

**As Reported by the House Ways and Means Committee**

**CORRECTED VERSION**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. S. B. No. 172**

**Senator Jordan**

**Cosponsors: Senators Seitz, Jones, Beagle, Burke, Coley, Eklund, Hite, Hottinger,  
Lehner, Patton, Peterson, Uecker Representatives Scherer, Amstutz, Henne**

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**A BILL**

To amend sections 718.03, 718.05, 5709.17, and 1  
5739.02 of the Revised Code to exempt from sales 2  
and use taxes the sale or use of investment 3  
metal bullion and coins, to expand eligibility 4  
for the fraternal organization property tax 5  
exemption to property of an organization 6  
operating under a state governing body that has 7  
been operating in Ohio for at least eighty-five 8  
years, to extend the deadline for payments of 9  
quarterly municipal income tax withholding 10  
taxes, and to modify the rules for when 11  
municipal income tax withholding payments are 12  
considered to have been made. 13

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

**Section 1.** That sections 718.03, 718.05, 5709.17, and 14  
5739.02 of the Revised Code be amended to read as follows: 15

**Sec. 718.03.** (A) (1) Each employer, agent of an employer, 16

or other payer located or doing business in a municipal 17  
corporation that imposes a tax on income in accordance with this 18  
chapter shall withhold from each employee an amount equal to the 19  
qualifying wages of the employee earned by the employee in the 20  
municipal corporation multiplied by the applicable rate of the 21  
municipal corporation's income tax, except for qualifying wages 22  
for which withholding is not required under section 718.011 of 23  
the Revised Code or division (D) or (F) of this section. An 24  
employer, agent of an employer, or other payer shall deduct and 25  
withhold the tax from qualifying wages on the date that the 26  
employer, agent, or other payer directly, indirectly, or 27  
constructively pays the qualifying wages to, or credits the 28  
qualifying wages to the benefit of, the employee. 29

(2) In addition to withholding the amounts required under 30  
division (A)(1) of this section, an employer, agent of an 31  
employer, or other payer may also deduct and withhold, on the 32  
request of an employee, taxes for the municipal corporation in 33  
which the employee is a resident. 34

(B)(1) Except as provided in division (B)(2) of this 35  
section, an employer, agent of an employer, or other payer shall 36  
remit to the tax administrator of a municipal corporation the 37  
greater of the income taxes deducted and withheld or the income 38  
taxes required to be deducted and withheld by the employer, 39  
agent, or other payer according to the following schedule: 40

(a) Taxes required to be deducted and withheld shall be 41  
remitted monthly to the tax administrator if the total taxes 42  
deducted and withheld or required to be deducted and withheld by 43  
the employer, agent, or other payer on behalf of the municipal 44  
corporation in the preceding calendar year exceeded two thousand 45  
three hundred ninety-nine dollars, or if the total amount of 46

taxes deducted and withheld or required to be deducted and 47  
withheld on behalf of the municipal corporation in any month of 48  
the preceding calendar quarter exceeded two hundred dollars. 49  
Payments 50

~~Payment~~ under division (B) (1) (a) of this section shall be 51  
made ~~so that the payment is received by~~ to the tax administrator 52  
not later than fifteen days after the last day of each month. 53

(b) Any employer, agent of an employer, or other payer not 54  
required to make payments under division (B) (1) (a) of this 55  
section of taxes required to be deducted and withheld shall make 56  
quarterly payments to the tax administrator not later than the 57  
~~fifteenth last~~ day of the month following the ~~end last day~~ of 58  
each calendar quarter. 59

(2) Notwithstanding division (B) (1) of this section, a 60  
municipal corporation may require, by resolution, ordinance, or 61  
rule, an employer, agent of an employer, or other payer to do 62  
any of the following: 63

(a) Remit taxes deducted and withheld semimonthly to the 64  
tax administrator if the total taxes deducted and withheld or 65  
required to be deducted and withheld on behalf of the municipal 66  
corporation in the preceding calendar year exceeded eleven 67  
thousand nine hundred ninety-nine dollars, or if the total 68  
amount of taxes deducted and withheld or required to be deducted 69  
and withheld on behalf of the municipal corporation in any month 70  
of the preceding calendar year exceeded one thousand dollars. 71  
The payment under division (B) (2) (a) of this section shall be 72  
made ~~so that the payment is received by~~ to the tax administrator 73  
not later than one of the following: 74

(i) If the taxes were deducted and withheld or required to 75

be deducted and withheld during the first fifteen days of a 76  
month, the third banking day after the fifteenth day of that 77  
month; 78

(ii) If the taxes were deducted and withheld or required 79  
to be deducted and withheld after the fifteenth day of a month 80  
and before the first day of the immediately following month, the 81  
third banking day after the last day of that month. 82

(b) Make payment by electronic funds transfer to the tax 83  
administrator of all taxes deducted and withheld on behalf of 84  
the municipal corporation if the employer, agent of an employer, 85  
or other payer is required to make payments electronically for 86  
the purpose of paying federal taxes withheld on payments to 87  
employees under section 6302 of the Internal Revenue Code, 26 88  
C.F.R. 31.6302-1, or any other federal statute or regulation. 89  
The payment of tax by electronic funds transfer under this 90  
division does not affect an employer's, agent's, or other 91  
payer's obligation to file any return as required under this 92  
section. 93

(C) An employer, agent of an employer, or other payer 94  
shall make and file a return showing the amount of tax withheld 95  
by the employer, agent, or other payer from the qualifying wages 96  
of each employee and remitted to the tax administrator. Unless 97  
the tax administrator requires all individual taxpayers to file 98  
a tax return under section 718.05 of the Revised Code, a return 99  
filed by an employer, agent, or other payer under this division 100  
shall be accepted by a tax administrator and municipal 101  
corporation as the return required of an employee whose sole 102  
income subject to the tax under this chapter is the qualifying 103  
wages reported by the employee's employer, agent of an employer, 104  
or other payer. 105

(D) An employer, agent of an employer, or other payer is 106  
not required to withhold municipal income tax with respect to an 107  
individual's disqualifying disposition of an incentive stock 108  
option if, at the time of the disqualifying disposition, the 109  
individual is not an employee of either the corporation with 110  
respect to whose stock the option has been issued or of such 111  
corporation's successor entity. 112

(E) (1) An employee is not relieved from liability for a 113  
tax by the failure of the employer, agent of an employer, or 114  
other payer to withhold the tax as required under this chapter 115  
or by the employer's, agent's, or other payer's exemption from 116  
the requirement to withhold the tax. 117

