

**As Introduced**

**136th General Assembly  
Regular Session  
2025-2026**

**H. B. No. 147**

**Representative Lorenz**

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**A BILL**

To amend sections 5739.02 and 5739.03 of the 1  
Revised Code to exempt from sales and use tax 2  
building materials sold to a contractor under a 3  
contract valued at \$25 million or more for 4  
projects in areas with a port authority. 5

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

**Section 1.** That sections 5739.02 and 5739.03 of the 6  
Revised Code be amended to read as follows: 7

**Sec. 5739.02.** For the purpose of providing revenue with 8  
which to meet the needs of the state, for the use of the general 9  
revenue fund of the state, for the purpose of securing a 10  
thorough and efficient system of common schools throughout the 11  
state, for the purpose of affording revenues, in addition to 12  
those from general property taxes, permitted under 13  
constitutional limitations, and from other sources, for the 14  
support of local governmental functions, and for the purpose of 15  
reimbursing the state for the expense of administering this 16  
chapter, an excise tax is hereby levied on each retail sale made 17  
in this state. 18

(A) (1) The tax shall be collected as provided in section 19

5739.025 of the Revised Code. The rate of the tax shall be five 20  
and three-fourths per cent. The tax applies and is collectible 21  
when the sale is made, regardless of the time when the price is 22  
paid or delivered. 23

(2) In the case of the lease or rental, with a fixed term 24  
of more than thirty days or an indefinite term with a minimum 25  
period of more than thirty days, of any motor vehicles designed 26  
by the manufacturer to carry a load of not more than one ton, 27  
watercraft, outboard motor, or aircraft, or of any tangible 28  
personal property, other than motor vehicles designed by the 29  
manufacturer to carry a load of more than one ton, to be used by 30  
the lessee or renter primarily for business purposes, the tax 31  
shall be collected by the vendor at the time the lease or rental 32  
is consummated and shall be calculated by the vendor on the 33  
basis of the total amount to be paid by the lessee or renter 34  
under the lease agreement. If the total amount of the 35  
consideration for the lease or rental includes amounts that are 36  
not calculated at the time the lease or rental is executed, the 37  
tax shall be calculated and collected by the vendor at the time 38  
such amounts are billed to the lessee or renter. In the case of 39  
an open-end lease or rental, the tax shall be calculated by the 40  
vendor on the basis of the total amount to be paid during the 41  
initial fixed term of the lease or rental, and for each 42  
subsequent renewal period as it comes due. As used in this 43  
division, "motor vehicle" has the same meaning as in section 44  
4501.01 of the Revised Code, and "watercraft" includes an 45  
outdrive unit attached to the watercraft. 46

A lease with a renewal clause and a termination penalty or 47  
similar provision that applies if the renewal clause is not 48  
exercised is presumed to be a sham transaction. In such a case, 49  
the tax shall be calculated and paid on the basis of the entire 50

length of the lease period, including any renewal periods, until 51  
the termination penalty or similar provision no longer applies. 52  
The taxpayer shall bear the burden, by a preponderance of the 53  
evidence, that the transaction or series of transactions is not 54  
a sham transaction. 55

(3) Except as provided in division (A) (2) of this section, 56  
in the case of a sale, the price of which consists in whole or 57  
in part of the lease or rental of tangible personal property, 58  
the tax shall be measured by the installments of that lease or 59  
rental. 60

(4) In the case of a sale of a physical fitness facility 61  
service or recreation and sports club service, the price of 62  
which consists in whole or in part of a membership for the 63  
receipt of the benefit of the service, the tax applicable to the 64  
sale shall be measured by the installments thereof. 65

(B) The tax does not apply to the following: 66

(1) Sales to the state or any of its political 67  
subdivisions, or to any other state or its political 68  
subdivisions if the laws of that state exempt from taxation 69  
sales made to this state and its political subdivisions 70  
including either of the following: 71

(a) Sales or rentals of tangible personal property by 72  
construction contractors or subcontractors to provide temporary 73  
traffic control or temporary structures, including material and 74  
equipment used to comply with the Ohio manual of uniform traffic 75  
control devices adopted pursuant to section 4511.09 of the 76  
Revised Code, whereby the state or any of its political 77  
subdivisions take title to, or permanent or temporary possession 78  
of, such tangible personal property for use by the state or any 79

of its political subdivisions, including for use by the general public thereof;

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

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

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

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

(4) Sales of newspapers and sales or transfers of magazines distributed as controlled circulation publications;

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

(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this

section applicable to the price of motor fuel when granting a 109  
refund of motor fuel tax pursuant to division (A) of section 110  
5735.14 of the Revised Code and shall cause the amount deducted 111  
to be paid into the general revenue fund of this state; 112

(b) Sales of motor fuel other than that described in 113  
division (B) (6) (a) of this section and used for powering a 114  
refrigeration unit on a vehicle other than one used primarily to 115  
provide comfort to the operator or occupants of the vehicle. 116

(7) Sales of natural gas by a natural gas company or 117  
municipal gas utility, of water by a water-works company, or of 118  
steam by a heating company, if in each case the thing sold is 119  
delivered to consumers through pipes or conduits, and all sales 120  
of communications services by a telegraph company, all terms as 121  
defined in section 5727.01 of the Revised Code, and sales of 122  
electricity delivered through wires; 123

