

_____ moved to amend as follows:

In line 1 of the title, delete "and" and insert ","; after "5739.02" 1
insert ", and 5751.033" 2

In line 3 of the title, after "tax" insert "and to modify the 3
situsing of gross receipts, for commercial activity tax purposes, from the 4
sale of certain motor vehicles" 5

In line 4, delete "and" and insert ","; after "5739.02" insert ", 6
and 5751.033" 7

After line 1968, insert: 8

"Sec. 5751.033. For the purposes of this chapter, gross 9
receipts shall be sitused to this state as follows: 10

(A) Gross rents and royalties from real property located 11
in this state shall be sitused to this state. 12

(B) Gross rents and royalties from tangible personal 13
property shall be sitused to this state to the extent the 14
tangible personal property is located or used in this state. 15

(C) Gross receipts from the sale of electricity and 16



electric transmission and distribution services shall be sitused 17
to this state in the manner provided under section 5733.059 of 18
the Revised Code. 19

(D) Gross receipts from the sale of real property located 20
in this state shall be sitused to this state. 21

(E) ~~Gross~~ Except as otherwise provided in division (M) of 22
this section, gross receipts from the sale of tangible personal 23
property shall be sitused to this state if the property is 24
received in this state by the purchaser. In the case of delivery 25
of tangible personal property by motor carrier or by other means 26
of transportation, the place at which such property is 27
ultimately received after all transportation has been completed 28
shall be considered the place where the purchaser receives the 29
property. For purposes of this section, the phrase "delivery of 30
tangible personal property by motor carrier or by other means of 31
transportation" includes the situation in which a purchaser 32
accepts the property in this state and then transports the 33
property directly or by other means to a location outside this 34
state. Direct delivery in this state, other than for purposes of 35
transportation, to a person or firm designated by a purchaser 36
constitutes delivery to the purchaser in this state, and direct 37
delivery outside this state to a person or firm designated by a 38
purchaser does not constitute delivery to the purchaser in this 39
state, regardless of where title passes or other conditions of 40
sale. 41

(F) Gross receipts from the sale, exchange, disposition, 42
or other grant of the right to use trademarks, trade names, 43
patents, copyrights, and similar intellectual property shall be 44
sitused to this state to the extent that the receipts are based 45
on the amount of use of the property in this state. If the 46

receipts are not based on the amount of use of the property, but 47
rather on the right to use the property, and the payor has the 48
right to use the property in this state, then the receipts from 49
the sale, exchange, disposition, or other grant of the right to 50
use such property shall be sitused to this state to the extent 51
the receipts are based on the right to use the property in this 52
state. 53

(G) Gross receipts from the sale of transportation 54
services by a motor carrier shall be sitused to this state in 55
proportion to the mileage traveled by the carrier during the tax 56
period on roadways, waterways, airways, and railways in this 57
state to the mileage traveled by the carrier during the tax 58
period on roadways, waterways, airways, and railways everywhere. 59
With prior written approval of the tax commissioner, a motor 60
carrier may use an alternative situsing procedure for 61
transportation services. 62

(H) Gross receipts from dividends, interest, and other 63
sources of income from financial instruments described in 64
divisions (F) (4), (5), (6), (7), (8), (9), (10), (11), and (13) 65
of section 5733.056 of the Revised Code shall be sitused to this 66
state in accordance with the situsing provisions set forth in 67
those divisions. When applying the provisions of divisions (F) 68
(6), (8), and (13) of section 5733.056 of the Revised Code, 69
"gross receipts" shall be substituted for "net gains" wherever 70
"net gains" appears in those divisions. Nothing in this division 71
limits or modifies the exclusions enumerated in divisions (E) 72
and (F) (2) of section 5751.01 of the Revised Code. The tax 73
commissioner may promulgate rules to further specify the manner 74
in which to situs gross receipts subject to this division. 75

(I) Gross receipts from the sale of all other services, 76

and all other gross receipts not otherwise situated under this 77
section, shall be situated to this state in the proportion that 78
the purchaser's benefit in this state with respect to what was 79
purchased bears to the purchaser's benefit everywhere with 80
respect to what was purchased. The physical location where the 81
purchaser ultimately uses or receives the benefit of what was 82
purchased shall be paramount in determining the proportion of 83
the benefit in this state to the benefit everywhere. If a 84
taxpayer's records do not allow the taxpayer to determine that 85
location, the taxpayer may use an alternative method to situs 86
gross receipts under this division if the alternative method is 87
reasonable, is consistently and uniformly applied, and is 88
supported by the taxpayer's records as the records exist when 89
the service is provided or within a reasonable period of time 90
thereafter. 91

(J) If the situsing provisions of divisions (A) to (H) of 92
this section do not fairly represent the extent of a person's 93
activity in this state, the person may request, or the tax 94
commissioner may require or permit, an alternative method. Such 95
request by a person must be made within the applicable statute 96
of limitations set forth in this chapter. 97

(K) The tax commissioner may adopt rules to provide 98
additional guidance to the application of this section, and 99
provide alternative methods of situsing gross receipts that 100
apply to all persons, or subset of persons, that are engaged in 101
similar business or trade activities. 102

(L) As used in this section, "motor carrier" has the same 103
meaning as in section 4923.01 of the Revised Code. 104

(M) Gross receipts from the sale or lease of a motor 105
vehicle, as defined in section 4517.01 of the Revised Code, by a 106

motor vehicle dealer licensed under Chapter 4517. of the Revised 107
Code or the law of another state, shall only be sitused to this 108
state if the motor vehicle is issued a certificate of title 109
evidencing the owner's or lessee's address in this state." 110

In line 1969, delete "and" and insert ","; after "5739.02" insert ",
and 5751.033" 111
112

After line 1973, insert: 113

"Section 4. The amendment by this act of section 5751.033 114
of the Revised Code applies to tax periods beginning before, on, 115
or after the effective date of this section." 116

The motion was _____ agreed to.

SYNOPSIS 117

Commercial activity tax situsing: motor vehicle receipts 118

R.C. 5751.033; Section 4 119

For commercial activity tax purposes, situses in Ohio 120
receipts from the sale or lease of a motor vehicle by a motor 121
vehicle dealer only if a certificate of title with an Ohio 122
address is issued for that vehicle. 123

Applies retrospectively and prospectively to all tax 124
periods. 125