

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**S. B. No. 224**

**Senator Eklund**

**Cosponsors: Senators Coley, Huffman**

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**A BILL**

To amend section 5739.02 of the Revised Code to  
exempt from sales and use tax goods purchased by  
a foreign citizen or entity if the goods are in  
Ohio only temporarily for package consolidation  
before being delivered to a foreign address, and  
to declare an emergency. 1 2 3 4 5 6

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

**Section 1.** That section 5739.02 of the Revised Code be  
amended to read as follows: 7 8

**Sec. 5739.02.** For the purpose of providing revenue with  
which to meet the needs of the state, for the use of the general  
revenue fund of the state, for the purpose of securing a  
thorough and efficient system of common schools throughout the  
state, for the purpose of affording revenues, in addition to  
those from general property taxes, permitted under  
constitutional limitations, and from other sources, for the  
support of local governmental functions, and for the purpose of  
reimbursing the state for the expense of administering this  
chapter, an excise tax is hereby levied on each retail sale made 9 10 11 12 13 14 15 16 17 18

in this state. 19

(A) (1) The tax shall be collected as provided in section 20  
5739.025 of the Revised Code. The rate of the tax shall be five 21  
and three-fourths per cent. The tax applies and is collectible 22  
when the sale is made, regardless of the time when the price is 23  
paid or delivered. 24

(2) In the case of the lease or rental, with a fixed term 25  
of more than thirty days or an indefinite term with a minimum 26  
period of more than thirty days, of any motor vehicles designed 27  
by the manufacturer to carry a load of not more than one ton, 28  
watercraft, outboard motor, or aircraft, or of any tangible 29  
personal property, other than motor vehicles designed by the 30  
manufacturer to carry a load of more than one ton, to be used by 31  
the lessee or renter primarily for business purposes, the tax 32  
shall be collected by the vendor at the time the lease or rental 33  
is consummated and shall be calculated by the vendor on the 34  
basis of the total amount to be paid by the lessee or renter 35  
under the lease agreement. If the total amount of the 36  
consideration for the lease or rental includes amounts that are 37  
not calculated at the time the lease or rental is executed, the 38  
tax shall be calculated and collected by the vendor at the time 39  
such amounts are billed to the lessee or renter. In the case of 40  
an open-end lease or rental, the tax shall be calculated by the 41  
vendor on the basis of the total amount to be paid during the 42  
initial fixed term of the lease or rental, and for each 43  
subsequent renewal period as it comes due. As used in this 44  
division, "motor vehicle" has the same meaning as in section 45  
4501.01 of the Revised Code, and "watercraft" includes an 46  
outdrive unit attached to the watercraft. 47

A lease with a renewal clause and a termination penalty or 48

similar provision that applies if the renewal clause is not 49  
exercised is presumed to be a sham transaction. In such a case, 50  
the tax shall be calculated and paid on the basis of the entire 51  
length of the lease period, including any renewal periods, until 52  
the termination penalty or similar provision no longer applies. 53  
The taxpayer shall bear the burden, by a preponderance of the 54  
evidence, that the transaction or series of transactions is not 55  
a sham transaction. 56

(3) Except as provided in division (A) (2) of this section, 57  
in the case of a sale, the price of which consists in whole or 58  
in part of the lease or rental of tangible personal property, 59  
the tax shall be measured by the installments of that lease or 60  
rental. 61

(4) In the case of a sale of a physical fitness facility 62  
service or recreation and sports club service, the price of 63  
which consists in whole or in part of a membership for the 64  
receipt of the benefit of the service, the tax applicable to the 65  
sale shall be measured by the installments thereof. 66

(B) The tax does not apply to the following: 67

(1) Sales to the state or any of its political 68  
subdivisions, or to any other state or its political 69  
subdivisions if the laws of that state exempt from taxation 70  
sales made to this state and its political subdivisions; 71

(2) Sales of food for human consumption off the premises 72  
where sold; 73

(3) Sales of food sold to students only in a cafeteria, 74  
dormitory, fraternity, or sorority maintained in a private, 75  
public, or parochial school, college, or university; 76

(4) Sales of newspapers and sales or transfers of 77

magazines distributed as controlled circulation publications;	78
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	79 80 81 82
(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;	83 84 85 86 87 88 89 90 91 92
(7) Sales of natural gas by a natural gas company or municipal gas utility, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;	93 94 95 96 97 98 99
(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;	100 101 102 103 104 105 106