(8) Casual sales by a person, or auctioneer employed 124  
directly by the person to conduct such sales, except as to such 125  
sales of motor vehicles, watercraft or outboard motors required 126  
to be titled under section 1548.06 of the Revised Code, 127  
watercraft documented with the United States coast guard, 128  
snowmobiles, and all-purpose vehicles as defined in section 129  
4519.01 of the Revised Code; 130

(9) (a) Sales of services or tangible personal property, 131  
other than motor vehicles, mobile homes, and manufactured homes, 132  
by churches, organizations exempt from taxation under section 133  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 134  
organizations operated exclusively for charitable purposes as 135  
defined in division (B) (12) of this section, provided that the 136  
number of days on which such tangible personal property or 137  
services, other than items never subject to the tax, are sold 138

does not exceed six in any calendar year, except as otherwise 139  
provided in division (B) (9) (b) of this section. If the number of 140  
days on which such sales are made exceeds six in any calendar 141  
year, the church or organization shall be considered to be 142  
engaged in business and all subsequent sales by it shall be 143  
subject to the tax. In counting the number of days, all sales by 144  
groups within a church or within an organization shall be 145  
considered to be sales of that church or organization. 146

(b) The limitation on the number of days on which tax- 147  
exempt sales may be made by a church or organization under 148  
division (B) (9) (a) of this section does not apply to sales made 149  
by student clubs and other groups of students of a primary or 150  
secondary school, or a parent-teacher association, booster 151  
group, or similar organization that raises money to support or 152  
fund curricular or extracurricular activities of a primary or 153  
secondary school. 154

(c) Divisions (B) (9) (a) and (b) of this section do not 155  
apply to sales by a noncommercial educational radio or 156  
television broadcasting station. 157

(10) Sales not within the taxing power of this state under 158  
the Constitution or laws of the United States or the 159  
Constitution of this state including either of the following: 160

(a) Sales or rentals of tangible personal property by 161  
construction contractors or subcontractors to provide temporary 162  
traffic control or temporary structures, including material and 163  
equipment used to comply with the Ohio manual of uniform traffic 164  
control devices adopted pursuant to section 4511.09 of the 165  
Revised Code, whereby the United States takes title to, or 166  
permanent or temporary possession of, such tangible personal 167  
property for use by the United States including for use by the 168

general public thereof;	169
(b) Sales of services by construction contractors or subcontractors to provide temporary traffic control or structures, including labor used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the United States, including the general public thereof, receives the benefit of such services.	170 171 172 173 174 175 176
As used in divisions (B) (10) (a) and (b) of this section, "temporary structures" include temporary roads, bridges, drains, and pavement.	177 178 179
(11) Except for transactions that are sales under division (B) (3) (p) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;	180 181 182 183
(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.	184 185 186 187 188 189 190 191 192 193 194 195 196
"Charitable purposes" means the relief of poverty; the	197

improvement of health through the alleviation of illness, 198  
disease, or injury; the operation of an organization exclusively 199  
for the provision of professional, laundry, printing, and 200  
purchasing services to hospitals or charitable institutions; the 201  
operation of a home for the aged, as defined in section 5701.13 202  
of the Revised Code; the operation of a radio or television 203  
broadcasting station that is licensed by the federal 204  
communications commission as a noncommercial educational radio 205  
or television station; the operation of a nonprofit animal 206  
adoption service or a county humane society; the promotion of 207  
education by an institution of learning that maintains a faculty 208  
of qualified instructors, teaches regular continuous courses of 209  
study, and confers a recognized diploma upon completion of a 210  
specific curriculum; the operation of a parent-teacher 211  
association, booster group, or similar organization primarily 212  
engaged in the promotion and support of the curricular or 213  
extracurricular activities of a primary or secondary school; the 214  
operation of a community or area center in which presentations 215  
in music, dramatics, the arts, and related fields are made in 216  
order to foster public interest and education therein; the 217  
production of performances in music, dramatics, and the arts; or 218  
the promotion of education by an organization engaged in 219  
carrying on research in, or the dissemination of, scientific and 220  
technological knowledge and information primarily for the 221  
public. 222

Nothing in this division shall be deemed to exempt sales 223  
to any organization for use in the operation or carrying on of a 224  
trade or business, or sales to a home for the aged for use in 225  
the operation of independent living facilities as defined in 226  
division (A) of section 5709.12 of the Revised Code. 227

(13) All of the following: 228



<u>(a) Building</u> and construction materials and services sold	229
to construction contractors for incorporation into a structure	230
or improvement to real property under a construction contract	231
with this state or a political subdivision of this state, or	232
with the United States government or any of its agencies;	233
<del>building</del>	234
<u>(b) Building</u> and construction materials and services sold	235
to construction contractors for incorporation into a structure	236
or improvement to real property that are accepted for ownership	237
by this state or any of its political subdivisions, or by the	238
United States government or any of its agencies at the time of	239
completion of the structures or improvements; <del>building</del>	240
<u>(c) Building</u> and construction materials sold to	241
construction contractors for incorporation into a horticulture	242
structure or livestock structure for a person engaged in the	243
business of horticulture or producing livestock; building	244
materials and services sold to a construction contractor for	245
incorporation into a house of public worship or religious	246
education, or a building used exclusively for charitable	247
purposes under a construction contract with an organization	248
whose purpose is as described in division (B) (12) of this	249
section; <del>building</del>	250
<u>(d) Building</u> materials and services sold to a construction	251
contractor for incorporation into a building under a	252
construction contract with an organization exempt from taxation	253
under section 501(c) (3) of the Internal Revenue Code of 1986	254
when the building is to be used exclusively for the	255
organization's exempt purposes; <del>tangible</del>	256
<u>(e) Tangible</u> personal property sold for incorporation into	257
the construction of a sports facility under section 307.696 of	258