(2) The failure of an employer, agent of an employer, or 118  
other payer to remit to the municipal corporation the tax 119  
withheld relieves the employee from liability for that tax 120  
unless the employee colluded with the employer, agent, or other 121  
payer in connection with the failure to remit the tax withheld. 122

(F) Compensation deferred before June 26, 2003, is not 123  
subject to any municipal corporation income tax or municipal 124  
income tax withholding requirement to the extent the deferred 125  
compensation does not constitute qualifying wages at the time 126  
the deferred compensation is paid or distributed. 127

(G) Each employer, agent of an employer, or other payer 128  
required to withhold taxes is liable for the payment of that 129  
amount required to be withheld, whether or not such taxes have 130  
been withheld, and such amount shall be deemed to be held in 131  
trust for the municipal corporation until such time as the 132  
withheld amount is remitted to the tax administrator. 133

(H) On or before the last day of February of each year, an 134

employer shall file a withholding reconciliation return with the 135  
tax administrator listing the names, addresses, and social 136  
security numbers of all employees from whose qualifying wages 137  
tax was withheld or should have been withheld for the municipal 138  
corporation during the preceding calendar year, the amount of 139  
tax withheld, if any, from each such employee, the total amount 140  
of qualifying wages paid to such employee during the preceding 141  
calendar year, the name of every other municipal corporation for 142  
which tax was withheld or should have been withheld from such 143  
employee during the preceding calendar year, any other 144  
information required for federal income tax reporting purposes 145  
on Internal Revenue Service form W-2 or its equivalent form with 146  
respect to such employee, and other information as may be 147  
required by the tax administrator. 148

(I) The officer or the employee of the employer, agent of 149  
an employer, or other payer with control or direct supervision 150  
of or charged with the responsibility for withholding the tax or 151  
filing the reports and making payments as required by this 152  
section, shall be personally liable for a failure to file a 153  
report or pay the tax due as required by this section. The 154  
dissolution of an employer, agent of an employer, or other payer 155  
does not discharge the officer's or employee's liability for a 156  
failure of the employer, agent of an employer, or other payer to 157  
file returns or pay any tax due. 158

(J) An employer is required to deduct and withhold 159  
municipal income tax on tips and gratuities received by the 160  
employer's employees and constituting qualifying wages only to 161  
the extent that the tips and gratuities are under the employer's 162  
control. For the purposes of this division, a tip or gratuity is 163  
under the employer's control if the tip or gratuity is paid by 164  
the customer to the employer for subsequent remittance to the 165

employee, or if the customer pays the tip or gratuity by credit 166  
card, debit card, or other electronic means. 167

(K) A tax administrator shall consider any tax withheld by 168  
an employer at the request of an employee when such tax is not 169  
otherwise required to be withheld by this chapter to be tax 170  
required to be withheld and remitted for the purposes of this 171  
section. 172

**Sec. 718.05.** (A) An annual return with respect to the 173  
income tax levied by a municipal corporation shall be completed 174  
and filed by every taxpayer for any taxable year for which the 175  
taxpayer is liable for the tax. If the total credit allowed 176  
against the tax as described in division (D) of section 718.04 177  
of the Revised Code for the year is equal to or exceeds the tax 178  
imposed by the municipal corporation, no return shall be 179  
required unless the municipal ordinance or resolution levying 180  
the tax requires the filing of a return in such circumstances. 181

(B) If an individual is deceased, any return or notice 182  
required of that individual shall be completed and filed by that 183  
decedent's executor, administrator, or other person charged with 184  
the property of that decedent. 185

(C) If an individual is unable to complete and file a 186  
return or notice required by a municipal corporation in 187  
accordance with this chapter, the return or notice required of 188  
that individual shall be completed and filed by the individual's 189  
duly authorized agent, guardian, conservator, fiduciary, or 190  
other person charged with the care of the person or property of 191  
that individual. 192

(D) Returns or notices required of an estate or a trust 193  
shall be completed and filed by the fiduciary of the estate or 194

trust.	195
(E) No municipal corporation shall deny spouses the ability to file a joint return.	196 197
(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.	198 199 200 201 202 203
(2) A tax administrator may require a taxpayer who is an individual to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the tax administrator unless the tax administrator requests such copies after the return has been filed.	204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220
(3) A tax administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the	221 222 223 224



taxpayer's Internal Revenue Service form 1041, form 1065, form 225  
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 226  
respect to an amended tax return or refund request, any other 227  
documentation necessary to support the refund request or the 228  
adjustments made in the amended return. 229

A taxpayer that is not an individual and that files an 230  
annual net profit return electronically through the Ohio 231  
business gateway or in some other manner shall either mail the 232  
documents required under this division to the tax administrator 233  
at the time of filing or, if electronic submission is available, 234  
submit the documents electronically through the Ohio business 235  
gateway. The department of taxation shall publish a method of 236  
electronically submitting the documents required under this 237  
division through the Ohio business gateway on or before January 238  
1, 2016. The department shall transmit all documents submitted 239  
electronically under this division to the appropriate tax 240  
administrator. 241

(4) After a taxpayer files a tax return, the tax 242  
administrator may request, and the taxpayer shall provide, any 243  
information, statements, or documents required by the municipal 244  
corporation to determine and verify the taxpayer's municipal 245  
income tax liability. The requirements imposed under division 246  
(F) of this section apply regardless of whether the taxpayer 247  
files on a generic form or on a form prescribed by the tax 248  
administrator. 249

(G) (1) (a) Except as otherwise provided in this chapter, 250  
each individual income tax return required to be filed under 251  
this section shall be completed and filed as required by the tax 252  
administrator on or before the date prescribed for the filing of 253  
state individual income tax returns under division (G) of 254

section 5747.08 of the Revised Code. The taxpayer shall complete 255  
and file the return or notice on forms prescribed by the tax 256  
administrator or on generic forms, together with remittance made 257  
payable to the municipal corporation or tax administrator. No 258  
remittance is required if the amount shown to be due is ten 259  
dollars or less. 260

(b) Except as otherwise provided in this chapter, each 261  
annual net profit return required to be filed under this section 262  
by a taxpayer that is not an individual shall be completed and 263  
filed as required by the tax administrator on or before the 264  
fifteenth day of the fourth month following the end of the 265  
taxpayer's taxable year. The taxpayer shall complete and file 266  
the return or notice on forms prescribed by the tax 267  
administrator or on generic forms, together with remittance made 268  
payable to the municipal corporation or tax administrator. No 269  
remittance is required if the amount shown to be due is ten 270  
dollars or less. 271

