

I_136_0253-3

136th General Assembly
Regular Session
2025-2026

Sub. H. B. No. 147

To amend sections 5739.02 and 5739.03 and to enact
section 4582.72 of the Revised Code to require
the Tax Credit Authority to grant a sales and
use tax exemption to construction contractors
for certain projects.

1
2
3
4
5

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

Section 1. That sections 5739.02 and 5739.03 be amended
and section 4582.72 of the Revised Code be enacted to read as
follows:

6
7
8

Sec. 4582.72. (A) As used in this section, "minimally
acceptable investments" by a person means both of the following,
together:

9
10
11

(1) Expenditures by the person of at least twenty-five
million dollars for the construction or renovation of
improvements to the real property;

12
13
14

(2) Obligations on the person to fully or partially
finance or otherwise cause to be completed public infrastructure
improvements in the area surrounding the real property.

15
16
17

(B) No port authority created under section 4582.22 of the

18



sjxmh72bxajr3rgkitdr6p

Revised Code shall unreasonably refuse to enter an agreement 19
with a person concerning the construction or renovation of 20
improvements to real property such that the purchase of 21
construction materials and services for the renovation or 22
construction qualifies for the sales tax exemption authorized by 23
division (B) (13) of section 5739.02 of the Revised Code as long 24
as the agreement provides for minimally acceptable investments. 25

(C) A port authority shall be deemed to have unreasonably 26
failed to enter into an agreement under division (B) of this 27
section if such an agreement, with a maximum fee for the port 28
authority of twenty per cent of sales tax savings, is not 29
executed by the port authority within thirty days after a person 30
proposes to the port authority an agreement obligating that 31
person to complete minimally acceptable investments. If such an 32
agreement is not executed by the port authority within that 33
period, the person may present the proposed project and 34
agreement terms to the tax credit authority created under 35
section 122.17 of the Revised Code. 36

Upon receipt of that proposal, the tax credit authority 37
shall verify whether the proposal provides for minimally 38
acceptable investments. If the authority determines that the 39
proposal does provide for minimally acceptable investments, the 40
tax credit authority shall provide the person with a 41
certificate, in a form prescribed by the tax commissioner, 42
authorizing a sales tax exemption under division (B) (13) (j) of 43
section 5739.02 of the Revised Code for construction materials 44
and services to be used in the construction or renovation of 45
improvements to real property that are the primary subject of 46
the minimally acceptable investments. 47

Sec. 5739.02. For the purpose of providing revenue with 48

which to meet the needs of the state, for the use of the general 49
revenue fund of the state, for the purpose of securing a 50
thorough and efficient system of common schools throughout the 51
state, for the purpose of affording revenues, in addition to 52
those from general property taxes, permitted under 53
constitutional limitations, and from other sources, for the 54
support of local governmental functions, and for the purpose of 55
reimbursing the state for the expense of administering this 56
chapter, an excise tax is hereby levied on each retail sale made 57
in this state. 58

(A) (1) The tax shall be collected as provided in section 59
5739.025 of the Revised Code. The rate of the tax shall be five 60
and three-fourths per cent. The tax applies and is collectible 61
when the sale is made, regardless of the time when the price is 62
paid or delivered. 63

(2) In the case of the lease or rental, with a fixed term 64
of more than thirty days or an indefinite term with a minimum 65
period of more than thirty days, of any motor vehicles designed 66
by the manufacturer to carry a load of not more than one ton, 67
watercraft, outboard motor, or aircraft, or of any tangible 68
personal property, other than motor vehicles designed by the 69
manufacturer to carry a load of more than one ton, to be used by 70
the lessee or renter primarily for business purposes, the tax 71
shall be collected by the vendor at the time the lease or rental 72
is consummated and shall be calculated by the vendor on the 73
basis of the total amount to be paid by the lessee or renter 74
under the lease agreement. If the total amount of the 75
consideration for the lease or rental includes amounts that are 76
not calculated at the time the lease or rental is executed, the 77
tax shall be calculated and collected by the vendor at the time 78
such amounts are billed to the lessee or renter. In the case of 79

an open-end lease or rental, the tax shall be calculated by the 80
vendor on the basis of the total amount to be paid during the 81
initial fixed term of the lease or rental, and for each 82
subsequent renewal period as it comes due. As used in this 83
division, "motor vehicle" has the same meaning as in section 84
4501.01 of the Revised Code, and "watercraft" includes an 85
outdrive unit attached to the watercraft. 86

A lease with a renewal clause and a termination penalty or 87
similar provision that applies if the renewal clause is not 88
exercised is presumed to be a sham transaction. In such a case, 89
the tax shall be calculated and paid on the basis of the entire 90
length of the lease period, including any renewal periods, until 91
the termination penalty or similar provision no longer applies. 92
The taxpayer shall bear the burden, by a preponderance of the 93
evidence, that the transaction or series of transactions is not 94
a sham transaction. 95

(3) Except as provided in division (A) (2) of this section, 96
in the case of a sale, the price of which consists in whole or 97
in part of the lease or rental of tangible personal property, 98
the tax shall be measured by the installments of that lease or 99
rental. 100

(4) In the case of a sale of a physical fitness facility 101
service or recreation and sports club service, the price of 102
which consists in whole or in part of a membership for the 103
receipt of the benefit of the service, the tax applicable to the 104
sale shall be measured by the installments thereof. 105

(B) The tax does not apply to the following: 106

(1) Sales to the state or any of its political 107
subdivisions, or to any other state or its political 108

subdivisions if the laws of that state exempt from taxation 109
sales made to this state and its political subdivisions 110
including either of the following: 111

(a) Sales or rentals of tangible personal property by 112
construction contractors or subcontractors to provide temporary 113
traffic control or temporary structures, including material and 114
equipment used to comply with the Ohio manual of uniform traffic 115
control devices adopted pursuant to section 4511.09 of the 116
Revised Code, whereby the state or any of its political 117
subdivisions take title to, or permanent or temporary possession 118
of, such tangible personal property for use by the state or any 119
of its political subdivisions, including for use by the general 120
public thereof; 121

(b) Sales of services by construction contractors or 122
subcontractors to provide temporary traffic control or 123
structures, including labor used to comply with the Ohio manual 124
of uniform traffic control devices adopted pursuant to section 125
4511.09 of the Revised Code, whereby the state or any of its 126
political subdivisions, including the general public thereof, 127
receive the benefit of such services. 128

As used in divisions (B)(1)(a) and (b) of this section, 129
"temporary structures" include temporary roads, bridges, drains, 130
and pavement. 131

(2) Sales of food for human consumption off the premises 132
where sold; 133

(3) Sales of food sold to students only in a cafeteria, 134
dormitory, fraternity, or sorority maintained in a private, 135
public, or parochial school, college, or university; 136