(9) (a) Sales of services or tangible personal property, 107  
other than motor vehicles, mobile homes, and manufactured homes, 108  
by churches, organizations exempt from taxation under section 109  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 110  
organizations operated exclusively for charitable purposes as 111  
defined in division (B) (12) of this section, provided that the 112  
number of days on which such tangible personal property or 113  
services, other than items never subject to the tax, are sold 114  
does not exceed six in any calendar year, except as otherwise 115  
provided in division (B) (9) (b) of this section. If the number of 116  
days on which such sales are made exceeds six in any calendar 117  
year, the church or organization shall be considered to be 118  
engaged in business and all subsequent sales by it shall be 119  
subject to the tax. In counting the number of days, all sales by 120  
groups within a church or within an organization shall be 121  
considered to be sales of that church or organization. 122

(b) The limitation on the number of days on which tax- 123  
exempt sales may be made by a church or organization under 124  
division (B) (9) (a) of this section does not apply to sales made 125  
by student clubs and other groups of students of a primary or 126  
secondary school, or a parent-teacher association, booster 127  
group, or similar organization that raises money to support or 128  
fund curricular or extracurricular activities of a primary or 129  
secondary school. 130

(c) Divisions (B) (9) (a) and (b) of this section do not 131  
apply to sales by a noncommercial educational radio or 132  
television broadcasting station. 133

(10) Sales not within the taxing power of this state under 134  
the Constitution or laws of the United States or the 135  
Constitution of this state; 136

(11) Except for transactions that are sales under division 137  
(B) (3) (r) of section 5739.01 of the Revised Code, the 138  
transportation of persons or property, unless the transportation 139  
is by a private investigation and security service; 140

(12) Sales of tangible personal property or services to 141  
churches, to organizations exempt from taxation under section 142  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 143  
nonprofit organizations operated exclusively for charitable 144  
purposes in this state, no part of the net income of which 145  
inures to the benefit of any private shareholder or individual, 146  
and no substantial part of the activities of which consists of 147  
carrying on propaganda or otherwise attempting to influence 148  
legislation; sales to offices administering one or more homes 149  
for the aged or one or more hospital facilities exempt under 150  
section 140.08 of the Revised Code; and sales to organizations 151  
described in division (D) of section 5709.12 of the Revised 152  
Code. 153

"Charitable purposes" means the relief of poverty; the 154  
improvement of health through the alleviation of illness, 155  
disease, or injury; the operation of an organization exclusively 156  
for the provision of professional, laundry, printing, and 157  
purchasing services to hospitals or charitable institutions; the 158  
operation of a home for the aged, as defined in section 5701.13 159  
of the Revised Code; the operation of a radio or television 160  
broadcasting station that is licensed by the federal 161  
communications commission as a noncommercial educational radio 162  
or television station; the operation of a nonprofit animal 163  
adoption service or a county humane society; the promotion of 164  
education by an institution of learning that maintains a faculty 165  
of qualified instructors, teaches regular continuous courses of 166  
study, and confers a recognized diploma upon completion of a 167

specific curriculum; the operation of a parent-teacher 168  
association, booster group, or similar organization primarily 169  
engaged in the promotion and support of the curricular or 170  
extracurricular activities of a primary or secondary school; the 171  
operation of a community or area center in which presentations 172  
in music, dramatics, the arts, and related fields are made in 173  
order to foster public interest and education therein; the 174  
production of performances in music, dramatics, and the arts; or 175  
the promotion of education by an organization engaged in 176  
carrying on research in, or the dissemination of, scientific and 177  
technological knowledge and information primarily for the 178  
public. 179

Nothing in this division shall be deemed to exempt sales 180  
to any organization for use in the operation or carrying on of a 181  
trade or business, or sales to a home for the aged for use in 182  
the operation of independent living facilities as defined in 183  
division (A) of section 5709.12 of the Revised Code. 184