(2) (a) Any taxpayer that has duly requested an automatic 272  
six-month extension for filing the taxpayer's federal income tax 273  
return shall automatically receive an extension for the filing 274  
of a municipal income tax return. The extended due date of the 275  
municipal income tax return shall be the fifteenth day of the 276  
tenth month after the last day of the taxable year to which the 277  
return relates. 278

(b) A taxpayer that has not requested or received a six- 279  
month extension for filing the taxpayer's federal income tax 280  
return may request that the tax administrator grant the taxpayer 281  
a six-month extension of the date for filing the taxpayer's 282  
municipal income tax return. If the request is received by the 283  
tax administrator on or before the date the municipal income tax 284

return is due, the tax administrator shall grant the taxpayer's  
requested extension. 285  
286

(c) An extension of time to file under division (G) (2) of 287  
this section is not an extension of the time to pay any tax due 288  
unless the tax administrator grants an extension of that date. 289

(3) If the tax commissioner extends for all taxpayers the 290  
date for filing state income tax returns under division (G) of 291  
section 5747.08 of the Revised Code, a taxpayer shall 292  
automatically receive an extension for the filing of a municipal 293  
income tax return. The extended due date of the municipal income 294  
tax return shall be the same as the extended due date of the 295  
state income tax return. 296

(4) If the tax administrator considers it necessary in 297  
order to ensure the payment of the tax imposed by the municipal 298  
corporation in accordance with this chapter, the tax 299  
administrator may require taxpayers to file returns and make 300  
payments otherwise than as provided in this section, including 301  
taxpayers not otherwise required to file annual returns. 302

(5) To the extent that any provision in this division 303  
conflicts with any provision in section 718.052 of the Revised 304  
Code, the provision in that section prevails. 305

(H) (1) For taxable years beginning after 2015, a municipal 306  
corporation shall not require a taxpayer to remit tax with 307  
respect to net profits if the amount due is less than ten 308  
dollars. 309

(2) Any taxpayer not required to remit tax to a municipal 310  
corporation for a taxable year pursuant to division (H) (1) of 311  
this section shall file with the municipal corporation an annual 312  
net profit return under division (F) (3) of this section. 313

~~(I) This division shall not apply to payments required to be made under division (B) (1) (a) or (2) (a) of section 718.03 of the Revised Code.~~ 314  
315  
316

(1) If any report, claim, statement, or other document 317  
required to be filed, or any payment required to be made, within 318  
a prescribed period or on or before a prescribed date under this 319  
chapter is delivered after that period or that date by United 320  
States mail to the tax administrator or other municipal official 321  
with which the report, claim, statement, or other document is 322  
required to be filed, or to which the payment is required to be 323  
made, the date of the postmark stamped on the cover in which the 324  
report, claim, statement, or other document, or payment is 325  
mailed shall be deemed to be the date of delivery or the date of 326  
payment. "The date of postmark" means, in the event there is 327  
more than one date on the cover, the earliest date imprinted on 328  
the cover by the postal service. 329

(2) If a payment under this chapter is required to be made 330  
by electronic funds transfer, the payment is shall be considered 331  
to be made ~~when the payment is credited to an account designated~~ 332  
~~by the tax administrator for the receipt of tax payments, except~~ 333  
~~that, when a payment made by electronic funds transfer is~~ 334  
~~delayed due to circumstances not under the control of the~~ 335  
~~taxpayer, the payment is considered to be made when the taxpayer~~ 336  
~~submitted the payment on the date of the timestamp assigned by~~ 337  
the first electronic system receiving that payment. 338

(J) The amounts withheld by an employer, the agent of an 339  
employer, or an other payer as described in section 718.03 of 340  
the Revised Code shall be allowed to the recipient of the 341  
compensation as credits against payment of the tax imposed on 342  
the recipient by the municipal corporation, unless the amounts 343

withheld were not remitted to the municipal corporation and the 344  
recipient colluded with the employer, agent, or other payer in 345  
connection with the failure to remit the amounts withheld. 346

(K) Each return required by a municipal corporation to be 347  
filed in accordance with this section shall include a box that 348  
the taxpayer may check to authorize another person, including a 349  
tax return preparer who prepared the return, to communicate with 350  
the tax administrator about matters pertaining to the return. 351  
The return or instructions accompanying the return shall 352  
indicate that by checking the box the taxpayer authorizes the 353  
tax administrator to contact the preparer or other person 354  
concerning questions that arise during the examination or other 355  
review of the return and authorizes the preparer or other person 356  
only to provide the tax administrator with information that is 357  
missing from the return, to contact the tax administrator for 358  
information about the examination or other review of the return 359  
or the status of the taxpayer's refund or payments, and to 360  
respond to notices about mathematical errors, offsets, or return 361  
preparation that the taxpayer has received from the tax 362  
administrator and has shown to the preparer or other person. 363

(L) The tax administrator of a municipal corporation shall 364  
accept for filing a generic form of any income tax return, 365  
report, or document required by the municipal corporation in 366  
accordance with this chapter, provided that the generic form, 367  
once completed and filed, contains all of the information 368  
required by ordinance, resolution, or rules adopted by the 369  
municipal corporation or tax administrator, and provided that 370  
the taxpayer or tax return preparer filing the generic form 371  
otherwise complies with the provisions of this chapter and of 372  
the municipal corporation ordinance or resolution governing the 373  
filing of returns, reports, or documents. 374

(M) When income tax returns, reports, or other documents 375  
require the signature of a tax return preparer, the tax 376  
administrator shall accept a facsimile of such a signature in 377  
lieu of a manual signature. 378

(N) (1) As used in this division, "worksite location" has 379  
the same meaning as in section 718.011 of the Revised Code. 380

(2) A person may notify a tax administrator that the 381  
person does not expect to be a taxpayer with respect to the 382  
municipal corporation for a taxable year if both of the 383  
following conditions apply: 384

(a) The person was required to file a tax return with the 385  
municipal corporation for the immediately preceding taxable year 386  
because the person performed services at a worksite location 387  
within that municipal corporation. 388

(b) The person no longer provides services in the 389  
municipal corporation and does not expect to be subject to the 390  
municipal corporation's income tax for the taxable year. 391