(4) Sales of newspapers and sales or transfers of 137

magazines distributed as controlled circulation publications; 138

(5) The furnishing, preparing, or serving of meals without 139
charge by an employer to an employee provided the employer 140
records the meals as part compensation for services performed or 141
work done; 142

(6) (a) Sales of motor fuel upon receipt, use, 143
distribution, or sale of which in this state a tax is imposed by 144
the law of this state, but this exemption shall not apply to the 145
sale of motor fuel on which a refund of the tax is allowable 146
under division (A) of section 5735.14 of the Revised Code; and 147
the tax commissioner may deduct the amount of tax levied by this 148
section applicable to the price of motor fuel when granting a 149
refund of motor fuel tax pursuant to division (A) of section 150
5735.14 of the Revised Code and shall cause the amount deducted 151
to be paid into the general revenue fund of this state; 152

(b) Sales of motor fuel other than that described in 153
division (B) (6) (a) of this section and used for powering a 154
refrigeration unit on a vehicle other than one used primarily to 155
provide comfort to the operator or occupants of the vehicle. 156

(7) Sales of natural gas by a natural gas company or 157
municipal gas utility, of water by a water-works company, or of 158
steam by a heating company, if in each case the thing sold is 159
delivered to consumers through pipes or conduits, and all sales 160
of communications services by a telegraph company, all terms as 161
defined in section 5727.01 of the Revised Code, and sales of 162
electricity delivered through wires; 163

(8) Casual sales by a person, or auctioneer employed 164
directly by the person to conduct such sales, except as to such 165
sales of motor vehicles, watercraft or outboard motors required 166

to be titled under section 1548.06 of the Revised Code, 167
watercraft documented with the United States coast guard, 168
snowmobiles, and all-purpose vehicles as defined in section 169
4519.01 of the Revised Code; 170

(9) (a) Sales of services or tangible personal property, 171
other than motor vehicles, mobile homes, and manufactured homes, 172
by churches, organizations exempt from taxation under section 173
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 174
organizations operated exclusively for charitable purposes as 175
defined in division (B) (12) of this section, provided that the 176
number of days on which such tangible personal property or 177
services, other than items never subject to the tax, are sold 178
does not exceed six in any calendar year, except as otherwise 179
provided in division (B) (9) (b) of this section. If the number of 180
days on which such sales are made exceeds six in any calendar 181
year, the church or organization shall be considered to be 182
engaged in business and all subsequent sales by it shall be 183
subject to the tax. In counting the number of days, all sales by 184
groups within a church or within an organization shall be 185
considered to be sales of that church or organization. 186

(b) The limitation on the number of days on which tax- 187
exempt sales may be made by a church or organization under 188
division (B) (9) (a) of this section does not apply to sales made 189
by student clubs and other groups of students of a primary or 190
secondary school, or a parent-teacher association, booster 191
group, or similar organization that raises money to support or 192
fund curricular or extracurricular activities of a primary or 193
secondary school. 194

(c) Divisions (B) (9) (a) and (b) of this section do not 195
apply to sales by a noncommercial educational radio or 196

television broadcasting station. 197

(10) Sales not within the taxing power of this state under 198
the Constitution or laws of the United States or the 199
Constitution of this state including either of the following: 200

(a) Sales or rentals of tangible personal property by 201
construction contractors or subcontractors to provide temporary 202
traffic control or temporary structures, including material and 203
equipment used to comply with the Ohio manual of uniform traffic 204
control devices adopted pursuant to section 4511.09 of the 205
Revised Code, whereby the United States takes title to, or 206
permanent or temporary possession of, such tangible personal 207
property for use by the United States including for use by the 208
general public thereof; 209

(b) Sales of services by construction contractors or 210
subcontractors to provide temporary traffic control or 211
structures, including labor used to comply with the Ohio manual 212
of uniform traffic control devices adopted pursuant to section 213
4511.09 of the Revised Code, whereby the United States, 214
including the general public thereof, receives the benefit of 215
such services. 216

As used in divisions (B) (10) (a) and (b) of this section, 217
"temporary structures" include temporary roads, bridges, drains, 218
and pavement. 219

(11) Except for transactions that are sales under division 220
(B) (3) (p) of section 5739.01 of the Revised Code, the 221
transportation of persons or property, unless the transportation 222
is by a private investigation and security service; 223

(12) Sales of tangible personal property or services to 224
churches, to organizations exempt from taxation under section 225

501(c)(3) of the Internal Revenue Code of 1986, and to any other 226
nonprofit organizations operated exclusively for charitable 227
purposes in this state, no part of the net income of which 228
inures to the benefit of any private shareholder or individual, 229
and no substantial part of the activities of which consists of 230
carrying on propaganda or otherwise attempting to influence 231
legislation; sales to offices administering one or more homes 232
for the aged or one or more hospital facilities exempt under 233
section 140.08 of the Revised Code; and sales to organizations 234
described in division (D) of section 5709.12 of the Revised 235
Code. 236

"Charitable purposes" means the relief of poverty; the 237
improvement of health through the alleviation of illness, 238
disease, or injury; the operation of an organization exclusively 239
for the provision of professional, laundry, printing, and 240
purchasing services to hospitals or charitable institutions; the 241
operation of a home for the aged, as defined in section 5701.13 242
of the Revised Code; the operation of a radio or television 243
broadcasting station that is licensed by the federal 244
communications commission as a noncommercial educational radio 245
or television station; the operation of a nonprofit animal 246
adoption service or a county humane society; the promotion of 247
education by an institution of learning that maintains a faculty 248
of qualified instructors, teaches regular continuous courses of 249
study, and confers a recognized diploma upon completion of a 250
specific curriculum; the operation of a parent-teacher 251
association, booster group, or similar organization primarily 252
engaged in the promotion and support of the curricular or 253
extracurricular activities of a primary or secondary school; the 254
operation of a community or area center in which presentations 255
in music, dramatics, the arts, and related fields are made in 256

order to foster public interest and education therein; the 257
production of performances in music, dramatics, and the arts; or 258
the promotion of education by an organization engaged in 259
carrying on research in, or the dissemination of, scientific and 260
technological knowledge and information primarily for the 261
public. 262

Nothing in this division shall be deemed to exempt sales 263
to any organization for use in the operation or carrying on of a 264
trade or business, or sales to a home for the aged for use in 265
the operation of independent living facilities as defined in 266
division (A) of section 5709.12 of the Revised Code. 267

(13) All of the following: 268

(a) Building and construction materials and services sold 269
to construction contractors for incorporation into a structure 270
or improvement to real property under a construction contract 271
with this state or a political subdivision of this state, or 272
with the United States government or any of its agencies; 273
~~building-~~ 274

(b) Building and construction materials and services sold 275
to construction contractors for incorporation into a structure 276
or improvement to real property that are accepted for ownership 277
by this state or any of its political subdivisions, or by the 278
United States government or any of its agencies at the time of 279
completion of the structures or improvements; ~~building-~~ 280