the Revised Code; <del>building</del>	259
<u>(f) Building</u> and construction materials and services sold	260
to a construction contractor for incorporation into real	261
property outside this state if such materials and services, when	262
sold to a construction contractor in the state in which the real	263
property is located for incorporation into real property in that	264
state, would be exempt from a tax on sales levied by that state;	265
<del>building</del>	266
<u>(g) Building</u> and construction materials for incorporation	267
into a transportation facility pursuant to a public-private	268
agreement entered into under sections 5501.70 to 5501.83 of the	269
Revised Code; <del>until</del>	270
<u>(h) Until</u> one calendar year after the construction of a	271
convention center that qualifies for property tax exemption	272
under section 5709.084 of the Revised Code is completed,	273
building and construction materials and services sold to a	274
construction contractor for incorporation into the real property	275
comprising that convention center; <del>and building</del>	276
<u>(i) Building</u> and construction materials sold for	277
incorporation into a structure or improvement to real property	278
that is used primarily as, or primarily in support of, a	279
manufacturing facility or research and development facility and	280
that is to be owned by a megaproject operator upon completion	281
and located at the site of a megaproject that satisfies the	282
criteria described in division (A) (11) (a) (ii) of section 122.17	283
of the Revised Code, provided that the sale occurs during the	284
period that the megaproject operator has an agreement for such	285
megaproject with the tax credit authority under division (D) of	286
section 122.17 of the Revised Code that remains in effect and	287
has not expired or been terminated;	288

(j) Building and construction materials and services sold 289  
to construction contractors for incorporation into a structure 290  
or improvement to real property, located in a municipal 291  
corporation, township, county, or combination thereof that has 292  
established a port authority under section 4582.02 of the 293  
Revised Code or which is included in a port authority in 294  
existence on December 16, 1964, under a construction contract 295  
requiring the property owner to pay at least twenty-five million 296  
dollars, provided the property owner is also bound by a separate 297  
agreement to finance, help finance, or otherwise cause to be 298  
completed public infrastructure improvements in the area 299  
surrounding the real property. 300

(14) Sales of ships or vessels or rail rolling stock used 301  
or to be used principally in interstate or foreign commerce, and 302  
repairs, alterations, fuel, and lubricants for such ships or 303  
vessels or rail rolling stock; 304

(15) Sales to persons primarily engaged in any of the 305  
activities mentioned in division (B) (42) (a), (g), or (h) of this 306  
section, to persons engaged in making retail sales, or to 307  
persons who purchase for sale from a manufacturer tangible 308  
personal property that was produced by the manufacturer in 309  
accordance with specific designs provided by the purchaser, of 310  
packages, including material, labels, and parts for packages, 311  
and of machinery, equipment, and material for use primarily in 312  
packaging tangible personal property produced for sale, 313  
including any machinery, equipment, and supplies used to make 314  
labels or packages, to prepare packages or products for 315  
labeling, or to label packages or products, by or on the order 316  
of the person doing the packaging, or sold at retail. "Packages" 317  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 318  
bindings, wrappings, and other similar devices and containers, 319

but does not include motor vehicles or bulk tanks, trailers, or 320  
similar devices attached to motor vehicles. "Packaging" means 321  
placing in a package. Division (B) (15) of this section does not 322  
apply to persons engaged in highway transportation for hire. 323

(16) Sales of food to persons using supplemental nutrition 324  
assistance program benefits to purchase the food. As used in 325  
this division, "food" has the same meaning as in 7 U.S.C. 2012 326  
and federal regulations adopted pursuant to the Food and 327  
Nutrition Act of 2008. 328

(17) Sales to persons engaged in farming, agriculture, 329  
horticulture, or floriculture, of tangible personal property for 330  
use or consumption primarily in the production by farming, 331  
agriculture, horticulture, or floriculture of other tangible 332  
personal property for use or consumption primarily in the 333  
production of tangible personal property for sale by farming, 334  
agriculture, horticulture, or floriculture; or material and 335  
parts for incorporation into any such tangible personal property 336  
for use or consumption in production; and of tangible personal 337  
property for such use or consumption in the conditioning or 338  
holding of products produced by and for such use, consumption, 339  
or sale by persons engaged in farming, agriculture, 340  
horticulture, or floriculture, except where such property is 341  
incorporated into real property; 342