(13) Building and construction materials and services sold 185  
to construction contractors for incorporation into a structure 186  
or improvement to real property under a construction contract 187  
with this state or a political subdivision of this state, or 188  
with the United States government or any of its agencies; 189  
building and construction materials and services sold to 190  
construction contractors for incorporation into a structure or 191  
improvement to real property that are accepted for ownership by 192  
this state or any of its political subdivisions, or by the 193  
United States government or any of its agencies at the time of 194  
completion of the structures or improvements; building and 195  
construction materials sold to construction contractors for 196  
incorporation into a horticulture structure or livestock 197  
structure for a person engaged in the business of horticulture 198

or producing livestock; building materials and services sold to 199  
a construction contractor for incorporation into a house of 200  
public worship or religious education, or a building used 201  
exclusively for charitable purposes under a construction 202  
contract with an organization whose purpose is as described in 203  
division (B) (12) of this section; building materials and 204  
services sold to a construction contractor for incorporation 205  
into a building under a construction contract with an 206  
organization exempt from taxation under section 501(c) (3) of the 207  
Internal Revenue Code of 1986 when the building is to be used 208  
exclusively for the organization's exempt purposes; building and 209  
construction materials sold for incorporation into the original 210  
construction of a sports facility under section 307.696 of the 211  
Revised Code; building and construction materials and services 212  
sold to a construction contractor for incorporation into real 213  
property outside this state if such materials and services, when 214  
sold to a construction contractor in the state in which the real 215  
property is located for incorporation into real property in that 216  
state, would be exempt from a tax on sales levied by that state; 217  
building and construction materials for incorporation into a 218  
transportation facility pursuant to a public-private agreement 219  
entered into under sections 5501.70 to 5501.83 of the Revised 220  
Code; and, until one calendar year after the construction of a 221  
convention center that qualifies for property tax exemption 222  
under section 5709.084 of the Revised Code is completed, 223  
building and construction materials and services sold to a 224  
construction contractor for incorporation into the real property 225  
comprising that convention center; 226

(14) Sales of ships or vessels or rail rolling stock used 227  
or to be used principally in interstate or foreign commerce, and 228  
repairs, alterations, fuel, and lubricants for such ships or 229

vessels or rail rolling stock;	230
(15) Sales to persons primarily engaged in any of the	231
activities mentioned in division (B) (42) (a), (g), or (h) of this	232
section, to persons engaged in making retail sales, or to	233
persons who purchase for sale from a manufacturer tangible	234
personal property that was produced by the manufacturer in	235
accordance with specific designs provided by the purchaser, of	236
packages, including material, labels, and parts for packages,	237
and of machinery, equipment, and material for use primarily in	238
packaging tangible personal property produced for sale,	239
including any machinery, equipment, and supplies used to make	240
labels or packages, to prepare packages or products for	241
labeling, or to label packages or products, by or on the order	242
of the person doing the packaging, or sold at retail. "Packages"	243
includes bags, baskets, cartons, crates, boxes, cans, bottles,	244
bindings, wrappings, and other similar devices and containers,	245
but does not include motor vehicles or bulk tanks, trailers, or	246
similar devices attached to motor vehicles. "Packaging" means	247
placing in a package. Division (B) (15) of this section does not	248
apply to persons engaged in highway transportation for hire.	249
(16) Sales of food to persons using supplemental nutrition	250
assistance program benefits to purchase the food. As used in	251
this division, "food" has the same meaning as in 7 U.S.C. 2012	252
and federal regulations adopted pursuant to the Food and	253
Nutrition Act of 2008.	254
(17) Sales to persons engaged in farming, agriculture,	255
horticulture, or floriculture, of tangible personal property for	256
use or consumption primarily in the production by farming,	257
agriculture, horticulture, or floriculture of other tangible	258
personal property for use or consumption primarily in the	259

production of tangible personal property for sale by farming, 260  
agriculture, horticulture, or floriculture; or material and 261  
parts for incorporation into any such tangible personal property 262  
for use or consumption in production; and of tangible personal 263  
property for such use or consumption in the conditioning or 264  
holding of products produced by and for such use, consumption, 265  
or sale by persons engaged in farming, agriculture, 266  
horticulture, or floriculture, except where such property is 267  
incorporated into real property; 268

(18) Sales of drugs for a human being that may be 269  
dispensed only pursuant to a prescription; insulin as recognized 270  
in the official United States pharmacopoeia; urine and blood 271  
testing materials when used by diabetics or persons with 272  
hypoglycemia to test for glucose or acetone; hypodermic syringes 273  
and needles when used by diabetics for insulin injections; 274  
epoetin alfa when purchased for use in the treatment of persons 275  
with medical disease; hospital beds when purchased by hospitals, 276  
nursing homes, or other medical facilities; and medical oxygen 277  
and medical oxygen-dispensing equipment when purchased by 278  
hospitals, nursing homes, or other medical facilities; 279

