shall be in addition to 843
an exemption certificate provided by the contractor to the 844
vendor. A contractee that provides a certification under this 845
division shall be deemed to be the consumer of all items 846
purchased by the contractor under the claim of exemption, if it 847
is subsequently determined that the exemption is not properly 848
claimed. The certification shall be in such form as the tax 849
commissioner prescribes. 850

(C) As used in this division, "contractee" means a person 851
who seeks to enter or enters into a contract or agreement with a 852
contractor or vendor for the construction of real property or 853
for the sale and installation onto real property of tangible 854
personal property. 855

Any contractor or vendor may request from any contractee a 856
certification of what portion of the property to be transferred 857
under such contract or agreement is to be incorporated into the 858
realty and what portion will retain its status as tangible 859
personal property after installation is completed. The 860
contractor or vendor shall request the certification by 861
certified mail delivered to the contractee, return receipt 862
requested. Upon receipt of such request and prior to entering 863
into the contract or agreement, the contractee shall provide to 864
the contractor or vendor a certification sufficiently detailed 865
to enable the contractor or vendor to ascertain the resulting 866
classification of all materials purchased or fabricated by the 867
contractor or vendor and transferred to the contractee. This 868
requirement applies to a contractee regardless of whether the 869
contractee holds a direct payment permit under section 5739.031 870

of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section. 871
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For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials. 873
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If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials. 884
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This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor. 896
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(D) Notwithstanding division (B) of section 5739.01 of the 900

Revised Code, whenever the total rate of tax imposed under this 901
chapter is increased after the date after a construction 902
contract is entered into, the contractee shall reimburse the 903
construction contractor for any additional tax paid on tangible 904
property consumed or services received pursuant to the contract. 905

(E) A vendor who files a petition for reassessment 906
contesting the assessment of tax on sales for which the vendor 907
obtained no valid exemption certificates and for which the 908
vendor failed to establish that the sales were properly not 909
subject to the tax during the one-hundred-twenty-day period 910
allowed under division (B) of this section, may present to the 911
tax commissioner additional evidence to prove that the sales 912
were properly subject to a claim of exception or exemption. The 913
vendor shall file such evidence within ninety days of the 914
receipt by the vendor of the notice of assessment, except that, 915
upon application and for reasonable cause, the period for 916
submitting such evidence shall be extended thirty days. 917

The commissioner shall consider such additional evidence 918
in reaching the final determination on the assessment and 919
petition for reassessment. 920

(F) Whenever a vendor refunds the price, minus any 921
separately stated delivery charge, of an item of tangible 922
personal property on which the tax imposed under this chapter 923
has been paid, the vendor shall also refund the amount of tax 924
paid, minus the amount of tax attributable to the delivery 925
charge. 926

(G) (1) In lieu of reporting and remitting tax as 927
prescribed by division (A) (2) of this section for sales 928
described in that division, a vendor that is a qualifying small 929
vendor for a calendar year may, for such sales made on or after 930

the first day of the following calendar year, report and remit 931
such taxes on the return for the vendor's reporting period that 932
includes the day the vendor or vendor's agent receives payment 933
of the price from the consumer. If, after such a sale is made, 934
the consumer pays only part of the price in a reporting period, 935
the vendor shall report and remit the tax for the part of the 936
price paid in that reporting period. A qualifying small vendor 937
reporting and remitting tax under division (G) (1) of this 938
section remains subject to collection requirements prescribed in 939
division (A) (2) of section 5739.02 of the Revised Code and to 940
the requirement to remit tax on an accelerated basis as 941
prescribed in section 5739.122 of the Revised Code, as 942
applicable to the vendor. 943

(2) A qualifying small vendor reporting and remitting tax 944
as prescribed by division (G) (1) of this section may begin 945
reporting and remitting tax as prescribed by division (A) (2) of 946
this section for sales described in that division made on or 947
after the first day of a calendar year. Such a vendor shall 948
report and remit, with the vendor's return for the last 949
reporting period in the preceding calendar year, the amount of 950
any tax charged on sales described in division (A) (2) of this 951
section made in preceding calendar years, but not yet remitted 952
as prescribed by that division, except for any tax charged on 953
bad debt reported under division (G) of section 5739.121 of the 954
Revised Code. 955

(3) A vendor reporting and remitting tax as prescribed by 956
division (G) (1) of this section that ceases to qualify as a 957
qualifying small vendor for a calendar year shall begin 958
reporting and remitting tax as prescribed by division (A) (2) of 959
this section for sales described in that division that are made 960
on or after the first day of the following calendar year. Such a 961

vendor shall report and remit, with the vendor's return for the 962
last reporting period in the preceding calendar year, the amount 963
of any tax charged on sales described in division (A) (2) of this 964
section made in preceding calendar years, but not yet remitted 965
as prescribed by that division, except for any tax charged on 966
bad debt reported under division (G) of section 5739.121 of the 967
Revised Code. 968