(18) Sales of drugs for a human being that may be 343  
dispensed only pursuant to a prescription; insulin as recognized 344  
in the official United States pharmacopoeia; urine and blood 345  
testing materials when used by diabetics or persons with 346  
hypoglycemia to test for glucose or acetone; hypodermic syringes 347  
and needles when used by diabetics for insulin injections; 348  
epoetin alfa when purchased for use in the treatment of persons 349

with medical disease; hospital beds when purchased by hospitals,	350
nursing homes, or other medical facilities; and medical oxygen	351
and medical oxygen-dispensing equipment when purchased by	352
hospitals, nursing homes, or other medical facilities;	353
(19) Sales of prosthetic devices, durable medical	354
equipment for home use, or mobility enhancing equipment, when	355
made pursuant to a prescription and when such devices or	356
equipment are for use by a human being.	357
(20) Sales of emergency and fire protection vehicles and	358
equipment to nonprofit organizations for use solely in providing	359
fire protection and emergency services, including trauma care	360
and emergency medical services, for political subdivisions of	361
the state;	362
(21) Sales of tangible personal property manufactured in	363
this state, if sold by the manufacturer in this state to a	364
retailer for use in the retail business of the retailer outside	365
of this state and if possession is taken from the manufacturer	366
by the purchaser within this state for the sole purpose of	367
immediately removing the same from this state in a vehicle owned	368
by the purchaser;	369
(22) Sales of services provided by the state or any of its	370
political subdivisions, agencies, instrumentalities,	371
institutions, or authorities, or by governmental entities of the	372
state or any of its political subdivisions, agencies,	373
instrumentalities, institutions, or authorities;	374
(23) Sales of motor vehicles to nonresidents of this state	375
under the circumstances described in division (B) of section	376
5739.029 of the Revised Code;	377
(24) Sales to persons engaged in the preparation of eggs	378

for sale of tangible personal property used or consumed directly 379  
in such preparation, including such tangible personal property 380  
used for cleaning, sanitizing, preserving, grading, sorting, and 381  
classifying by size; packages, including material and parts for 382  
packages, and machinery, equipment, and material for use in 383  
packaging eggs for sale; and handling and transportation 384  
equipment and parts therefor, except motor vehicles licensed to 385  
operate on public highways, used in intraplant or interplant 386  
transfers or shipment of eggs in the process of preparation for 387  
sale, when the plant or plants within or between which such 388  
transfers or shipments occur are operated by the same person. 389  
"Packages" includes containers, cases, baskets, flats, fillers, 390  
filler flats, cartons, closure materials, labels, and labeling 391  
materials, and "packaging" means placing therein. 392

(25) (a) Sales of water to a consumer for residential use; 393

(b) Sales of water by a nonprofit corporation engaged 394  
exclusively in the treatment, distribution, and sale of water to 395  
consumers, if such water is delivered to consumers through pipes 396  
or tubing. 397

(26) Fees charged for inspection or reinspection of motor 398  
vehicles under section 3704.14 of the Revised Code; 399

(27) Sales to persons licensed to conduct a food service 400  
operation pursuant to section 3717.43 of the Revised Code, of 401  
tangible personal property primarily used directly for the 402  
following: 403

(a) To prepare food for human consumption for sale; 404

(b) To preserve food that has been or will be prepared for 405  
human consumption for sale by the food service operator, not 406  
including tangible personal property used to display food for 407

selection by the consumer;	408
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	409 410
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	411 412
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	413 414 415 416
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	417 418 419
(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;	420 421 422
(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;	423 424 425 426 427 428
(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;	429 430 431 432 433
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting	434 435

service vendor of tangible personal property and services used 436  
directly and primarily in transmitting, receiving, switching, or 437  
recording any interactive, one- or two-way electromagnetic 438  
communications, including voice, image, data, and information, 439  
through the use of any medium, including, but not limited to, 440  
poles, wires, cables, switching equipment, computers, and record 441  
storage devices and media, and component parts for the tangible 442  
personal property. The exemption provided in this division shall 443  
be in lieu of all other exemptions under division (B) (42) (a) or 444  
(n) of this section to which the vendor may otherwise be 445  
entitled, based upon the use of the thing purchased in providing 446  
the telecommunications, mobile telecommunications, or satellite 447  
broadcasting service. 448

(35) (a) Sales where the purpose of the consumer is to use 449  
or consume the things transferred in making retail sales and 450  
consisting of newspaper inserts, catalogues, coupons, flyers, 451  
gift certificates, or other advertising material that prices and 452  
describes tangible personal property offered for retail sale. 453

(b) Sales to direct marketing vendors of preliminary 454  
materials such as photographs, artwork, and typesetting that 455  
will be used in printing advertising material; and of printed 456  
matter that offers free merchandise or chances to win sweepstake 457  
prizes and that is mailed to potential customers with 458  
advertising material described in division (B) (35) (a) of this 459  
section; 460

(c) Sales of equipment such as telephones, computers, 461  
facsimile machines, and similar tangible personal property 462  
primarily used to accept orders for direct marketing retail 463  
sales. 464

(d) Sales of automatic food vending machines that preserve 465



food with a shelf life of forty-five days or less by 466  
refrigeration and dispense it to the consumer. 467

For purposes of division (B) (35) of this section, "direct 468  
marketing" means the method of selling where consumers order 469  
tangible personal property by United States mail, delivery 470  
service, or telecommunication and the vendor delivers or ships 471  
the tangible personal property sold to the consumer from a 472  
warehouse, catalogue distribution center, or similar fulfillment 473  
facility by means of the United States mail, delivery service, 474  
or common carrier. 475

(36) Sales to a person engaged in the business of 476  
horticulture or producing livestock of materials to be 477  
incorporated into a horticulture structure or livestock 478  
structure; 479

(37) Sales of personal computers, computer monitors, 480  
computer keyboards, modems, and other peripheral computer 481  
equipment to an individual who is licensed or certified to teach 482  
in an elementary or a secondary school in this state for use by 483  
that individual in preparation for teaching elementary or 484  
secondary school students; 485