(c) Building and construction materials sold to 281
construction contractors for incorporation into a horticulture 282
structure or livestock structure for a person engaged in the 283
business of horticulture or producing livestock; building 284
materials and services sold to a construction contractor for 285

incorporation into a house of public worship or religious 286
education, or a building used exclusively for charitable 287
purposes under a construction contract with an organization 288
whose purpose is as described in division (B) (12) of this 289
section; ~~building~~ 290

(d) Building materials and services sold to a construction 291
contractor for incorporation into a building under a 292
construction contract with an organization exempt from taxation 293
under section 501(c) (3) of the Internal Revenue Code of 1986 294
when the building is to be used exclusively for the 295
organization's exempt purposes; ~~tangible~~ 296

(e) Tangible personal property sold for incorporation into 297
the construction of a sports facility under section 307.696 of 298
the Revised Code; ~~building~~ 299

(f) Building and construction materials and services sold 300
to a construction contractor for incorporation into real 301
property outside this state if such materials and services, when 302
sold to a construction contractor in the state in which the real 303
property is located for incorporation into real property in that 304
state, would be exempt from a tax on sales levied by that state; 305
~~building~~ 306

(g) Building and construction materials for incorporation 307
into a transportation facility pursuant to a public-private 308
agreement entered into under sections 5501.70 to 5501.83 of the 309
Revised Code; ~~until~~ 310

(h) Until one calendar year after the construction of a 311
convention center that qualifies for property tax exemption 312
under section 5709.084 of the Revised Code is completed, 313
building and construction materials and services sold to a 314

construction contractor for incorporation into the real property 315
comprising that convention center; ~~and building~~ 316

(i) Building and construction materials sold for 317
incorporation into a structure or improvement to real property 318
that is used primarily as, or primarily in support of, a 319
manufacturing facility or research and development facility and 320
that is to be owned by a megaproject operator upon completion 321
and located at the site of a megaproject that satisfies the 322
criteria described in division (A) (11) (a) (ii) of section 122.17 323
of the Revised Code, provided that the sale occurs during the 324
period that the megaproject operator has an agreement for such 325
megaproject with the tax credit authority under division (D) of 326
section 122.17 of the Revised Code that remains in effect and 327
has not expired or been terminated; 328

(j) Building and construction materials and services sold 329
to construction contractors for incorporation into a structure 330
or improvement to real property for which an exemption 331
certificate has been issued under section 4582.72 of the Revised 332
Code. 333

(14) Sales of ships or vessels or rail rolling stock used 334
or to be used principally in interstate or foreign commerce, and 335
repairs, alterations, fuel, and lubricants for such ships or 336
vessels or rail rolling stock; 337

(15) Sales to persons primarily engaged in any of the 338
activities mentioned in division (B) (42) (a), (g), or (h) of this 339
section, to persons engaged in making retail sales, or to 340
persons who purchase for sale from a manufacturer tangible 341
personal property that was produced by the manufacturer in 342
accordance with specific designs provided by the purchaser, of 343
packages, including material, labels, and parts for packages, 344

and of machinery, equipment, and material for use primarily in 345
packaging tangible personal property produced for sale, 346
including any machinery, equipment, and supplies used to make 347
labels or packages, to prepare packages or products for 348
labeling, or to label packages or products, by or on the order 349
of the person doing the packaging, or sold at retail. "Packages" 350
includes bags, baskets, cartons, crates, boxes, cans, bottles, 351
bindings, wrappings, and other similar devices and containers, 352
but does not include motor vehicles or bulk tanks, trailers, or 353
similar devices attached to motor vehicles. "Packaging" means 354
placing in a package. Division (B) (15) of this section does not 355
apply to persons engaged in highway transportation for hire. 356

(16) Sales of food to persons using supplemental nutrition 357
assistance program benefits to purchase the food. As used in 358
this division, "food" has the same meaning as in 7 U.S.C. 2012 359
and federal regulations adopted pursuant to the Food and 360
Nutrition Act of 2008. 361

(17) Sales to persons engaged in farming, agriculture, 362
horticulture, or floriculture, of tangible personal property for 363
use or consumption primarily in the production by farming, 364
agriculture, horticulture, or floriculture of other tangible 365
personal property for use or consumption primarily in the 366
production of tangible personal property for sale by farming, 367
agriculture, horticulture, or floriculture; or material and 368
parts for incorporation into any such tangible personal property 369
for use or consumption in production; and of tangible personal 370
property for such use or consumption in the conditioning or 371
holding of products produced by and for such use, consumption, 372
or sale by persons engaged in farming, agriculture, 373
horticulture, or floriculture, except where such property is 374
incorporated into real property; 375

(18) Sales of drugs for a human being that may be 376
dispensed only pursuant to a prescription; insulin as recognized 377
in the official United States pharmacopoeia; urine and blood 378
testing materials when used by diabetics or persons with 379
hypoglycemia to test for glucose or acetone; hypodermic syringes 380
and needles when used by diabetics for insulin injections; 381
epoetin alfa when purchased for use in the treatment of persons 382
with medical disease; hospital beds when purchased by hospitals, 383
nursing homes, or other medical facilities; and medical oxygen 384
and medical oxygen-dispensing equipment when purchased by 385
hospitals, nursing homes, or other medical facilities; 386

(19) Sales of prosthetic devices, durable medical 387
equipment for home use, or mobility enhancing equipment, when 388
made pursuant to a prescription and when such devices or 389
equipment are for use by a human being. 390

(20) Sales of emergency and fire protection vehicles and 391
equipment to nonprofit organizations for use solely in providing 392
fire protection and emergency services, including trauma care 393
and emergency medical services, for political subdivisions of 394
the state; 395

(21) Sales of tangible personal property manufactured in 396
this state, if sold by the manufacturer in this state to a 397
retailer for use in the retail business of the retailer outside 398
of this state and if possession is taken from the manufacturer 399
by the purchaser within this state for the sole purpose of 400
immediately removing the same from this state in a vehicle owned 401
by the purchaser; 402

(22) Sales of services provided by the state or any of its 403
political subdivisions, agencies, instrumentalities, 404
institutions, or authorities, or by governmental entities of the 405

state or any of its political subdivisions, agencies, 406
instrumentalities, institutions, or authorities; 407

(23) Sales of motor vehicles to nonresidents of this state 408
under the circumstances described in division (B) of section 409
5739.029 of the Revised Code; 410