(19) Sales of prosthetic devices, durable medical 280  
equipment for home use, or mobility enhancing equipment, when 281  
made pursuant to a prescription and when such devices or 282  
equipment are for use by a human being. 283

(20) Sales of emergency and fire protection vehicles and 284  
equipment to nonprofit organizations for use solely in providing 285  
fire protection and emergency services, including trauma care 286  
and emergency medical services, for political subdivisions of 287  
the state; 288

(21) Sales of tangible personal property manufactured in 289

this state, if sold by the manufacturer in this state to a 290  
retailer for use in the retail business of the retailer outside 291  
of this state and if possession is taken from the manufacturer 292  
by the purchaser within this state for the sole purpose of 293  
immediately removing the same from this state in a vehicle owned 294  
by the purchaser; 295

(22) Sales of services provided by the state or any of its 296  
political subdivisions, agencies, instrumentalities, 297  
institutions, or authorities, or by governmental entities of the 298  
state or any of its political subdivisions, agencies, 299  
instrumentalities, institutions, or authorities; 300

(23) Sales of motor vehicles to nonresidents of this state 301  
under the circumstances described in division (B) of section 302  
5739.029 of the Revised Code; 303

(24) Sales to persons engaged in the preparation of eggs 304  
for sale of tangible personal property used or consumed directly 305  
in such preparation, including such tangible personal property 306  
used for cleaning, sanitizing, preserving, grading, sorting, and 307  
classifying by size; packages, including material and parts for 308  
packages, and machinery, equipment, and material for use in 309  
packaging eggs for sale; and handling and transportation 310  
equipment and parts therefor, except motor vehicles licensed to 311  
operate on public highways, used in intraplant or interplant 312  
transfers or shipment of eggs in the process of preparation for 313  
sale, when the plant or plants within or between which such 314  
transfers or shipments occur are operated by the same person. 315  
"Packages" includes containers, cases, baskets, flats, fillers, 316  
filler flats, cartons, closure materials, labels, and labeling 317  
materials, and "packaging" means placing therein. 318

(25) (a) Sales of water to a consumer for residential use; 319

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	320 321 322 323
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	324 325
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	326 327 328 329
(a) To prepare food for human consumption for sale;	330
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	331 332 333 334
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	335 336
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	337 338
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	339 340 341 342
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	343 344 345
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the	346 347

Revised Code;	348
(32) The sale, lease, repair, and maintenance of, parts	349
for, or items attached to or incorporated in, motor vehicles	350
that are primarily used for transporting tangible personal	351
property belonging to others by a person engaged in highway	352
transportation for hire, except for packages and packaging used	353
for the transportation of tangible personal property;	354
(33) Sales to the state headquarters of any veterans'	355
organization in this state that is either incorporated and	356
issued a charter by the congress of the United States or is	357
recognized by the United States veterans administration, for use	358
by the headquarters;	359
(34) Sales to a telecommunications service vendor, mobile	360
telecommunications service vendor, or satellite broadcasting	361
service vendor of tangible personal property and services used	362
directly and primarily in transmitting, receiving, switching, or	363
recording any interactive, one- or two-way electromagnetic	364
communications, including voice, image, data, and information,	365
through the use of any medium, including, but not limited to,	366
poles, wires, cables, switching equipment, computers, and record	367
storage devices and media, and component parts for the tangible	368
personal property. The exemption provided in this division shall	369
be in lieu of all other exemptions under division (B) (42) (a) or	370
(n) of this section to which the vendor may otherwise be	371
entitled, based upon the use of the thing purchased in providing	372
the telecommunications, mobile telecommunications, or satellite	373
broadcasting service.	374
(35) (a) Sales where the purpose of the consumer is to use	375
or consume the things transferred in making retail sales and	376
consisting of newspaper inserts, catalogues, coupons, flyers,	377