(38) Sales of tangible personal property that is not 486  
required to be registered or licensed under the laws of this 487  
state to a citizen of a foreign nation that is not a citizen of 488  
the United States, provided the property is delivered to a 489  
person in this state that is not a related member of the 490  
purchaser, is physically present in this state for the sole 491  
purpose of temporary storage and package consolidation, and is 492  
subsequently delivered to the purchaser at a delivery address in 493  
a foreign nation. As used in division (B) (38) of this section, 494  
"related member" has the same meaning as in section 5733.042 of 495

the Revised Code, and "temporary storage" means the storage of 496  
tangible personal property for a period of not more than sixty 497  
days. 498

(39) Sales of used manufactured homes and used mobile 499  
homes, as defined in section 5739.0210 of the Revised Code, made 500  
on or after January 1, 2000; 501

(40) Sales of tangible personal property and services to a 502  
provider of electricity used or consumed directly and primarily 503  
in generating, transmitting, or distributing electricity for use 504  
by others, including property that is or is to be incorporated 505  
into and will become a part of the consumer's production, 506  
transmission, or distribution system and that retains its 507  
classification as tangible personal property after 508  
incorporation; fuel or power used in the production, 509  
transmission, or distribution of electricity; energy conversion 510  
equipment as defined in section 5727.01 of the Revised Code; and 511  
tangible personal property and services used in the repair and 512  
maintenance of the production, transmission, or distribution 513  
system, including only those motor vehicles as are specially 514  
designed and equipped for such use. The exemption provided in 515  
this division shall be in lieu of all other exemptions in 516  
division (B) (42) (a) or (n) of this section to which a provider 517  
of electricity may otherwise be entitled based on the use of the 518  
tangible personal property or service purchased in generating, 519  
transmitting, or distributing electricity. 520

(41) Sales to a person providing services under division 521  
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 522  
personal property and services used directly and primarily in 523  
providing taxable services under that section. 524

(42) Sales where the purpose of the purchaser is to do any 525

of the following:	526
(a) To incorporate the thing transferred as a material or	527
a part into tangible personal property to be produced for sale	528
by manufacturing, assembling, processing, or refining; or to use	529
or consume the thing transferred directly in producing tangible	530
personal property for sale by mining, including, without	531
limitation, the extraction from the earth of all substances that	532
are classed geologically as minerals, or directly in the	533
rendition of a public utility service, except that the sales tax	534
levied by this section shall be collected upon all meals,	535
drinks, and food for human consumption sold when transporting	536
persons. This paragraph does not exempt from "retail sale" or	537
"sales at retail" the sale of tangible personal property that is	538
to be incorporated into a structure or improvement to real	539
property.	540
(b) To hold the thing transferred as security for the	541
performance of an obligation of the vendor;	542
(c) To resell, hold, use, or consume the thing transferred	543
as evidence of a contract of insurance;	544
(d) To use or consume the thing directly in commercial	545
fishing;	546
(e) To incorporate the thing transferred as a material or	547
a part into, or to use or consume the thing transferred directly	548
in the production of, magazines distributed as controlled	549
circulation publications;	550
(f) To use or consume the thing transferred in the	551
production and preparation in suitable condition for market and	552
sale of printed, imprinted, overprinted, lithographic,	553
multilithic, blueprinted, photostatic, or other productions or	554

reproductions of written or graphic matter;	555
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	556 557 558
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	559 560 561 562 563 564
(i) To use the thing transferred as qualified research and development equipment;	565 566
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section.	567 568 569 570 571 572 573 574 575 576 577 578 579
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance	580 581 582 583

or service contract, or similar agreement the provision of which 584  
is defined as a sale under division (B) (7) of section 5739.01 of 585  
the Revised Code; 586

(l) To use or consume the thing transferred in the 587  
production of a newspaper for distribution to the public; 588

(m) To use tangible personal property to perform a service 589  
listed in division (B) (3) of section 5739.01 of the Revised 590  
Code, if the property is or is to be permanently transferred to 591  
the consumer of the service as an integral part of the 592  
performance of the service; 593

(n) To use or consume the thing transferred primarily in 594  
producing tangible personal property for sale by farming, 595  
agriculture, horticulture, or floriculture. Persons engaged in 596  
rendering farming, agriculture, horticulture, or floriculture 597  
services for others are deemed engaged primarily in farming, 598  
agriculture, horticulture, or floriculture. This paragraph does 599  
not exempt from "retail sale" or "sales at retail" the sale of 600  
tangible personal property that is to be incorporated into a 601  
structure or improvement to real property. 602

(o) To use or consume the thing transferred in acquiring, 603  
formatting, editing, storing, and disseminating data or 604  
information by electronic publishing; 605

(p) To provide the thing transferred to the owner or 606  
lessee of a motor vehicle that is being repaired or serviced, if 607  
the thing transferred is a rented motor vehicle and the 608  
purchaser is reimbursed for the cost of the rented motor vehicle 609  
by a manufacturer, warrantor, or provider of a maintenance, 610  
service, or other similar contract or agreement, with respect to 611  
the motor vehicle that is being repaired or serviced; 612

(q) To use or consume the thing transferred directly in 613  
production of crude oil and natural gas for sale. Persons 614  
engaged in rendering production services for others are deemed 615  
engaged in production. 616