(4) As used in division (G) of this section, "qualifying 969
small vendor" means a vendor that (a) has gross sales of less 970
than one million dollars in a calendar year and (b) qualifies as 971
a microbusiness, as that term is defined in section 166.50 of 972
the Revised Code, for at least seven months of a calendar year. 973

Sec. 5739.121. (A) As used in this section, "bad debt" 974
means any debt that has become worthless or uncollectible in the 975
time period between a vendor's preceding return and the present 976
return, has been uncollected for at least six months, and that 977
may be claimed as a deduction pursuant to the "Internal Revenue 978
Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and 979
regulations adopted pursuant thereto, or that could be claimed 980
as such a deduction if the vendor kept accounts on an accrual 981
basis. "Bad debt" does not include any interest or sales tax on 982
the purchase price, uncollectible amounts on property that 983
remains in the possession of the vendor until the full purchase 984
price is paid, expenses incurred in attempting to collect any 985
account receivable or for any portion of the debt recovered, and 986
repossessed property. 987

(B) In computing taxable receipts for purposes of this 988
chapter, a vendor may deduct the amount of bad debts. The amount 989
deducted must be charged off as uncollectible on the books of 990
the vendor. A deduction may be claimed only with respect to bad 991

debts on which the taxes pursuant to sections 5739.10 and 992
5739.12 of the Revised Code were paid in a preceding tax period. 993
If the vendor's business consists of taxable and nontaxable 994
transactions, the deduction shall equal the full amount of the 995
debt if the debt is documented as a taxable transaction in the 996
vendor's records. If no such documentation is available, the 997
maximum deduction on any bad debt shall equal the amount of the 998
bad debt multiplied by the quotient obtained by dividing the 999
sales taxed pursuant to this chapter during the preceding 1000
calendar year by all sales during the preceding calendar year, 1001
whether taxed or not. If a consumer or other person pays all or 1002
part of a bad debt with respect to which a vendor claimed a 1003
deduction under this section, the vendor shall be liable for the 1004
amount of taxes deducted in connection with that portion of the 1005
debt for which payment is received and shall remit such taxes in 1006
the vendor's next payment to the tax commissioner. 1007

(C) Any claim for a bad debt deduction under this section 1008
shall be supported by such evidence as the tax commissioner by 1009
rule requires. The commissioner shall review any change in the 1010
rate of taxation applicable to any taxable sales by a vendor 1011
claiming a deduction pursuant to this section and adopt rules 1012
for altering the deduction in the event of such a change in 1013
order to ensure that the deduction on any bad debt does not 1014
result in the vendor claiming the deduction recovering any more 1015
or less than the taxes imposed on the sale that constitutes the 1016
bad debt. 1017

(D) In any reporting period in which the amount of bad 1018
debt exceeds the amount of taxable sales for the period, the 1019
vendor may file a refund claim for any tax collected on the bad 1020
debt in excess of the tax reported on the return. The refund 1021
claim shall be filed in the manner provided in section 5739.07 1022

of the Revised Code, except that the claim may be filed within 1023
four years of the due date of the return on which the bad debt 1024
first could have been claimed. 1025

(E) When the filing responsibilities of a vendor have been 1026
assumed by a certified service provider, the certified service 1027
provider shall claim the bad debt allowance provided by this 1028
section on behalf of the vendor. The certified service provider 1029
shall credit or refund to the vendor the full amount of any bad 1030
debt allowance or refund. 1031

(F) No person other than the vendor in the transaction 1032
that generated the bad debt or, as provided in division (E) of 1033
this section, a certified service provider, may claim the bad 1034
debt allowance provided by this section. 1035

(G) A qualifying small vendor that remits tax on sales as 1036
prescribed by division (G) (1) of section 5739.03 of the Revised 1037
Code shall report all of the following to the tax commissioner: 1038

(1) The amount of bad debt from such sales charged off as 1039
uncollectible on the books of the vendor upon which the vendor 1040
charged tax to the account of the consumer under division (A) (2) 1041
of section 5739.03 of the Revised Code; 1042

(2) The name and address of the consumer responsible for 1043
the bad debt; 1044

(3) Any other information required by the commissioner to 1045
identify the consumer responsible for the bad debt. 1046

The information shall be reported with the vendor's return 1047
for the reporting period in which the bad debt described in 1048
division (G) (1) of this section is charged off as uncollectible 1049
on the books of the vendor. 1050

A qualifying small vendor required to report bad debt 1051
under this division is not liable for any tax imposed under this 1052
chapter on bad debt timely reported under this division. But if 1053
a consumer or other person pays all or part of a bad debt so 1054
reported, the vendor shall be liable for the amount of such 1055
taxes on the portion of the debt for which payment is received 1056
and shall report and remit such taxes with the vendor's next 1057
return. 1058

Section 2. That existing sections 5739.02, 5739.03, and 1059
5739.121 of the Revised Code are hereby repealed. 1060

Section 3. The amendment by this act of sections 5739.03 1061
and 5739.121 of the Revised Code applies on and after January 1, 1062
2020. 1063