(24) Sales to persons engaged in the preparation of eggs 411
for sale of tangible personal property used or consumed directly 412
in such preparation, including such tangible personal property 413
used for cleaning, sanitizing, preserving, grading, sorting, and 414
classifying by size; packages, including material and parts for 415
packages, and machinery, equipment, and material for use in 416
packaging eggs for sale; and handling and transportation 417
equipment and parts therefor, except motor vehicles licensed to 418
operate on public highways, used in intraplant or interplant 419
transfers or shipment of eggs in the process of preparation for 420
sale, when the plant or plants within or between which such 421
transfers or shipments occur are operated by the same person. 422
"Packages" includes containers, cases, baskets, flats, fillers, 423
filler flats, cartons, closure materials, labels, and labeling 424
materials, and "packaging" means placing therein. 425

(25) (a) Sales of water to a consumer for residential use; 426

(b) Sales of water by a nonprofit corporation engaged 427
exclusively in the treatment, distribution, and sale of water to 428
consumers, if such water is delivered to consumers through pipes 429
or tubing. 430

(26) Fees charged for inspection or reinspection of motor 431
vehicles under section 3704.14 of the Revised Code; 432

(27) Sales to persons licensed to conduct a food service 433
operation pursuant to section 3717.43 of the Revised Code, of 434

tangible personal property primarily used directly for the 435
following: 436

(a) To prepare food for human consumption for sale; 437

(b) To preserve food that has been or will be prepared for 438
human consumption for sale by the food service operator, not 439
including tangible personal property used to display food for 440
selection by the consumer; 441

(c) To clean tangible personal property used to prepare or 442
serve food for human consumption for sale. 443

(28) Sales of animals by nonprofit animal adoption 444
services or county humane societies; 445

(29) Sales of services to a corporation described in 446
division (A) of section 5709.72 of the Revised Code, and sales 447
of tangible personal property that qualifies for exemption from 448
taxation under section 5709.72 of the Revised Code; 449

(30) Sales and installation of agricultural land tile, as 450
defined in division (B) (5) (a) of section 5739.01 of the Revised 451
Code; 452

(31) Sales and erection or installation of portable grain 453
bins, as defined in division (B) (5) (b) of section 5739.01 of the 454
Revised Code; 455

(32) The sale, lease, repair, and maintenance of, parts 456
for, or items attached to or incorporated in, motor vehicles 457
that are primarily used for transporting tangible personal 458
property belonging to others by a person engaged in highway 459
transportation for hire, except for packages and packaging used 460
for the transportation of tangible personal property; 461

(33) Sales to the state headquarters of any veterans' 462

organization in this state that is either incorporated and 463
issued a charter by the congress of the United States or is 464
recognized by the United States veterans administration, for use 465
by the headquarters; 466

(34) Sales to a telecommunications service vendor, mobile 467
telecommunications service vendor, or satellite broadcasting 468
service vendor of tangible personal property and services used 469
directly and primarily in transmitting, receiving, switching, or 470
recording any interactive, one- or two-way electromagnetic 471
communications, including voice, image, data, and information, 472
through the use of any medium, including, but not limited to, 473
poles, wires, cables, switching equipment, computers, and record 474
storage devices and media, and component parts for the tangible 475
personal property. The exemption provided in this division shall 476
be in lieu of all other exemptions under division (B) (42) (a) or 477
(n) of this section to which the vendor may otherwise be 478
entitled, based upon the use of the thing purchased in providing 479
the telecommunications, mobile telecommunications, or satellite 480
broadcasting service. 481

(35) (a) Sales where the purpose of the consumer is to use 482
or consume the things transferred in making retail sales and 483
consisting of newspaper inserts, catalogues, coupons, flyers, 484
gift certificates, or other advertising material that prices and 485
describes tangible personal property offered for retail sale. 486

(b) Sales to direct marketing vendors of preliminary 487
materials such as photographs, artwork, and typesetting that 488
will be used in printing advertising material; and of printed 489
matter that offers free merchandise or chances to win sweepstake 490
prizes and that is mailed to potential customers with 491
advertising material described in division (B) (35) (a) of this 492

section; 493

(c) Sales of equipment such as telephones, computers, 494
facsimile machines, and similar tangible personal property 495
primarily used to accept orders for direct marketing retail 496
sales. 497

(d) Sales of automatic food vending machines that preserve 498
food with a shelf life of forty-five days or less by 499
refrigeration and dispense it to the consumer. 500

For purposes of division (B) (35) of this section, "direct 501
marketing" means the method of selling where consumers order 502
tangible personal property by United States mail, delivery 503
service, or telecommunication and the vendor delivers or ships 504
the tangible personal property sold to the consumer from a 505
warehouse, catalogue distribution center, or similar fulfillment 506
facility by means of the United States mail, delivery service, 507
or common carrier. 508

(36) Sales to a person engaged in the business of 509
horticulture or producing livestock of materials to be 510
incorporated into a horticulture structure or livestock 511
structure; 512

(37) Sales of personal computers, computer monitors, 513
computer keyboards, modems, and other peripheral computer 514
equipment to an individual who is licensed or certified to teach 515
in an elementary or a secondary school in this state for use by 516
that individual in preparation for teaching elementary or 517
secondary school students; 518

(38) Sales of tangible personal property that is not 519
required to be registered or licensed under the laws of this 520
state to a citizen of a foreign nation that is not a citizen of 521

the United States, provided the property is delivered to a 522
person in this state that is not a related member of the 523
purchaser, is physically present in this state for the sole 524
purpose of temporary storage and package consolidation, and is 525
subsequently delivered to the purchaser at a delivery address in 526
a foreign nation. As used in division (B) (38) of this section, 527
"related member" has the same meaning as in section 5733.042 of 528
the Revised Code, and "temporary storage" means the storage of 529
tangible personal property for a period of not more than sixty 530
days. 531

(39) Sales of used manufactured homes and used mobile 532
homes, as defined in section 5739.0210 of the Revised Code, made 533
on or after January 1, 2000; 534

(40) Sales of tangible personal property and services to a 535
provider of electricity used or consumed directly and primarily 536
in generating, transmitting, or distributing electricity for use 537
by others, including property that is or is to be incorporated 538
into and will become a part of the consumer's production, 539
transmission, or distribution system and that retains its 540
classification as tangible personal property after 541
incorporation; fuel or power used in the production, 542
transmission, or distribution of electricity; energy conversion 543
equipment as defined in section 5727.01 of the Revised Code; and 544
tangible personal property and services used in the repair and 545
maintenance of the production, transmission, or distribution 546
system, including only those motor vehicles as are specially 547
designed and equipped for such use. The exemption provided in 548
this division shall be in lieu of all other exemptions in 549
division (B) (42) (a) or (n) of this section to which a provider 550
of electricity may otherwise be entitled based on the use of the 551
tangible personal property or service purchased in generating, 552

transmitting, or distributing electricity. 553

(41) Sales to a person providing services under division 554
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 555
personal property and services used directly and primarily in 556
providing taxable services under that section. 557

(42) Sales where the purpose of the purchaser is to do any 558
of the following: 559