As used in division (B) (42) (q) of this section, 617  
"production" means operations and tangible personal property 618  
directly used to expose and evaluate an underground reservoir 619  
that may contain hydrocarbon resources, prepare the wellbore for 620  
production, and lift and control all substances yielded by the 621  
reservoir to the surface of the earth. 622

(i) For the purposes of division (B) (42) (q) of this 623  
section, the "thing transferred" includes, but is not limited 624  
to, any of the following: 625

(I) Services provided in the construction of permanent 626  
access roads, services provided in the construction of the well 627  
site, and services provided in the construction of temporary 628  
impoundments; 629

(II) Equipment and rigging used for the specific purpose 630  
of creating with integrity a wellbore pathway to underground 631  
reservoirs; 632

(III) Drilling and workover services used to work within a 633  
subsurface wellbore, and tangible personal property directly 634  
used in providing such services; 635

(IV) Casing, tubulars, and float and centralizing 636  
equipment; 637

(V) Trailers to which production equipment is attached; 638

(VI) Well completion services, including cementing of 639  
casing, and tangible personal property directly used in 640

providing such services;	641
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	642 643 644
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	645 646 647 648
(IX) Pressure pumping equipment;	649
(X) Artificial lift systems equipment;	650
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	651 652 653
(XII) Tangible personal property directly used to control production equipment.	654 655
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	656 657 658
(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;	659 660 661
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	662 663 664
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	665 666 667

(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	668 669 670 671
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	672 673 674 675
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	676 677
(VII) Well site fencing, lighting, or security systems;	678
(VIII) Communication devices or services;	679
(IX) Office supplies;	680
(X) Trailers used as offices or lodging;	681
(XI) Motor vehicles of any kind;	682
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	683 684
(XIII) Tangible personal property used primarily as a safety device;	685 686
(XIV) Data collection or monitoring devices;	687
(XV) Access ladders, stairs, or platforms attached to storage tanks.	688 689
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	690 691 692 693 694



The commissioner shall adopt and promulgate rules under 695  
sections 119.01 to 119.13 of the Revised Code that the 696  
commissioner deems necessary to administer division (B) (42) (q) 697  
of this section. 698

As used in division (B) (42) of this section, "thing" 699  
includes all transactions included in divisions (B) (3) (a), (b), 700  
and (e) of section 5739.01 of the Revised Code. 701

(43) Sales conducted through a coin operated device that 702  
activates vacuum equipment or equipment that dispenses water, 703  
whether or not in combination with soap or other cleaning agents 704  
or wax, to the consumer for the consumer's use on the premises 705  
in washing, cleaning, or waxing a motor vehicle, provided no 706  
other personal property or personal service is provided as part 707  
of the transaction. 708

(44) Sales of replacement and modification parts for 709  
engines, airframes, instruments, and interiors in, and paint 710  
for, aircraft used primarily in a fractional aircraft ownership 711  
program, and sales of services for the repair, modification, and 712  
maintenance of such aircraft, and machinery, equipment, and 713  
supplies primarily used to provide those services. 714

(45) Sales of telecommunications service that is used 715  
directly and primarily to perform the functions of a call 716  
center. As used in this division, "call center" means any 717  
physical location where telephone calls are placed or received 718  
in high volume for the purpose of making sales, marketing, 719  
customer service, technical support, or other specialized 720  
business activity, and that employs at least fifty individuals 721  
that engage in call center activities on a full-time basis, or 722  
sufficient individuals to fill fifty full-time equivalent 723  
positions. 724

(46) Sales by a telecommunications service vendor of 900	725
service to a subscriber. This division does not apply to	726
information services.	727
(47) Sales of value-added non-voice data service. This	728
division does not apply to any similar service that is not	729
otherwise a telecommunications service.	730
(48) Sales of feminine hygiene products.	731
(49) Sales of materials, parts, equipment, or engines used	732
in the repair or maintenance of aircraft or avionics systems of	733
such aircraft, and sales of repair, remodeling, replacement, or	734
maintenance services in this state performed on aircraft or on	735
an aircraft's avionics, engine, or component materials or parts.	736
As used in division (B) (49) of this section, "aircraft" means	737
aircraft of more than six thousand pounds maximum certified	738
takeoff weight or used exclusively in general aviation.	739
(50) Sales of full flight simulators that are used for	740
pilot or flight-crew training, sales of repair or replacement	741
parts or components, and sales of repair or maintenance services	742
for such full flight simulators. "Full flight simulator" means a	743
replica of a specific type, or make, model, and series of	744
aircraft cockpit. It includes the assemblage of equipment and	745
computer programs necessary to represent aircraft operations in	746
ground and flight conditions, a visual system providing an out-	747
of-the-cockpit view, and a system that provides cues at least	748
equivalent to those of a three-degree-of-freedom motion system,	749
and has the full range of capabilities of the systems installed	750
in the device as described in appendices A and B of part 60 of	751
chapter 1 of title 14 of the Code of Federal Regulations.	752
(51) Any transfer or lease of tangible personal property	753