The person shall provide the notice in a signed affidavit 392  
that briefly explains the person's circumstances, including the 393  
location of the previous worksite location and the last date on 394  
which the person performed services or made any sales within the 395  
municipal corporation. The affidavit also shall include the 396  
following statement: "The affiant has no plans to perform any 397  
services within the municipal corporation, make any sales in the 398  
municipal corporation, or otherwise become subject to the tax 399  
levied by the municipal corporation during the taxable year. If 400  
the affiant does become subject to the tax levied by the 401  
municipal corporation for the taxable year, the affiant agrees 402  
to be considered a taxpayer and to properly register as a 403

taxpayer with the municipal corporation if such a registration 404  
is required by the municipal corporation's resolutions, 405  
ordinances, or rules." The person shall sign the affidavit under 406  
penalty of perjury. 407

(c) If a person submits an affidavit described in division 408  
(N) (2) of this section, the tax administrator shall not require 409  
the person to file any tax return for the taxable year unless 410  
the tax administrator possesses information that conflicts with 411  
the affidavit or if the circumstances described in the affidavit 412  
change. Nothing in division (N) of this section prohibits the 413  
tax administrator from performing an audit of the person. 414

**Sec. 5709.17.** The following property shall be exempted 415  
from taxation: 416

(A) Real estate held or occupied by an association or 417  
corporation, organized or incorporated under the laws of this 418  
state relative to soldiers' memorial associations, monumental 419  
building associations, or cemetery associations or corporations, 420  
which in the opinion of the trustees, directors, or managers 421  
thereof is necessary and proper to carry out the object intended 422  
for such association or corporation; 423

(B) Real estate and tangible personal property held or 424  
occupied by a veterans' organization that qualifies for 425  
exemption from taxation under section 501(c) (19) or 501(c) (23) 426  
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 427  
U.S.C.A. 1, as amended, and is incorporated under the laws of 428  
this state or the United States, except real estate held by such 429  
an organization for the production of rental income in excess of 430  
thirty-six thousand dollars in a tax year, before accounting for 431  
any cost or expense incurred in the production of such income. 432  
For the purposes of this division, rental income includes only 433

income arising directly from renting the real estate to others 434  
for consideration. 435

(C) Tangible personal property held by a corporation 436  
chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in 437  
section 501(c)(3) of the Internal Revenue Code, and exempt from 438  
taxation under section 501(a) of the Internal Revenue Code shall 439  
be exempt from taxation if it is property obtained as described 440  
in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407. 441

(D) Real estate held or occupied by a fraternal 442  
organization and used primarily for meetings of and the 443  
administration of the fraternal organization or for providing, 444  
on a not-for-profit basis, educational or health services, 445  
except real estate held by such an organization for the 446  
production of rental income in excess of thirty-six thousand 447  
dollars in a tax year before accounting for any cost or expense 448  
incurred in the production of such income. As used in this 449  
division, "rental income" has the same meaning as in division 450  
(B) of this section, and "fraternal organization" means a 451  
domestic fraternal society, order, or association operating 452  
under the lodge, council, or grange system that qualifies for 453  
exemption from taxation under section 501(c)(5), 501(c)(8), or 454  
501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat. 455  
2085, 26 U.S.C. 1, as amended; that provides financial support 456  
for charitable purposes, as defined in division (B)(12) of 457  
section 5739.02 of the Revised Code; and that operates under a 458  
state governing body that has been operating in this state ~~with-~~ 459  
~~a state governing body~~ for at least eighty-five years. 460

**Sec. 5739.02.** For the purpose of providing revenue with 461  
which to meet the needs of the state, for the use of the general 462  
revenue fund of the state, for the purpose of securing a 463



thorough and efficient system of common schools throughout the 464  
state, for the purpose of affording revenues, in addition to 465  
those from general property taxes, permitted under 466  
constitutional limitations, and from other sources, for the 467  
support of local governmental functions, and for the purpose of 468  
reimbursing the state for the expense of administering this 469  
chapter, an excise tax is hereby levied on each retail sale made 470  
in this state. 471

(A) (1) The tax shall be collected as provided in section 472  
5739.025 of the Revised Code. The rate of the tax shall be five 473  
and three-fourths per cent. The tax applies and is collectible 474  
when the sale is made, regardless of the time when the price is 475  
paid or delivered. 476

(2) In the case of the lease or rental, with a fixed term 477  
of more than thirty days or an indefinite term with a minimum 478  
period of more than thirty days, of any motor vehicles designed 479  
by the manufacturer to carry a load of not more than one ton, 480  
watercraft, outboard motor, or aircraft, or of any tangible 481  
personal property, other than motor vehicles designed by the 482  
manufacturer to carry a load of more than one ton, to be used by 483  
the lessee or renter primarily for business purposes, the tax 484  
shall be collected by the vendor at the time the lease or rental 485  
is consummated and shall be calculated by the vendor on the 486  
basis of the total amount to be paid by the lessee or renter 487  
under the lease agreement. If the total amount of the 488  
consideration for the lease or rental includes amounts that are 489  
not calculated at the time the lease or rental is executed, the 490  
tax shall be calculated and collected by the vendor at the time 491  
such amounts are billed to the lessee or renter. In the case of 492  
an open-end lease or rental, the tax shall be calculated by the 493  
vendor on the basis of the total amount to be paid during the 494

initial fixed term of the lease or rental, and for each 495  
subsequent renewal period as it comes due. As used in this 496  
division, "motor vehicle" has the same meaning as in section 497  
4501.01 of the Revised Code, and "watercraft" includes an 498  
outride unit attached to the watercraft. 499

A lease with a renewal clause and a termination penalty or 500  
similar provision that applies if the renewal clause is not 501  
exercised is presumed to be a sham transaction. In such a case, 502  
the tax shall be calculated and paid on the basis of the entire 503  
length of the lease period, including any renewal periods, until 504  
the termination penalty or similar provision no longer applies. 505  
The taxpayer shall bear the burden, by a preponderance of the 506  
evidence, that the transaction or series of transactions is not 507  
a sham transaction. 508

(3) Except as provided in division (A) (2) of this section, 509  
in the case of a sale, the price of which consists in whole or 510  
in part of the lease or rental of tangible personal property, 511  
the tax shall be measured by the installments of that lease or 512  
rental. 513

(4) In the case of a sale of a physical fitness facility 514  
service or recreation and sports club service, the price of 515  
which consists in whole or in part of a membership for the 516  
receipt of the benefit of the service, the tax applicable to the 517  
sale shall be measured by the installments thereof. 518

(B) The tax does not apply to the following: 519

(1) Sales to the state or any of its political 520  
subdivisions, or to any other state or its political 521  
subdivisions if the laws of that state exempt from taxation 522  
sales made to this state and its political subdivisions; 523