(a) To incorporate the thing transferred as a material or 560
a part into tangible personal property to be produced for sale 561
by manufacturing, assembling, processing, or refining; or to use 562
or consume the thing transferred directly in producing tangible 563
personal property for sale by mining, including, without 564
limitation, the extraction from the earth of all substances that 565
are classed geologically as minerals, or directly in the 566
rendition of a public utility service, except that the sales tax 567
levied by this section shall be collected upon all meals, 568
drinks, and food for human consumption sold when transporting 569
persons. This paragraph does not exempt from "retail sale" or 570
"sales at retail" the sale of tangible personal property that is 571
to be incorporated into a structure or improvement to real 572
property. 573

(b) To hold the thing transferred as security for the 574
performance of an obligation of the vendor; 575

(c) To resell, hold, use, or consume the thing transferred 576
as evidence of a contract of insurance; 577

(d) To use or consume the thing directly in commercial 578
fishing; 579

(e) To incorporate the thing transferred as a material or 580
a part into, or to use or consume the thing transferred directly 581

in the production of, magazines distributed as controlled 582
circulation publications; 583

(f) To use or consume the thing transferred in the 584
production and preparation in suitable condition for market and 585
sale of printed, imprinted, overprinted, lithographic, 586
multilithic, blueprinted, photostatic, or other productions or 587
reproductions of written or graphic matter; 588

(g) To use the thing transferred, as described in section 589
5739.011 of the Revised Code, primarily in a manufacturing 590
operation to produce tangible personal property for sale; 591

(h) To use the benefit of a warranty, maintenance or 592
service contract, or similar agreement, as described in division 593
(B) (7) of section 5739.01 of the Revised Code, to repair or 594
maintain tangible personal property, if all of the property that 595
is the subject of the warranty, contract, or agreement would not 596
be subject to the tax imposed by this section; 597

(i) To use the thing transferred as qualified research and 598
development equipment; 599

(j) To use or consume the thing transferred primarily in 600
storing, transporting, mailing, or otherwise handling purchased 601
sales inventory in a warehouse, distribution center, or similar 602
facility when the inventory is primarily distributed outside 603
this state to retail stores of the person who owns or controls 604
the warehouse, distribution center, or similar facility, to 605
retail stores of an affiliated group of which that person is a 606
member, or by means of direct marketing. This division does not 607
apply to motor vehicles registered for operation on the public 608
highways. As used in this division, "affiliated group" has the 609
same meaning as in division (B) (3) (e) of section 5739.01 of the 610

Revised Code and "direct marketing" has the same meaning as in 611
division (B) (35) of this section. 612

(k) To use or consume the thing transferred to fulfill a 613
contractual obligation incurred by a warrantor pursuant to a 614
warranty provided as a part of the price of the tangible 615
personal property sold or by a vendor of a warranty, maintenance 616
or service contract, or similar agreement the provision of which 617
is defined as a sale under division (B) (7) of section 5739.01 of 618
the Revised Code; 619

(l) To use or consume the thing transferred in the 620
production of a newspaper for distribution to the public; 621

(m) To use tangible personal property to perform a service 622
listed in division (B) (3) of section 5739.01 of the Revised 623
Code, if the property is or is to be permanently transferred to 624
the consumer of the service as an integral part of the 625
performance of the service; 626

(n) To use or consume the thing transferred primarily in 627
producing tangible personal property for sale by farming, 628
agriculture, horticulture, or floriculture. Persons engaged in 629
rendering farming, agriculture, horticulture, or floriculture 630
services for others are deemed engaged primarily in farming, 631
agriculture, horticulture, or floriculture. This paragraph does 632
not exempt from "retail sale" or "sales at retail" the sale of 633
tangible personal property that is to be incorporated into a 634
structure or improvement to real property. 635

(o) To use or consume the thing transferred in acquiring, 636
formatting, editing, storing, and disseminating data or 637
information by electronic publishing; 638

(p) To provide the thing transferred to the owner or 639

lessee of a motor vehicle that is being repaired or serviced, if 640
the thing transferred is a rented motor vehicle and the 641
purchaser is reimbursed for the cost of the rented motor vehicle 642
by a manufacturer, warrantor, or provider of a maintenance, 643
service, or other similar contract or agreement, with respect to 644
the motor vehicle that is being repaired or serviced; 645

(q) To use or consume the thing transferred directly in 646
production of crude oil and natural gas for sale. Persons 647
engaged in rendering production services for others are deemed 648
engaged in production. 649

As used in division (B) (42) (q) of this section, 650
"production" means operations and tangible personal property 651
directly used to expose and evaluate an underground reservoir 652
that may contain hydrocarbon resources, prepare the wellbore for 653
production, and lift and control all substances yielded by the 654
reservoir to the surface of the earth. 655

(i) For the purposes of division (B) (42) (q) of this 656
section, the "thing transferred" includes, but is not limited 657
to, any of the following: 658

(I) Services provided in the construction of permanent 659
access roads, services provided in the construction of the well 660
site, and services provided in the construction of temporary 661
impoundments; 662

(II) Equipment and rigging used for the specific purpose 663
of creating with integrity a wellbore pathway to underground 664
reservoirs; 665

(III) Drilling and workover services used to work within a 666
subsurface wellbore, and tangible personal property directly 667
used in providing such services; 668

(IV) Casing, tubulars, and float and centralizing equipment;	669 670
(V) Trailers to which production equipment is attached;	671
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	672 673 674
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	675 676 677
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	678 679 680 681
(IX) Pressure pumping equipment;	682
(X) Artificial lift systems equipment;	683
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	684 685 686
(XII) Tangible personal property directly used to control production equipment.	687 688
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	689 690 691
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	692 693 694
(II) Tangible personal property used primarily in storing,	695

holding, or delivering solutions or chemicals used in well	696
stimulation as defined in section 1509.01 of the Revised Code;	697
(III) Tangible personal property used primarily in	698
preparing, installing, or reclaiming foundations for drilling or	699
pumping equipment or well stimulation material tanks;	700
(IV) Tangible personal property used primarily in	701
transporting, delivering, or removing equipment to or from the	702
well site or storing such equipment before its use at the well	703
site;	704
(V) Tangible personal property used primarily in gathering	705
operations occurring off the well site, including gathering	706
pipelines transporting hydrocarbon gas or liquids away from a	707
crude oil or natural gas production facility;	708
(VI) Tangible personal property that is to be incorporated	709
into a structure or improvement to real property;	710
(VII) Well site fencing, lighting, or security systems;	711
(VIII) Communication devices or services;	712
(IX) Office supplies;	713
(X) Trailers used as offices or lodging;	714
(XI) Motor vehicles of any kind;	715
(XII) Tangible personal property used primarily for the	716
storage of drilling byproducts and fuel not used for production;	717
(XIII) Tangible personal property used primarily as a	718
safety device;	719
(XIV) Data collection or monitoring devices;	720
(XV) Access ladders, stairs, or platforms attached to	721

storage tanks. 722

The enumeration of tangible personal property in division 723
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 724
and any tangible personal property not so enumerated shall not 725
necessarily be construed to be a "thing transferred" for the 726
purposes of division (B) (42) (q) of this section. 727

