

\_\_\_\_\_ moved to amend as follows:

In line 2 of the title, delete the first "and"; after "5723.06" 1  
insert ", and 5751.033" 2

In line 5 of the title, delete "and" and insert "," 3

In line 7 of the title, after "property" insert ", and to modify the 4  
situsing of gross receipts, for commercial activity tax purposes, from the 5  
sale of certain motor vehicles" 6

In line 9, delete the first "and"; after "5723.06" insert ", and 7  
5751.033" 8

After line 915, insert: 9

**"Sec. 5751.033.** For the purposes of this chapter, gross 10  
receipts shall be sitused to this state as follows: 11

(A) Gross rents and royalties from real property located 12  
in this state shall be sitused to this state. 13

(B) Gross rents and royalties from tangible personal 14  
property shall be sitused to this state to the extent the 15  
tangible personal property is located or used in this state. 16



(C) Gross receipts from the sale of electricity and 17  
electric transmission and distribution services shall be sitused 18  
to this state in the manner provided under section 5733.059 of 19  
the Revised Code. 20

(D) Gross receipts from the sale of real property located 21  
in this state shall be sitused to this state. 22

(E) ~~Gross~~ Except as otherwise provided in division (M) of 23  
this section, gross receipts from the sale of tangible personal 24  
property shall be sitused to this state if the property is 25  
received in this state by the purchaser. In the case of delivery 26  
of tangible personal property by motor carrier or by other means 27  
of transportation, the place at which such property is 28  
ultimately received after all transportation has been completed 29  
shall be considered the place where the purchaser receives the 30  
property. For purposes of this section, the phrase "delivery of 31  
tangible personal property by motor carrier or by other means of 32  
transportation" includes the situation in which a purchaser 33  
accepts the property in this state and then transports the 34  
property directly or by other means to a location outside this 35  
state. Direct delivery in this state, other than for purposes of 36  
transportation, to a person or firm designated by a purchaser 37  
constitutes delivery to the purchaser in this state, and direct 38  
delivery outside this state to a person or firm designated by a 39  
purchaser does not constitute delivery to the purchaser in this 40  
state, regardless of where title passes or other conditions of 41  
sale. 42

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

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

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

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

(I) Gross receipts from the sale of all other services, 77  
and all other gross receipts not otherwise situated under this 78  
section, shall be situated to this state in the proportion that 79  
the purchaser's benefit in this state with respect to what was 80  
purchased bears to the purchaser's benefit everywhere with 81  
respect to what was purchased. The physical location where the 82  
purchaser ultimately uses or receives the benefit of what was 83  
purchased shall be paramount in determining the proportion of 84  
the benefit in this state to the benefit everywhere. If a 85  
taxpayer's records do not allow the taxpayer to determine that 86  
location, the taxpayer may use an alternative method to situs 87  
gross receipts under this division if the alternative method is 88  
reasonable, is consistently and uniformly applied, and is 89  
supported by the taxpayer's records as the records exist when 90  
the service is provided or within a reasonable period of time 91  
thereafter. 92

(J) If the situsing provisions of divisions (A) to (H) of 93  
this section do not fairly represent the extent of a person's 94  
activity in this state, the person may request, or the tax 95  
commissioner may require or permit, an alternative method. Such 96  
request by a person must be made within the applicable statute 97  
of limitations set forth in this chapter. 98

(K) The tax commissioner may adopt rules to provide 99  
additional guidance to the application of this section, and 100  
provide alternative methods of situsing gross receipts that 101  
apply to all persons, or subset of persons, that are engaged in 102  
similar business or trade activities. 103

(L) As used in this section, "motor carrier" has the same 104  
meaning as in section 4923.01 of the Revised Code. 105

(M) Gross receipts from the sale or lease of a motor 106

vehicle, as defined in section 4517.01 of the Revised Code, by a 107  
motor vehicle dealer licensed under Chapter 4517. of the Revised 108  
Code or the law of another state, shall only be sitused to this 109  
state if the motor vehicle is issued a certificate of title 110  
evidencing the owner's or lessee's address in this state." 111

In line 917, delete "and"; after "5723.06" insert ", and 5751.033" 112

After line 925, insert: 113

**"Section 4.** The amendment by this act of section 5741.033 114  
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