(2) Sales of food for human consumption off the premises	524
where sold;	525
(3) Sales of food sold to students only in a cafeteria,	526
dormitory, fraternity, or sorority maintained in a private,	527
public, or parochial school, college, or university;	528
(4) Sales of newspapers and sales or transfers of	529
magazines distributed as controlled circulation publications;	530
(5) The furnishing, preparing, or serving of meals without	531
charge by an employer to an employee provided the employer	532
records the meals as part compensation for services performed or	533
work done;	534
(6) Sales of motor fuel upon receipt, use, distribution,	535
or sale of which in this state a tax is imposed by the law of	536
this state, but this exemption shall not apply to the sale of	537
motor fuel on which a refund of the tax is allowable under	538
division (A) of section 5735.14 of the Revised Code; and the tax	539
commissioner may deduct the amount of tax levied by this section	540
applicable to the price of motor fuel when granting a refund of	541
motor fuel tax pursuant to division (A) of section 5735.14 of	542
the Revised Code and shall cause the amount deducted to be paid	543
into the general revenue fund of this state;	544
(7) Sales of natural gas by a natural gas company, of	545
water by a water-works company, or of steam by a heating	546
company, if in each case the thing sold is delivered to	547
consumers through pipes or conduits, and all sales of	548
communications services by a telegraph company, all terms as	549
defined in section 5727.01 of the Revised Code, and sales of	550
electricity delivered through wires;	551
(8) Casual sales by a person, or auctioneer employed	552

directly by the person to conduct such sales, except as to such 553  
sales of motor vehicles, watercraft or outboard motors required 554  
to be titled under section 1548.06 of the Revised Code, 555  
watercraft documented with the United States coast guard, 556  
snowmobiles, and all-purpose vehicles as defined in section 557  
4519.01 of the Revised Code; 558

(9) (a) Sales of services or tangible personal property, 559  
other than motor vehicles, mobile homes, and manufactured homes, 560  
by churches, organizations exempt from taxation under section 561  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 562  
organizations operated exclusively for charitable purposes as 563  
defined in division (B) (12) of this section, provided that the 564  
number of days on which such tangible personal property or 565  
services, other than items never subject to the tax, are sold 566  
does not exceed six in any calendar year, except as otherwise 567  
provided in division (B) (9) (b) of this section. If the number of 568  
days on which such sales are made exceeds six in any calendar 569  
year, the church or organization shall be considered to be 570  
engaged in business and all subsequent sales by it shall be 571  
subject to the tax. In counting the number of days, all sales by 572  
groups within a church or within an organization shall be 573  
considered to be sales of that church or organization. 574

(b) The limitation on the number of days on which tax- 575  
exempt sales may be made by a church or organization under 576  
division (B) (9) (a) of this section does not apply to sales made 577  
by student clubs and other groups of students of a primary or 578  
secondary school, or a parent-teacher association, booster 579  
group, or similar organization that raises money to support or 580  
fund curricular or extracurricular activities of a primary or 581  
secondary school. 582

(c) Divisions (B) (9) (a) and (b) of this section do not 583  
apply to sales by a noncommercial educational radio or 584  
television broadcasting station. 585

(10) Sales not within the taxing power of this state under 586  
the Constitution or laws of the United States or the 587  
Constitution of this state; 588

(11) Except for transactions that are sales under division 589  
(B) (3) (r) of section 5739.01 of the Revised Code, the 590  
transportation of persons or property, unless the transportation 591  
is by a private investigation and security service; 592

(12) Sales of tangible personal property or services to 593  
churches, to organizations exempt from taxation under section 594  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 595  
nonprofit organizations operated exclusively for charitable 596  
purposes in this state, no part of the net income of which 597  
inures to the benefit of any private shareholder or individual, 598  
and no substantial part of the activities of which consists of 599  
carrying on propaganda or otherwise attempting to influence 600  
legislation; sales to offices administering one or more homes 601  
for the aged or one or more hospital facilities exempt under 602  
section 140.08 of the Revised Code; and sales to organizations 603  
described in division (D) of section 5709.12 of the Revised 604  
Code. 605

"Charitable purposes" means the relief of poverty; the 606  
improvement of health through the alleviation of illness, 607  
disease, or injury; the operation of an organization exclusively 608  
for the provision of professional, laundry, printing, and 609  
purchasing services to hospitals or charitable institutions; the 610  
operation of a home for the aged, as defined in section 5701.13 611  
of the Revised Code; the operation of a radio or television 612

broadcasting station that is licensed by the federal 613  
communications commission as a noncommercial educational radio 614  
or television station; the operation of a nonprofit animal 615  
adoption service or a county humane society; the promotion of 616  
education by an institution of learning that maintains a faculty 617  
of qualified instructors, teaches regular continuous courses of 618  
study, and confers a recognized diploma upon completion of a 619  
specific curriculum; the operation of a parent-teacher 620  
association, booster group, or similar organization primarily 621  
engaged in the promotion and support of the curricular or 622  
extracurricular activities of a primary or secondary school; the 623  
operation of a community or area center in which presentations 624  
in music, dramatics, the arts, and related fields are made in 625  
order to foster public interest and education therein; the 626  
production of performances in music, dramatics, and the arts; or 627  
the promotion of education by an organization engaged in 628  
carrying on research in, or the dissemination of, scientific and 629  
technological knowledge and information primarily for the 630  
public. 631

Nothing in this division shall be deemed to exempt sales 632  
to any organization for use in the operation or carrying on of a 633  
trade or business, or sales to a home for the aged for use in 634  
the operation of independent living facilities as defined in 635  
division (A) of section 5709.12 of the Revised Code. 636

(13) Building and construction materials and services sold 637  
to construction contractors for incorporation into a structure 638  
or improvement to real property under a construction contract 639  
with this state or a political subdivision of this state, or 640  
with the United States government or any of its agencies; 641  
building and construction materials and services sold to 642  
construction contractors for incorporation into a structure or 643