between the state and JobsOhio in accordance with section	754
4313.02 of the Revised Code.	755
(52) (a) Sales to a qualifying corporation.	756
(b) As used in division (B) (52) of this section:	757
(i) "Qualifying corporation" means a nonprofit corporation	758
organized in this state that leases from an eligible county	759
land, buildings, structures, fixtures, and improvements to the	760
land that are part of or used in a public recreational facility	761
used by a major league professional athletic team or a class A	762
to class AAA minor league affiliate of a major league	763
professional athletic team for a significant portion of the	764
team's home schedule, provided the following apply:	765
(I) The facility is leased from the eligible county	766
pursuant to a lease that requires substantially all of the	767
revenue from the operation of the business or activity conducted	768
by the nonprofit corporation at the facility in excess of	769
operating costs, capital expenditures, and reserves to be paid	770
to the eligible county at least once per calendar year.	771
(II) Upon dissolution and liquidation of the nonprofit	772
corporation, all of its net assets are distributable to the	773
board of commissioners of the eligible county from which the	774
corporation leases the facility.	775
(ii) "Eligible county" has the same meaning as in section	776
307.695 of the Revised Code.	777
(53) Sales to or by a cable service provider, video	778
service provider, or radio or television broadcast station	779
regulated by the federal government of cable service or	780
programming, video service or programming, audio service or	781
programming, or electronically transferred digital audiovisual	782

or audio work. As used in division (B) (53) of this section, 783  
"cable service" and "cable service provider" have the same 784  
meanings as in section 1332.01 of the Revised Code, and "video 785  
service," "video service provider," and "video programming" have 786  
the same meanings as in section 1332.21 of the Revised Code. 787

(54) Sales of a digital audio work electronically 788  
transferred for delivery through use of a machine, such as a 789  
juke box, that does all of the following: 790

(a) Accepts direct payments to operate; 791

(b) Automatically plays a selected digital audio work for 792  
a single play upon receipt of a payment described in division 793  
(B) (54) (a) of this section; 794

(c) Operates exclusively for the purpose of playing 795  
digital audio works in a commercial establishment. 796

(55) (a) Sales of the following occurring on the first 797  
Friday of August and the following Saturday and Sunday of any 798  
year, except in 2024 or any subsequent year in which a sales tax 799  
holiday is held pursuant to section 5739.41 of the Revised Code: 800

(i) An item of clothing, the price of which is seventy- 801  
five dollars or less; 802

(ii) An item of school supplies, the price of which is 803  
twenty dollars or less; 804

(iii) An item of school instructional material, the price 805  
of which is twenty dollars or less. 806

(b) As used in division (B) (55) of this section: 807

(i) "Clothing" means all human wearing apparel suitable 808  
for general use. "Clothing" includes, but is not limited to, 809

aprons, household and shop; athletic supporters; baby receiving	810
blankets; bathing suits and caps; beach capes and coats; belts	811
and suspenders; boots; coats and jackets; costumes; diapers,	812
children and adult, including disposable diapers; earmuffs;	813
footlets; formal wear; garters and garter belts; girdles; gloves	814
and mittens for general use; hats and caps; hosiery; insoles for	815
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	816
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	817
sneakers; socks and stockings; steel-toed shoes; underwear;	818
uniforms, athletic and nonathletic; and wedding apparel.	819
"Clothing" does not include items purchased for use in a trade	820
or business; clothing accessories or equipment; protective	821
equipment; sports or recreational equipment; belt buckles sold	822
separately; costume masks sold separately; patches and emblems	823
sold separately; sewing equipment and supplies including, but	824
not limited to, knitting needles, patterns, pins, scissors,	825
sewing machines, sewing needles, tape measures, and thimbles;	826
and sewing materials that become part of "clothing" including,	827
but not limited to, buttons, fabric, lace, thread, yarn, and	828
zippers.	829
(ii) "School supplies" means items commonly used by a	830
student in a course of study. "School supplies" includes only	831
the following items: binders; book bags; calculators; cellophane	832
tape; blackboard chalk; compasses; composition books; crayons;	833
erasers; folders, expandable, pocket, plastic, and manila; glue,	834
paste, and paste sticks; highlighters; index cards; index card	835
boxes; legal pads; lunch boxes; markers; notebooks; paper,	836
loose-leaf ruled notebook paper, copy paper, graph paper,	837
tracing paper, manila paper, colored paper, poster board, and	838
construction paper; pencil boxes and other school supply boxes;	839
pencil sharpeners; pencils; pens; protractors; rulers; scissors;	840

and writing tablets. "School supplies" does not include any item 841  
purchased for use in a trade or business. 842

(iii) "School instructional material" means written 843  
material commonly used by a student in a course of study as a 844  
reference and to learn the subject being taught. "School 845  
instructional material" includes only the following items: 846  
reference books, reference maps and globes, textbooks, and 847  
workbooks. "School instructional material" does not include any 848  
material purchased for use in a trade or business. 849

(56) (a) Sales of adult diapers or incontinence underpads 850  
sold pursuant to a prescription, for the benefit of a medicaid 851  
recipient with a diagnosis of incontinence, and by a medicaid 852  
provider that maintains a valid provider agreement under section 853  
5164.30 of the Revised Code with the department of medicaid, 854  
provided that the medicaid program covers diapers or 855  
incontinence underpads as an incontinence garment. 856

(b) As used in division (B) (56) (a) of this section, 857  
"incontinence underpad" means an absorbent product, not worn on 858  
the body, designed to protect furniture or other tangible 859  
personal property from soiling or damage due to human 860  
incontinence. 861

(57) Sales of investment metal bullion and investment 862  
coins. "Investment metal bullion" means any bullion described in 863  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 864  
whether that bullion is in the physical possession of a trustee. 865  
"Investment coin" means any coin composed primarily of gold, 866  
silver, platinum, or palladium. 867