The commissioner shall adopt and promulgate rules under 728
sections 119.01 to 119.13 of the Revised Code that the 729
commissioner deems necessary to administer division (B) (42) (q) 730
of this section. 731

As used in division (B) (42) of this section, "thing" 732
includes all transactions included in divisions (B) (3) (a), (b), 733
and (e) of section 5739.01 of the Revised Code. 734

(43) Sales conducted through a coin operated device that 735
activates vacuum equipment or equipment that dispenses water, 736
whether or not in combination with soap or other cleaning agents 737
or wax, to the consumer for the consumer's use on the premises 738
in washing, cleaning, or waxing a motor vehicle, provided no 739
other personal property or personal service is provided as part 740
of the transaction. 741

(44) Sales of replacement and modification parts for 742
engines, airframes, instruments, and interiors in, and paint 743
for, aircraft used primarily in a fractional aircraft ownership 744
program, and sales of services for the repair, modification, and 745
maintenance of such aircraft, and machinery, equipment, and 746
supplies primarily used to provide those services. 747

(45) Sales of telecommunications service that is used 748
directly and primarily to perform the functions of a call 749
center. As used in this division, "call center" means any 750

physical location where telephone calls are placed or received 751
in high volume for the purpose of making sales, marketing, 752
customer service, technical support, or other specialized 753
business activity, and that employs at least fifty individuals 754
that engage in call center activities on a full-time basis, or 755
sufficient individuals to fill fifty full-time equivalent 756
positions. 757

(46) Sales by a telecommunications service vendor of 900 758
service to a subscriber. This division does not apply to 759
information services. 760

(47) Sales of value-added non-voice data service. This 761
division does not apply to any similar service that is not 762
otherwise a telecommunications service. 763

(48) Sales of feminine hygiene products. 764

(49) Sales of materials, parts, equipment, or engines used 765
in the repair or maintenance of aircraft or avionics systems of 766
such aircraft, and sales of repair, remodeling, replacement, or 767
maintenance services in this state performed on aircraft or on 768
an aircraft's avionics, engine, or component materials or parts. 769
As used in division (B) (49) of this section, "aircraft" means 770
aircraft of more than six thousand pounds maximum certified 771
takeoff weight or used exclusively in general aviation. 772

(50) Sales of full flight simulators that are used for 773
pilot or flight-crew training, sales of repair or replacement 774
parts or components, and sales of repair or maintenance services 775
for such full flight simulators. "Full flight simulator" means a 776
replica of a specific type, or make, model, and series of 777
aircraft cockpit. It includes the assemblage of equipment and 778
computer programs necessary to represent aircraft operations in 779

ground and flight conditions, a visual system providing an out- 780
of-the-cockpit view, and a system that provides cues at least 781
equivalent to those of a three-degree-of-freedom motion system, 782
and has the full range of capabilities of the systems installed 783
in the device as described in appendices A and B of part 60 of 784
chapter 1 of title 14 of the Code of Federal Regulations. 785

(51) Any transfer or lease of tangible personal property 786
between the state and JobsOhio in accordance with section 787
4313.02 of the Revised Code. 788

(52) (a) Sales to a qualifying corporation. 789

(b) As used in division (B) (52) of this section: 790

(i) "Qualifying corporation" means a nonprofit corporation 791
organized in this state that leases from an eligible county 792
land, buildings, structures, fixtures, and improvements to the 793
land that are part of or used in a public recreational facility 794
used by a major league professional athletic team or a class A 795
to class AAA minor league affiliate of a major league 796
professional athletic team for a significant portion of the 797
team's home schedule, provided the following apply: 798

(I) The facility is leased from the eligible county 799
pursuant to a lease that requires substantially all of the 800
revenue from the operation of the business or activity conducted 801
by the nonprofit corporation at the facility in excess of 802
operating costs, capital expenditures, and reserves to be paid 803
to the eligible county at least once per calendar year. 804

(II) Upon dissolution and liquidation of the nonprofit 805
corporation, all of its net assets are distributable to the 806
board of commissioners of the eligible county from which the 807
corporation leases the facility. 808

(ii) "Eligible county" has the same meaning as in section 809
307.695 of the Revised Code. 810

(53) Sales to or by a cable service provider, video 811
service provider, or radio or television broadcast station 812
regulated by the federal government of cable service or 813
programming, video service or programming, audio service or 814
programming, or electronically transferred digital audiovisual 815
or audio work. As used in division (B) (53) of this section, 816
"cable service" and "cable service provider" have the same 817
meanings as in section 1332.01 of the Revised Code, and "video 818
service," "video service provider," and "video programming" have 819
the same meanings as in section 1332.21 of the Revised Code. 820

(54) Sales of a digital audio work electronically 821
transferred for delivery through use of a machine, such as a 822
juke box, that does all of the following: 823

(a) Accepts direct payments to operate; 824

(b) Automatically plays a selected digital audio work for 825
a single play upon receipt of a payment described in division 826
(B) (54) (a) of this section; 827

(c) Operates exclusively for the purpose of playing 828
digital audio works in a commercial establishment. 829

(55) (a) Sales of the following occurring on the first 830
Friday of August and the following Saturday and Sunday of any 831
year, except in 2024 or any subsequent year in which a sales tax 832
holiday is held pursuant to section 5739.41 of the Revised Code: 833

(i) An item of clothing, the price of which is seventy- 834
five dollars or less; 835

(ii) An item of school supplies, the price of which is 836

twenty dollars or less; 837

(iii) An item of school instructional material, the price 838
of which is twenty dollars or less. 839

(b) As used in division (B) (55) of this section: 840

(i) "Clothing" means all human wearing apparel suitable 841
for general use. "Clothing" includes, but is not limited to, 842
aprons, household and shop; athletic supporters; baby receiving 843
blankets; bathing suits and caps; beach capes and coats; belts 844
and suspenders; boots; coats and jackets; costumes; diapers, 845
children and adult, including disposable diapers; earmuffs; 846
footlets; formal wear; garters and garter belts; girdles; gloves 847
and mittens for general use; hats and caps; hosiery; insoles for 848
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 849
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 850
sneakers; socks and stockings; steel-toed shoes; underwear; 851
uniforms, athletic and nonathletic; and wedding apparel. 852
"Clothing" does not include items purchased for use in a trade 853
or business; clothing accessories or equipment; protective 854
equipment; sports or recreational equipment; belt buckles sold 855
separately; costume masks sold separately; patches and emblems 856
sold separately; sewing equipment and supplies including, but 857
not limited to, knitting needles, patterns, pins, scissors, 858
sewing machines, sewing needles, tape measures, and thimbles; 859
and sewing materials that become part of "clothing" including, 860
but not limited to, buttons, fabric, lace, thread, yarn, and 861
zippers. 862