improvement to real property that are accepted for ownership by 644  
this state or any of its political subdivisions, or by the 645  
United States government or any of its agencies at the time of 646  
completion of the structures or improvements; building and 647  
construction materials sold to construction contractors for 648  
incorporation into a horticulture structure or livestock 649  
structure for a person engaged in the business of horticulture 650  
or producing livestock; building materials and services sold to 651  
a construction contractor for incorporation into a house of 652  
public worship or religious education, or a building used 653  
exclusively for charitable purposes under a construction 654  
contract with an organization whose purpose is as described in 655  
division (B) (12) of this section; building materials and 656  
services sold to a construction contractor for incorporation 657  
into a building under a construction contract with an 658  
organization exempt from taxation under section 501(c) (3) of the 659  
Internal Revenue Code of 1986 when the building is to be used 660  
exclusively for the organization's exempt purposes; building and 661  
construction materials sold for incorporation into the original 662  
construction of a sports facility under section 307.696 of the 663  
Revised Code; building and construction materials and services 664  
sold to a construction contractor for incorporation into real 665  
property outside this state if such materials and services, when 666  
sold to a construction contractor in the state in which the real 667  
property is located for incorporation into real property in that 668  
state, would be exempt from a tax on sales levied by that state; 669  
building and construction materials for incorporation into a 670  
transportation facility pursuant to a public-private agreement 671  
entered into under sections 5501.70 to 5501.83 of the Revised 672  
Code; and, until one calendar year after the construction of a 673  
convention center that qualifies for property tax exemption 674  
under section 5709.084 of the Revised Code is completed, 675

building and construction materials and services sold to a 676  
construction contractor for incorporation into the real property 677  
comprising that convention center; 678

(14) Sales of ships or vessels or rail rolling stock used 679  
or to be used principally in interstate or foreign commerce, and 680  
repairs, alterations, fuel, and lubricants for such ships or 681  
vessels or rail rolling stock; 682

(15) Sales to persons primarily engaged in any of the 683  
activities mentioned in division (B) (42) (a), (g), or (h) of this 684  
section, to persons engaged in making retail sales, or to 685  
persons who purchase for sale from a manufacturer tangible 686  
personal property that was produced by the manufacturer in 687  
accordance with specific designs provided by the purchaser, of 688  
packages, including material, labels, and parts for packages, 689  
and of machinery, equipment, and material for use primarily in 690  
packaging tangible personal property produced for sale, 691  
including any machinery, equipment, and supplies used to make 692  
labels or packages, to prepare packages or products for 693  
labeling, or to label packages or products, by or on the order 694  
of the person doing the packaging, or sold at retail. "Packages" 695  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 696  
bindings, wrappings, and other similar devices and containers, 697  
but does not include motor vehicles or bulk tanks, trailers, or 698  
similar devices attached to motor vehicles. "Packaging" means 699  
placing in a package. Division (B) (15) of this section does not 700  
apply to persons engaged in highway transportation for hire. 701

(16) Sales of food to persons using supplemental nutrition 702  
assistance program benefits to purchase the food. As used in 703  
this division, "food" has the same meaning as in 7 U.S.C. 2012 704  
and federal regulations adopted pursuant to the Food and 705



Nutrition Act of 2008.	706
(17) Sales to persons engaged in farming, agriculture,	707
horticulture, or floriculture, of tangible personal property for	708
use or consumption primarily in the production by farming,	709
agriculture, horticulture, or floriculture of other tangible	710
personal property for use or consumption primarily in the	711
production of tangible personal property for sale by farming,	712
agriculture, horticulture, or floriculture; or material and	713
parts for incorporation into any such tangible personal property	714
for use or consumption in production; and of tangible personal	715
property for such use or consumption in the conditioning or	716
holding of products produced by and for such use, consumption,	717
or sale by persons engaged in farming, agriculture,	718
horticulture, or floriculture, except where such property is	719
incorporated into real property;	720
(18) Sales of drugs for a human being that may be	721
dispensed only pursuant to a prescription; insulin as recognized	722
in the official United States pharmacopoeia; urine and blood	723
testing materials when used by diabetics or persons with	724
hypoglycemia to test for glucose or acetone; hypodermic syringes	725
and needles when used by diabetics for insulin injections;	726
epoetin alfa when purchased for use in the treatment of persons	727
with medical disease; hospital beds when purchased by hospitals,	728
nursing homes, or other medical facilities; and medical oxygen	729
and medical oxygen-dispensing equipment when purchased by	730
hospitals, nursing homes, or other medical facilities;	731
(19) Sales of prosthetic devices, durable medical	732
equipment for home use, or mobility enhancing equipment, when	733
made pursuant to a prescription and when such devices or	734
equipment are for use by a human being.	735

(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;	736 737 738 739 740
(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;	741 742 743 744 745 746 747
(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;	748 749 750 751 752
(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;	753 754 755
(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	756 757 758 759 760 761 762 763 764 765

sale, when the plant or plants within or between which such 766  
transfers or shipments occur are operated by the same person. 767  
"Packages" includes containers, cases, baskets, flats, fillers, 768  
filler flats, cartons, closure materials, labels, and labeling 769  
materials, and "packaging" means placing therein. 770

(25) (a) Sales of water to a consumer for residential use; 771

(b) Sales of water by a nonprofit corporation engaged 772  
exclusively in the treatment, distribution, and sale of water to 773  
consumers, if such water is delivered to consumers through pipes 774  
or tubing. 775

(26) Fees charged for inspection or reinspection of motor 776  
vehicles under section 3704.14 of the Revised Code; 777

(27) Sales to persons licensed to conduct a food service 778  
operation pursuant to section 3717.43 of the Revised Code, of 779  
tangible personal property primarily used directly for the 780  
following: 781

(a) To prepare food for human consumption for sale; 782

(b) To preserve food that has been or will be prepared for 783  
human consumption for sale by the food service operator, not 784  
including tangible personal property used to display food for 785  
selection by the consumer; 786

(c) To clean tangible personal property used to prepare or 787  
serve food for human consumption for sale. 788

(28) Sales of animals by nonprofit animal adoption 789  
services or county humane societies; 790

(29) Sales of services to a corporation described in 791  
division (A) of section 5709.72 of the Revised Code, and sales 792  
of tangible personal property that qualifies for exemption from 793

taxation under section 5709.72 of the Revised Code;	794
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	795 796 797
(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;	798 799 800
(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;	801 802 803 804 805 806
(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;	807 808 809 810 811
(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	812 813 814 815 816 817 818 819 820 821 822

(n) of this section to which the vendor may otherwise be 823  
entitled, based upon the use of the thing purchased in providing 824  
the telecommunications, mobile telecommunications, or satellite 825  
broadcasting service. 826

(35) (a) Sales where the purpose of the consumer is to use 827  
or consume the things transferred in making retail sales and 828  
consisting of newspaper inserts, catalogues, coupons, flyers, 829  
gift certificates, or other advertising material that prices and 830  
describes tangible personal property offered for retail sale. 831

(b) Sales to direct marketing vendors of preliminary 832  
materials such as photographs, artwork, and typesetting that 833  
will be used in printing advertising material; and of printed 834  
matter that offers free merchandise or chances to win sweepstake 835  
prizes and that is mailed to potential customers with 836  
advertising material described in division (B) (35) (a) of this 837  
section; 838