gift certificates, or other advertising material that prices and	378
describes tangible personal property offered for retail sale.	379
(b) Sales to direct marketing vendors of preliminary	380
materials such as photographs, artwork, and typesetting that	381
will be used in printing advertising material; and of printed	382
matter that offers free merchandise or chances to win sweepstake	383
prizes and that is mailed to potential customers with	384
advertising material described in division (B) (35) (a) of this	385
section;	386
(c) Sales of equipment such as telephones, computers,	387
facsimile machines, and similar tangible personal property	388
primarily used to accept orders for direct marketing retail	389
sales.	390
(d) Sales of automatic food vending machines that preserve	391
food with a shelf life of forty-five days or less by	392
refrigeration and dispense it to the consumer.	393
For purposes of division (B) (35) of this section, "direct	394
marketing" means the method of selling where consumers order	395
tangible personal property by United States mail, delivery	396
service, or telecommunication and the vendor delivers or ships	397
the tangible personal property sold to the consumer from a	398
warehouse, catalogue distribution center, or similar fulfillment	399
facility by means of the United States mail, delivery service,	400
or common carrier.	401
(36) Sales to a person engaged in the business of	402
horticulture or producing livestock of materials to be	403
incorporated into a horticulture structure or livestock	404
structure;	405
(37) Sales of personal computers, computer monitors,	406

computer keyboards, modems, and other peripheral computer	407
equipment to an individual who is licensed or certified to teach	408
in an elementary or a secondary school in this state for use by	409
that individual in preparation for teaching elementary or	410
secondary school students;	411
(38) Sales to a professional racing team of any of the	412
following:	413
(a) Motor racing vehicles;	414
(b) Repair services for motor racing vehicles;	415
(c) Items of property that are attached to or incorporated	416
in motor racing vehicles, including engines, chassis, and all	417
other components of the vehicles, and all spare, replacement,	418
and rebuilt parts or components of the vehicles; except not	419
including tires, consumable fluids, paint, and accessories	420
consisting of instrumentation sensors and related items added to	421
the vehicle to collect and transmit data by means of telemetry	422
and other forms of communication.	423
(39) Sales of used manufactured homes and used mobile	424
homes, as defined in section 5739.0210 of the Revised Code, made	425
on or after January 1, 2000;	426
(40) Sales of tangible personal property and services to a	427
provider of electricity used or consumed directly and primarily	428
in generating, transmitting, or distributing electricity for use	429
by others, including property that is or is to be incorporated	430
into and will become a part of the consumer's production,	431
transmission, or distribution system and that retains its	432
classification as tangible personal property after	433
incorporation; fuel or power used in the production,	434
transmission, or distribution of electricity; energy conversion	435

equipment as defined in section 5727.01 of the Revised Code; and 436  
tangible personal property and services used in the repair and 437  
maintenance of the production, transmission, or distribution 438  
system, including only those motor vehicles as are specially 439  
designed and equipped for such use. The exemption provided in 440  
this division shall be in lieu of all other exemptions in 441  
division (B) (42) (a) or (n) of this section to which a provider 442  
of electricity may otherwise be entitled based on the use of the 443  
tangible personal property or service purchased in generating, 444  
transmitting, or distributing electricity. 445

(41) Sales to a person providing services under division 446  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 447  
personal property and services used directly and primarily in 448  
providing taxable services under that section. 449

(42) Sales where the purpose of the purchaser is to do any 450  
of the following: 451

(a) To incorporate the thing transferred as a material or 452  
a part into tangible personal property to be produced for sale 453  
by manufacturing, assembling, processing, or refining; or to use 454  
or consume the thing transferred directly in producing tangible 455  
personal property for sale by mining, including, without 456  
limitation, the extraction from the earth of all substances that 457  
are classed geologically as minerals, production of crude oil 458  
and natural gas, or directly in the rendition of a public 459  
utility service, except that the sales tax levied by this 460  
section shall be collected upon all meals, drinks, and food for 461  
human consumption sold when transporting persons. Persons 462  
engaged in rendering services in the exploration for, and 463  
production of, crude oil and natural gas for others are deemed 464  
engaged directly in the exploration for, and production of, 465

crude oil and natural gas. This paragraph does not exempt from 466  
"retail sale" or "sales at retail" the sale of tangible personal 467  
property that is to be incorporated into a structure or 468  
improvement to real property. 469

(b) To hold the thing transferred as security for the 470  
performance of an obligation of the vendor; 471

(c) To resell, hold, use, or consume the thing transferred 472  
as evidence of a contract of insurance; 473

(d) To use or consume the thing directly in commercial 474  
fishing; 475

(e) To incorporate the thing transferred as a material or 476  
a part into, or to use or consume the thing transferred directly 477  
in the production of, magazines distributed as controlled 478  
circulation publications; 479

(f) To use or consume the thing transferred in the 480  
production and preparation in suitable condition for market and 481  
sale of printed, imprinted, overprinted, lithographic, 482  
multilithic, blueprinted, photostatic, or other productions or 483  
reproductions of written or graphic matter; 484