(ii) "School supplies" means items commonly used by a 863
student in a course of study. "School supplies" includes only 864
the following items: binders; book bags; calculators; cellophane 865
tape; blackboard chalk; compasses; composition books; crayons; 866

erasers; folders, expandable, pocket, plastic, and manila; glue, 867
paste, and paste sticks; highlighters; index cards; index card 868
boxes; legal pads; lunch boxes; markers; notebooks; paper, 869
loose-leaf ruled notebook paper, copy paper, graph paper, 870
tracing paper, manila paper, colored paper, poster board, and 871
construction paper; pencil boxes and other school supply boxes; 872
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 873
and writing tablets. "School supplies" does not include any item 874
purchased for use in a trade or business. 875

(iii) "School instructional material" means written 876
material commonly used by a student in a course of study as a 877
reference and to learn the subject being taught. "School 878
instructional material" includes only the following items: 879
reference books, reference maps and globes, textbooks, and 880
workbooks. "School instructional material" does not include any 881
material purchased for use in a trade or business. 882

(56) (a) Sales of adult diapers or incontinence underpads 883
sold pursuant to a prescription, for the benefit of a medicaid 884
recipient with a diagnosis of incontinence, and by a medicaid 885
provider that maintains a valid provider agreement under section 886
5164.30 of the Revised Code with the department of medicaid, 887
provided that the medicaid program covers diapers or 888
incontinence underpads as an incontinence garment. 889

(b) As used in division (B) (56) (a) of this section, 890
"incontinence underpad" means an absorbent product, not worn on 891
the body, designed to protect furniture or other tangible 892
personal property from soiling or damage due to human 893
incontinence. 894

(57) Sales of investment metal bullion and investment 895
coins. "Investment metal bullion" means any bullion described in 896

section 408(m) (3) (B) of the Internal Revenue Code, regardless of 897
whether that bullion is in the physical possession of a trustee. 898
"Investment coin" means any coin composed primarily of gold, 899
silver, platinum, or palladium. 900

(58) Sales of tangible personal property used primarily 901
for any of the following purposes by a megaproject operator at 902
the site of a megaproject that satisfies the criteria described 903
in division (A) (11) (a) (ii) of section 122.17 of the Revised 904
Code, provided that the sale occurs during the period that the 905
megaproject operator has an agreement for such megaproject with 906
the tax credit authority under division (D) of section 122.17 of 907
the Revised Code that remains in effect and has not expired or 908
been terminated: 909

(a) To store, transmit, convey, distribute, recycle, 910
circulate, or clean water, steam, or other gases used in or 911
produced as a result of manufacturing activity, including items 912
that support or aid in the operation of such property; 913

(b) To clean or prepare inventory, at any stage of storage 914
or production, or equipment used in a manufacturing activity, 915
including chemicals, solvents, catalysts, soaps, and other items 916
that support or aid in the operation of property; 917

(c) To regulate, treat, filter, condition, improve, clean, 918
maintain, or monitor environmental conditions within areas where 919
manufacturing activities take place; 920

(d) To handle, transport, or convey inventory during 921
production or manufacturing. 922

(59) Documentary services charges imposed pursuant to 923
section 4517.261 or 4781.24 of the Revised Code. 924

(60) Sales of children's diapers. 925

(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.	926 927
(62) Sales of a child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.	928 929 930
(63) Sales of cribs intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219 or the commission's safety standard for non-full-size baby cribs under 16 C.F.R. 1220.	931 932 933 934 935
(64) Sales of strollers meant for transporting children from infancy to about thirty-six months of age that meet the United States consumer product safety commission safety standard for carriages and strollers under 16 C.F.R. 1227.2.	936 937 938 939
(65) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.	940 941 942 943
(66) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.	944 945 946
(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.	947 948 949 950
(D) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026	951 952 953 954

of the Revised Code and of transit authorities levying an 955
additional sales tax pursuant to section 5739.023 of the Revised 956
Code. Except for the discount authorized under section 5739.12 957
of the Revised Code and the effects of any rounding pursuant to 958
section 5703.055 of the Revised Code, no person other than the 959
state or such a county or transit authority shall derive any 960
benefit from the collection or payment of the tax levied by this 961
section or section 5739.021, 5739.023, or 5739.026 of the 962
Revised Code. 963

Sec. 5739.03. (A) Except as provided in section 5739.05 or 964
section 5739.051 of the Revised Code, the tax imposed by or 965
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 966
the Revised Code shall be paid by the consumer to the vendor, 967
and each vendor shall collect from the consumer, as a trustee 968
for the state of Ohio, the full and exact amount of the tax 969
payable on each taxable sale, in the manner and at the times 970
provided as follows: 971

(1) If the price is, at or prior to the provision of the 972
service or the delivery of possession of the thing sold to the 973
consumer, paid in currency passed from hand to hand by the 974
consumer or the consumer's agent to the vendor or the vendor's 975
agent, the vendor or the vendor's agent shall collect the tax 976
with and at the same time as the price; 977

(2) If the price is otherwise paid or to be paid, the 978
vendor or the vendor's agent shall, at or prior to the provision 979
of the service or the delivery of possession of the thing sold 980
to the consumer, charge the tax imposed by or pursuant to 981
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 982
Code to the account of the consumer, which amount shall be 983
collected by the vendor from the consumer in addition to the 984

price. Such sale shall be reported on and the amount of the tax 985
applicable thereto shall be remitted with the return for the 986
period in which the sale is made, and the amount of the tax 987
shall become a legal charge in favor of the vendor and against 988
the consumer. 989

(B) (1) (a) If any sale is claimed to be exempt under 990
division (E) of section 5739.01 of the Revised Code or under 991
section 5739.02 of the Revised Code, with the exception of 992
divisions (B) (1) to (11), (28), (48), (55), (59), or (66) of 993
section 5739.02 of the Revised Code, the consumer must provide 994
to the vendor, and the vendor must obtain from the consumer, a 995
certificate specifying the reason that the sale is not legally 996
subject to the tax. The certificate shall be in such form, and 997
shall be provided either in a hard copy form or electronic form, 998
as the tax commissioner prescribes. 999

(b) A vendor that obtains a fully completed exemption 1000
certificate from a consumer is relieved of liability for 1001
collecting and remitting tax on any sale covered by that 1002
certificate. If it is determined the exemption was improperly 1003
claimed, the consumer shall be liable for any tax due on that 1004
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 1005
Chapter 5741. of the Revised Code. Relief under this division 1006
from liability does not apply to any of the following: 1007

(i) A vendor that fraudulently fails to collect tax; 1008

(ii) A vendor that solicits consumers to participate in 1009
the unlawful claim of an exemption; 1010