(c) Sales of equipment such as telephones, computers, 839  
facsimile machines, and similar tangible personal property 840  
primarily used to accept orders for direct marketing retail 841  
sales. 842

(d) Sales of automatic food vending machines that preserve 843  
food with a shelf life of forty-five days or less by 844  
refrigeration and dispense it to the consumer. 845

For purposes of division (B) (35) of this section, "direct 846  
marketing" means the method of selling where consumers order 847  
tangible personal property by United States mail, delivery 848  
service, or telecommunication and the vendor delivers or ships 849  
the tangible personal property sold to the consumer from a 850  
warehouse, catalogue distribution center, or similar fulfillment 851

facility by means of the United States mail, delivery service, 852  
or common carrier. 853

(36) Sales to a person engaged in the business of 854  
horticulture or producing livestock of materials to be 855  
incorporated into a horticulture structure or livestock 856  
structure; 857

(37) Sales of personal computers, computer monitors, 858  
computer keyboards, modems, and other peripheral computer 859  
equipment to an individual who is licensed or certified to teach 860  
in an elementary or a secondary school in this state for use by 861  
that individual in preparation for teaching elementary or 862  
secondary school students; 863

(38) Sales to a professional racing team of any of the 864  
following: 865

(a) Motor racing vehicles; 866

(b) Repair services for motor racing vehicles; 867

(c) Items of property that are attached to or incorporated 868  
in motor racing vehicles, including engines, chassis, and all 869  
other components of the vehicles, and all spare, replacement, 870  
and rebuilt parts or components of the vehicles; except not 871  
including tires, consumable fluids, paint, and accessories 872  
consisting of instrumentation sensors and related items added to 873  
the vehicle to collect and transmit data by means of telemetry 874  
and other forms of communication. 875

(39) Sales of used manufactured homes and used mobile 876  
homes, as defined in section 5739.0210 of the Revised Code, made 877  
on or after January 1, 2000; 878

(40) Sales of tangible personal property and services to a 879

provider of electricity used or consumed directly and primarily 880  
in generating, transmitting, or distributing electricity for use 881  
by others, including property that is or is to be incorporated 882  
into and will become a part of the consumer's production, 883  
transmission, or distribution system and that retains its 884  
classification as tangible personal property after 885  
incorporation; fuel or power used in the production, 886  
transmission, or distribution of electricity; energy conversion 887  
equipment as defined in section 5727.01 of the Revised Code; and 888  
tangible personal property and services used in the repair and 889  
maintenance of the production, transmission, or distribution 890  
system, including only those motor vehicles as are specially 891  
designed and equipped for such use. The exemption provided in 892  
this division shall be in lieu of all other exemptions in 893  
division (B) (42) (a) or (n) of this section to which a provider 894  
of electricity may otherwise be entitled based on the use of the 895  
tangible personal property or service purchased in generating, 896  
transmitting, or distributing electricity. 897

(41) Sales to a person providing services under division 898  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 899  
personal property and services used directly and primarily in 900  
providing taxable services under that section. 901

(42) Sales where the purpose of the purchaser is to do any 902  
of the following: 903

(a) To incorporate the thing transferred as a material or 904  
a part into tangible personal property to be produced for sale 905  
by manufacturing, assembling, processing, or refining; or to use 906  
or consume the thing transferred directly in producing tangible 907  
personal property for sale by mining, including, without 908  
limitation, the extraction from the earth of all substances that 909

are classed geologically as minerals, production of crude oil 910  
and natural gas, or directly in the rendition of a public 911  
utility service, except that the sales tax levied by this 912  
section shall be collected upon all meals, drinks, and food for 913  
human consumption sold when transporting persons. Persons 914  
engaged in rendering services in the exploration for, and 915  
production of, crude oil and natural gas for others are deemed 916  
engaged directly in the exploration for, and production of, 917  
crude oil and natural gas. This paragraph does not exempt from 918  
"retail sale" or "sales at retail" the sale of tangible personal 919  
property that is to be incorporated into a structure or 920  
improvement to real property. 921

(b) To hold the thing transferred as security for the 922  
performance of an obligation of the vendor; 923

(c) To resell, hold, use, or consume the thing transferred 924  
as evidence of a contract of insurance; 925

(d) To use or consume the thing directly in commercial 926  
fishing; 927

(e) To incorporate the thing transferred as a material or 928  
a part into, or to use or consume the thing transferred directly 929  
in the production of, magazines distributed as controlled 930  
circulation publications; 931

(f) To use or consume the thing transferred in the 932  
production and preparation in suitable condition for market and 933  
sale of printed, imprinted, overprinted, lithographic, 934  
multilithic, blueprinted, photostatic, or other productions or 935  
reproductions of written or graphic matter; 936

(g) To use the thing transferred, as described in section 937  
5739.011 of the Revised Code, primarily in a manufacturing 938



operation to produce tangible personal property for sale;	939
(h) To use the benefit of a warranty, maintenance or	940
service contract, or similar agreement, as described in division	941
(B) (7) of section 5739.01 of the Revised Code, to repair or	942
maintain tangible personal property, if all of the property that	943
is the subject of the warranty, contract, or agreement would not	944
be subject to the tax imposed by this section;	945
(i) To use the thing transferred as qualified research and	946
development equipment;	947
(j) To use or consume the thing transferred primarily in	948
storing, transporting, mailing, or otherwise handling purchased	949
sales inventory in a warehouse, distribution center, or similar	950
facility when the inventory is primarily distributed outside	951
this state to retail stores of the person who owns or controls	952
the warehouse, distribution center, or similar facility, to	953
retail stores of an affiliated group of which that person is a	954
member, or by means of direct marketing. This division does not	955
apply to motor vehicles registered for operation on the public	956
highways. As used in this division, "affiliated group" has the	957
same meaning as in division (B) (3) (e) of section 5739.01 of the	958
Revised Code and "direct marketing" has the same meaning as in	959
division (B) (35) of this section.	960
(k) To use or consume the thing transferred to fulfill a	961
contractual obligation incurred by a warrantor pursuant to a	962
warranty provided as a part of the price of the tangible	963
personal property sold or by a vendor of a warranty, maintenance	964
or service contract, or similar agreement the provision of which	965
is defined as a sale under division (B) (7) of section 5739.01 of	966
the Revised Code;	967