(g) To use the thing transferred, as described in section 485  
5739.011 of the Revised Code, primarily in a manufacturing 486  
operation to produce tangible personal property for sale; 487

(h) To use the benefit of a warranty, maintenance or 488  
service contract, or similar agreement, as described in division 489  
(B) (7) of section 5739.01 of the Revised Code, to repair or 490  
maintain tangible personal property, if all of the property that 491  
is the subject of the warranty, contract, or agreement would not 492  
be subject to the tax imposed by this section; 493

(i) To use the thing transferred as qualified research and development equipment;	494 495
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section.	496 497 498 499 500 501 502 503 504 505 506 507 508
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;	509 510 511 512 513 514 515
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	516 517
(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	518 519 520 521 522

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing;

(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if the thing transferred is a rented motor vehicle and the purchaser is reimbursed for the cost of the rented motor vehicle by a manufacturer, warrantor, or provider of a maintenance, service, or other similar contract or agreement, with respect to the motor vehicle that is being repaired or serviced.

As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.

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

(44) Sales of replacement and modification parts for 552  
engines, airframes, instruments, and interiors in, and paint 553  
for, aircraft used primarily in a fractional aircraft ownership 554  
program, and sales of services for the repair, modification, and 555  
maintenance of such aircraft, and machinery, equipment, and 556  
supplies primarily used to provide those services. 557

(45) Sales of telecommunications service that is used 558  
directly and primarily to perform the functions of a call 559  
center. As used in this division, "call center" means any 560  
physical location where telephone calls are placed or received 561  
in high volume for the purpose of making sales, marketing, 562  
customer service, technical support, or other specialized 563  
business activity, and that employs at least fifty individuals 564  
that engage in call center activities on a full-time basis, or 565  
sufficient individuals to fill fifty full-time equivalent 566  
positions. 567

(46) Sales by a telecommunications service vendor of 900 568  
service to a subscriber. This division does not apply to 569  
information services, as defined in division (FF) of section 570  
5739.01 of the Revised Code. 571

(47) Sales of value-added non-voice data service. This 572  
division does not apply to any similar service that is not 573  
otherwise a telecommunications service. 574

(48) (a) Sales of machinery, equipment, and software to a 575  
qualified direct selling entity for use in a warehouse or 576  
distribution center primarily for storing, transporting, or 577  
otherwise handling inventory that is held for sale to 578  
independent salespersons who operate as direct sellers and that 579  
is held primarily for distribution outside this state; 580

(b) As used in division (B) (48) (a) of this section:	581
(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.	582 583 584 585 586
(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B) (48) of this section after execution of the tax credit agreement by the tax credit authority.	587 588 589 590 591 592 593 594 595 596
(c) Division (B) (48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.	597 598 599 600
(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B) (49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.	601 602 603 604 605 606 607 608
(50) Sales of full flight simulators that are used for	609

pilot or flight-crew training, sales of repair or replacement 610  
parts or components, and sales of repair or maintenance services 611  
for such full flight simulators. "Full flight simulator" means a 612  
replica of a specific type, or make, model, and series of 613  
aircraft cockpit. It includes the assemblage of equipment and 614  
computer programs necessary to represent aircraft operations in 615  
ground and flight conditions, a visual system providing an out- 616  
of-the-cockpit view, and a system that provides cues at least 617  
equivalent to those of a three-degree-of-freedom motion system, 618  
and has the full range of capabilities of the systems installed 619  
in the device as described in appendices A and B of part 60 of 620  
chapter 1 of title 14 of the Code of Federal Regulations. 621

(51) Any transfer or lease of tangible personal property 622  
between the state and JobsOhio in accordance with section 623  
4313.02 of the Revised Code. 624

(52) (a) Sales to a qualifying corporation. 625

(b) As used in division (B) (52) of this section: 626

(i) "Qualifying corporation" means a nonprofit corporation 627  
organized in this state that leases from an eligible county 628  
land, buildings, structures, fixtures, and improvements to the 629  
land that are part of or used in a public recreational facility 630  
used by a major league professional athletic team or a class A 631  
to class AAA minor league affiliate of a major league 632  
professional athletic team for a significant portion of the 633  
team's home schedule, provided the following apply: 634

(I) The facility is leased from the eligible county 635  
pursuant to a lease that requires substantially all of the 636  
revenue from the operation of the business or activity conducted 637  
by the nonprofit corporation at the facility in excess of 638

operating costs, capital expenditures, and reserves to be paid 639  
to the eligible county at least once per calendar year. 640