(iii) A vendor that accepts an exemption certificate from 1011
a consumer that claims an exemption based on who purchases or 1012
who sells property or a service, when the subject of the 1013

transaction sought to be covered by the exemption certificate is 1014
actually received by the consumer at a location operated by the 1015
vendor in this state, and this state has posted to its web site 1016
an exemption certificate form that clearly and affirmatively 1017
indicates that the claimed exemption is not available in this 1018
state; 1019

(iv) A vendor that accepts an exemption certificate from a 1020
consumer who claims a multiple points of use exemption under 1021
division (D) of section 5739.033 of the Revised Code, if the 1022
item purchased is tangible personal property, other than 1023
prewritten computer software. 1024

(2) The vendor shall maintain records, including exemption 1025
certificates, of all sales on which a consumer has claimed an 1026
exemption, and provide them to the tax commissioner on request. 1027

(3) The tax commissioner may establish an identification 1028
system whereby the commissioner issues an identification number 1029
to a consumer that is exempt from payment of the tax. The 1030
consumer must present the number to the vendor, if any sale is 1031
claimed to be exempt as provided in this section. 1032

(4) If no certificate is provided or obtained within 1033
ninety days after the date on which such sale is consummated, it 1034
shall be presumed that the tax applies. Failure to have so 1035
provided or obtained a certificate shall not preclude a vendor, 1036
within one hundred twenty days after the tax commissioner gives 1037
written notice of intent to levy an assessment, from either 1038
establishing that the sale is not subject to the tax, or 1039
obtaining, in good faith, a fully completed exemption 1040
certificate. 1041

(5) Certificates need not be obtained nor provided where 1042

the identity of the consumer is such that the transaction is 1043
never subject to the tax imposed or where the item of tangible 1044
personal property sold or the service provided is never subject 1045
to the tax imposed, regardless of use, or when the sale is in 1046
interstate commerce. 1047

(6) If a transaction is claimed to be exempt under 1048
division (B) (13) of section 5739.02 of the Revised Code, the 1049
contractor shall obtain certification of the claimed exemption 1050
from the contractee. This certification shall be in addition to 1051
an exemption certificate provided by the contractor to the 1052
vendor. A contractee that provides a certification under this 1053
division shall be deemed to be the consumer of all items 1054
purchased by the contractor under the claim of exemption, if it 1055
is subsequently determined that the exemption is not properly 1056
claimed. The certification shall be in such form as the tax 1057
commissioner prescribes. 1058

(7) If a transaction is claimed to be exempt under 1059
division ~~(B) (13)~~ (B) (13) (e) of section 5739.02 of the Revised 1060
Code, the person that leases a sports facility, as defined in 1061
section 307.696 of the Revised Code, wholly owned by a county 1062
may provide and sign, on behalf of the county, an exemption 1063
certificate required under this section for that exemption. 1064

(C) As used in this division, "contractee" means a person 1065
who seeks to enter or enters into a contract or agreement with a 1066
contractor or vendor for the construction of real property or 1067
for the sale and installation onto real property of tangible 1068
personal property. 1069

Any contractor or vendor may request from any contractee a 1070
certification of what portion of the property to be transferred 1071
under such contract or agreement is to be incorporated into the 1072

realty and what portion will retain its status as tangible 1073
personal property after installation is completed. The 1074
contractor or vendor shall request the certification by 1075
certified mail delivered to the contractee, return receipt 1076
requested. Upon receipt of such request and prior to entering 1077
into the contract or agreement, the contractee shall provide to 1078
the contractor or vendor a certification sufficiently detailed 1079
to enable the contractor or vendor to ascertain the resulting 1080
classification of all materials purchased or fabricated by the 1081
contractor or vendor and transferred to the contractee. This 1082
requirement applies to a contractee regardless of whether the 1083
contractee holds a direct payment permit under section 5739.031 1084
of the Revised Code or provides to the contractor or vendor an 1085
exemption certificate as provided under this section. 1086

For the purposes of the taxes levied by this chapter and 1087
Chapter 5741. of the Revised Code, the contractor or vendor may 1088
in good faith rely on the contractee's certification. 1089
Notwithstanding division (B) of section 5739.01 of the Revised 1090
Code, if the tax commissioner determines that certain property 1091
certified by the contractee as tangible personal property 1092
pursuant to this division is, in fact, real property, the 1093
contractee shall be considered to be the consumer of all 1094
materials so incorporated into that real property and shall be 1095
liable for the applicable tax, and the contractor or vendor 1096
shall be excused from any liability on those materials. 1097

If a contractee fails to provide such certification upon 1098
the request of the contractor or vendor, the contractor or 1099
vendor shall comply with the provisions of this chapter and 1100
Chapter 5741. of the Revised Code without the certification. If 1101
the tax commissioner determines that such compliance has been 1102
performed in good faith and that certain property treated as 1103

tangible personal property by the contractor or vendor is, in 1104
fact, real property, the contractee shall be considered to be 1105
the consumer of all materials so incorporated into that real 1106
property and shall be liable for the applicable tax, and the 1107
construction contractor or vendor shall be excused from any 1108
liability on those materials. 1109

This division does not apply to any contract or agreement 1110
where the tax commissioner determines as a fact that a 1111
certification under this division was made solely on the 1112
decision or advice of the contractor or vendor. 1113

(D) Notwithstanding division (B) of section 5739.01 of the 1114
Revised Code, whenever the total rate of tax imposed under this 1115
chapter is increased after the date after a construction 1116
contract is entered into, the contractee shall reimburse the 1117
construction contractor for any additional tax paid on tangible 1118
property consumed or services received pursuant to the contract. 1119

(E) A vendor who files a petition for reassessment 1120
contesting the assessment of tax on sales for which the vendor 1121
obtained no valid exemption certificates and for which the 1122
vendor failed to establish that the sales were properly not 1123
subject to the tax during the one-hundred-twenty-day period 1124
allowed under division (B) of this section, may present to the 1125
tax commissioner additional evidence to prove that the sales 1126
were properly subject to a claim of exception or exemption. The 1127
vendor shall file such evidence within ninety days of the 1128
receipt by the vendor of the notice of assessment, except that, 1129
upon application and for reasonable cause, the period for 1130
submitting such evidence shall be extended thirty days. 1131

The commissioner shall consider such additional evidence 1132
in reaching the final determination on the assessment and 1133

petition for reassessment. 1134

(F) Whenever a vendor refunds the price, minus any 1135
separately stated delivery charge, of an item of tangible 1136
personal property on which the tax imposed under this chapter 1137
has been paid, the vendor shall also refund the amount of tax 1138
paid, minus the amount of tax attributable to the delivery 1139
charge. 1140

Section 2. That existing sections 5739.02 and 5739.03 of 1141
the Revised Code are hereby repealed. 1142