(l) To use or consume the thing transferred in the	968
production of a newspaper for distribution to the public;	969
(m) To use tangible personal property to perform a service	970
listed in division (B) (3) of section 5739.01 of the Revised	971
Code, if the property is or is to be permanently transferred to	972
the consumer of the service as an integral part of the	973
performance of the service;	974
(n) To use or consume the thing transferred primarily in	975
producing tangible personal property for sale by farming,	976
agriculture, horticulture, or floriculture. Persons engaged in	977
rendering farming, agriculture, horticulture, or floriculture	978
services for others are deemed engaged primarily in farming,	979
agriculture, horticulture, or floriculture. This paragraph does	980
not exempt from "retail sale" or "sales at retail" the sale of	981
tangible personal property that is to be incorporated into a	982
structure or improvement to real property.	983
(o) To use or consume the thing transferred in acquiring,	984
formatting, editing, storing, and disseminating data or	985
information by electronic publishing.	986
As used in division (B) (42) of this section, "thing"	987
includes all transactions included in divisions (B) (3) (a), (b),	988
and (e) of section 5739.01 of the Revised Code.	989
(43) Sales conducted through a coin operated device that	990
activates vacuum equipment or equipment that dispenses water,	991
whether or not in combination with soap or other cleaning agents	992
or wax, to the consumer for the consumer's use on the premises	993
in washing, cleaning, or waxing a motor vehicle, provided no	994
other personal property or personal service is provided as part	995
of the transaction.	996

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.	997 998 999 1000 1001 1002
(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.	1003 1004 1005 1006 1007 1008 1009 1010 1011 1012
(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.	1013 1014 1015 1016
(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.	1017 1018 1019
(48) (a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;	1020 1021 1022 1023 1024 1025

(b) As used in division (B) (48) (a) of this section:	1026
(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.	1027 1028 1029 1030 1031
(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.	1032 1033 1034 1035 1036 1037 1038 1039 1040 1041
(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.	1042 1043 1044 1045
(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.	1046 1047 1048 1049 1050 1051 1052 1053
(50) Sales of full flight simulators that are used for	1054

pilot or flight-crew training, sales of repair or replacement 1055  
parts or components, and sales of repair or maintenance services 1056  
for such full flight simulators. "Full flight simulator" means a 1057  
replica of a specific type, or make, model, and series of 1058  
aircraft cockpit. It includes the assemblage of equipment and 1059  
computer programs necessary to represent aircraft operations in 1060  
ground and flight conditions, a visual system providing an out- 1061  
of-the-cockpit view, and a system that provides cues at least 1062  
equivalent to those of a three-degree-of-freedom motion system, 1063  
and has the full range of capabilities of the systems installed 1064  
in the device as described in appendices A and B of part 60 of 1065  
chapter 1 of title 14 of the Code of Federal Regulations. 1066

(51) Any transfer or lease of tangible personal property 1067  
between the state and JobsOhio in accordance with section 1068  
4313.02 of the Revised Code. 1069

(52) (a) Sales to a qualifying corporation. 1070

(b) As used in division (B) (52) of this section: 1071

(i) "Qualifying corporation" means a nonprofit corporation 1072  
organized in this state that leases from an eligible county 1073  
land, buildings, structures, fixtures, and improvements to the 1074  
land that are part of or used in a public recreational facility 1075  
used by a major league professional athletic team or a class A 1076  
to class AAA minor league affiliate of a major league 1077  
professional athletic team for a significant portion of the 1078  
team's home schedule, provided the following apply: 1079

(I) The facility is leased from the eligible county 1080  
pursuant to a lease that requires substantially all of the 1081  
revenue from the operation of the business or activity conducted 1082  
by the nonprofit corporation at the facility in excess of 1083

operating costs, capital expenditures, and reserves to be paid 1084  
to the eligible county at least once per calendar year. 1085

(II) Upon dissolution and liquidation of the nonprofit 1086  
corporation, all of its net assets are distributable to the 1087  
board of commissioners of the eligible county from which the 1088  
corporation leases the facility. 1089

(ii) "Eligible county" has the same meaning as in section 1090  
307.695 of the Revised Code. 1091

(53) Sales to or by a cable service provider, video 1092  
service provider, or radio or television broadcast station 1093  
regulated by the federal government of cable service or 1094  
programming, video service or programming, audio service or 1095  
programming, or electronically transferred digital audiovisual 1096  
or audio work. As used in division (B) (53) of this section, 1097  
"cable service" and "cable service provider" have the same 1098  
meanings as in section 1332.01 of the Revised Code, and "video 1099  
service," "video service provider," and "video programming" have 1100  
the same meanings as in section 1332.21 of the Revised Code. 1101

(54) Sales of investment metal bullion and investment 1102  
coins. "Investment metal bullion" means any bullion described in 1103  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 1104  
whether that bullion is in the physical possession of a trustee. 1105  
"Investment coin" means any coin composed primarily of gold, 1106  
silver, platinum, or palladium. 1107

(C) For the purpose of the proper administration of this 1108  
chapter, and to prevent the evasion of the tax, it is presumed 1109  
that all sales made in this state are subject to the tax until 1110  
the contrary is established. 1111

(D) The levy of this tax on retail sales of recreation and 1112

sports club service shall not prevent a municipal corporation 1113  
from levying any tax on recreation and sports club dues or on 1114  
any income generated by recreation and sports club dues. 1115

(E) The tax collected by the vendor from the consumer 1116  
under this chapter is not part of the price, but is a tax 1117  
collection for the benefit of the state, and of counties levying 1118  
an additional sales tax pursuant to section 5739.021 or 5739.026 1119  
of the Revised Code and of transit authorities levying an 1120  
additional sales tax pursuant to section 5739.023 of the Revised 1121  
Code. Except for the discount authorized under section 5739.12 1122  
of the Revised Code and the effects of any rounding pursuant to 1123  
section 5703.055 of the Revised Code, no person other than the 1124  
state or such a county or transit authority shall derive any 1125  
benefit from the collection or payment of the tax levied by this 1126  
section or section 5739.021, 5739.023, or 5739.026 of the 1127  
Revised Code. 1128

**Section 2.** That existing sections 718.03, 718.05, 5709.17, 1129  
and 5739.02 of the Revised Code are hereby repealed. 1130

**Section 3.** (A) The amendment by this act of section 1131  
5739.02 of the Revised Code applies on and after the first day 1132  
of the first January, April, July, or October that begins at 1133  
least sixty days after the effective date of this act. 1134

(B) The amendment by this act of section 5709.17 of the 1135  
Revised Code applies to applications for exemption that are 1136  
pending on, or are filed after, the effective date of this act. 1137