(II) Upon dissolution and liquidation of the nonprofit 641  
corporation, all of its net assets are distributable to the 642  
board of commissioners of the eligible county from which the 643  
corporation leases the facility. 644

(ii) "Eligible county" has the same meaning as in section 645  
307.695 of the Revised Code. 646

(53) Sales to or by a cable service provider, video 647  
service provider, or radio or television broadcast station 648  
regulated by the federal government of cable service or 649  
programming, video service or programming, audio service or 650  
programming, or electronically transferred digital audiovisual 651  
or audio work. As used in division (B) (53) of this section, 652  
"cable service" and "cable service provider" have the same 653  
meanings as in section 1332.01 of the Revised Code, and "video 654  
service," "video service provider," and "video programming" have 655  
the same meanings as in section 1332.21 of the Revised Code. 656

(54) Sales of investment metal bullion and investment 657  
coins. "Investment metal bullion" means any bullion described in 658  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 659  
whether that bullion is in the physical possession of a trustee. 660  
"Investment coin" means any coin composed primarily of gold, 661  
silver, platinum, or palladium. 662

(55) Sales of a digital audio work electronically 663  
transferred for delivery through use of a machine, such as a 664  
juke box, that does all of the following: 665

(a) Accepts direct payments to operate; 666

(b) Automatically plays a selected digital audio work for 667

a single play upon receipt of a payment described in division 668  
(B) (55) (a) of this section; 669

(c) Operates exclusively for the purpose of playing 670  
digital audio works in a commercial establishment. 671

(56) Sales of tangible personal property to either a 672  
citizen of a foreign nation that is not a citizen of the United 673  
States or a corporation or other person incorporated or created 674  
pursuant to the laws of a foreign nation, provided the property 675  
is delivered to and physically present in this state for the 676  
sole purpose of temporary storage and package consolidation and 677  
the property is subsequently delivered to that person to a 678  
delivery address in a foreign nation. 679

(C) For the purpose of the proper administration of this 680  
chapter, and to prevent the evasion of the tax, it is presumed 681  
that all sales made in this state are subject to the tax until 682  
the contrary is established. 683

(D) The levy of this tax on retail sales of recreation and 684  
sports club service shall not prevent a municipal corporation 685  
from levying any tax on recreation and sports club dues or on 686  
any income generated by recreation and sports club dues. 687

(E) The tax collected by the vendor from the consumer 688  
under this chapter is not part of the price, but is a tax 689  
collection for the benefit of the state, and of counties levying 690  
an additional sales tax pursuant to section 5739.021 or 5739.026 691  
of the Revised Code and of transit authorities levying an 692  
additional sales tax pursuant to section 5739.023 of the Revised 693  
Code. Except for the discount authorized under section 5739.12 694  
of the Revised Code and the effects of any rounding pursuant to 695  
section 5703.055 of the Revised Code, no person other than the 696

state or such a county or transit authority shall derive any 697  
benefit from the collection or payment of the tax levied by this 698  
section or section 5739.021, 5739.023, or 5739.026 of the 699  
Revised Code. 700

**Section 2.** That existing section 5739.02 of the Revised 701  
Code is hereby repealed. 702

**Section 3.** The amendment by this act of section 5739.02 of 703  
the Revised Code applies on and after October 1, 2017. 704

**Section 4.** Pursuant to division (G) of section 5703.95 of 705  
the Revised Code, which states that any bill introduced in the 706  
House of Representatives or the Senate that proposes to enact or 707  
modify one or more tax expenditures should include a statement 708  
explaining the objectives of the tax expenditure or its 709  
modification and the sponsor's intent in proposing the tax 710  
expenditure or its modification: 711

The purpose of the exemption enacted by this act is to 712  
eliminate the imposition of sales taxes on transactions that 713  
bear no relation to Ohio, the imposition of which is 714  
demonstrably directing interstate commerce to other states that 715  
do not impose sales taxes on such transactions. 716

**Section 5.** This act is hereby declared to be an emergency 717  
measure necessary for the immediate preservation of the public 718  
peace, health, and safety. The reason for such necessity is to 719  
prevent business closures that are imminent because of loss of 720  
business to competitors in states that do not impose sales taxes 721  
on transactions exempted by the act. Therefore, this act shall 722  
go into immediate effect. 723