(58) Sales of tangible personal property used primarily 868  
for any of the following purposes by a megaproject operator at 869

the site of a megaproject that satisfies the criteria described 870  
in division (A) (11) (a) (ii) of section 122.17 of the Revised 871  
Code, provided that the sale occurs during the period that the 872  
megaproject operator has an agreement for such megaproject with 873  
the tax credit authority under division (D) of section 122.17 of 874  
the Revised Code that remains in effect and has not expired or 875  
been terminated: 876

(a) To store, transmit, convey, distribute, recycle, 877  
circulate, or clean water, steam, or other gases used in or 878  
produced as a result of manufacturing activity, including items 879  
that support or aid in the operation of such property; 880

(b) To clean or prepare inventory, at any stage of storage 881  
or production, or equipment used in a manufacturing activity, 882  
including chemicals, solvents, catalysts, soaps, and other items 883  
that support or aid in the operation of property; 884

(c) To regulate, treat, filter, condition, improve, clean, 885  
maintain, or monitor environmental conditions within areas where 886  
manufacturing activities take place; 887

(d) To handle, transport, or convey inventory during 888  
production or manufacturing. 889

(59) Documentary services charges imposed pursuant to 890  
section 4517.261 or 4781.24 of the Revised Code. 891

(60) Sales of children's diapers. 892

(61) Sales of therapeutic or preventative creams and wipes 893  
marketed primarily for use on the skin of children. 894

(62) Sales of a child restraint device or booster seat 895  
that meets the national highway traffic safety administration 896  
standard for child restraint systems under 49 C.F.R. 571.213. 897

(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.	898 899 900 901 902
(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.	903 904 905 906
(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.	907 908 909 910
(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.	911 912 913
(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.	914 915 916 917
(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 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the	918 919 920 921 922 923 924 925 926



state or such a county or transit authority shall derive any 927  
benefit from the collection or payment of the tax levied by this 928  
section or section 5739.021, 5739.023, or 5739.026 of the 929  
Revised Code. 930

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 931  
section 5739.051 of the Revised Code, the tax imposed by or 932  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 933  
the Revised Code shall be paid by the consumer to the vendor, 934  
and each vendor shall collect from the consumer, as a trustee 935  
for the state of Ohio, the full and exact amount of the tax 936  
payable on each taxable sale, in the manner and at the times 937  
provided as follows: 938

(1) If the price is, at or prior to the provision of the 939  
service or the delivery of possession of the thing sold to the 940  
consumer, paid in currency passed from hand to hand by the 941  
consumer or the consumer's agent to the vendor or the vendor's 942  
agent, the vendor or the vendor's agent shall collect the tax 943  
with and at the same time as the price; 944

(2) If the price is otherwise paid or to be paid, the 945  
vendor or the vendor's agent shall, at or prior to the provision 946  
of the service or the delivery of possession of the thing sold 947  
to the consumer, charge the tax imposed by or pursuant to 948  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 949  
Code to the account of the consumer, which amount shall be 950  
collected by the vendor from the consumer in addition to the 951  
price. Such sale shall be reported on and the amount of the tax 952  
applicable thereto shall be remitted with the return for the 953  
period in which the sale is made, and the amount of the tax 954  
shall become a legal charge in favor of the vendor and against 955  
the consumer. 956

(B) (1) (a) If any sale is claimed to be exempt under 957  
division (E) of section 5739.01 of the Revised Code or under 958  
section 5739.02 of the Revised Code, with the exception of 959  
divisions (B) (1) to (11), (28), (48), (55), (59), or (66) of 960  
section 5739.02 of the Revised Code, the consumer must provide 961  
to the vendor, and the vendor must obtain from the consumer, a 962  
certificate specifying the reason that the sale is not legally 963  
subject to the tax. The certificate shall be in such form, and 964  
shall be provided either in a hard copy form or electronic form, 965  
as the tax commissioner prescribes. 966

(b) A vendor that obtains a fully completed exemption 967  
certificate from a consumer is relieved of liability for 968  
collecting and remitting tax on any sale covered by that 969  
certificate. If it is determined the exemption was improperly 970  
claimed, the consumer shall be liable for any tax due on that 971  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 972  
Chapter 5741. of the Revised Code. Relief under this division 973  
from liability does not apply to any of the following: 974

(i) A vendor that fraudulently fails to collect tax; 975

(ii) A vendor that solicits consumers to participate in 976  
the unlawful claim of an exemption; 977

(iii) A vendor that accepts an exemption certificate from 978  
a consumer that claims an exemption based on who purchases or 979  
who sells property or a service, when the subject of the 980  
transaction sought to be covered by the exemption certificate is 981  
actually received by the consumer at a location operated by the 982  
vendor in this state, and this state has posted to its web site 983  
an exemption certificate form that clearly and affirmatively 984  
indicates that the claimed exemption is not available in this 985  
state; 986

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

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

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

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

(5) Certificates need not be obtained nor provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(6) If a transaction is claimed to be exempt under

division (B) (13) of section 5739.02 of the Revised Code, the 1016  
contractor shall obtain certification of the claimed exemption 1017  
from the contractee. This certification shall be in addition to 1018  
an exemption certificate provided by the contractor to the 1019  
vendor. A contractee that provides a certification under this 1020  
division shall be deemed to be the consumer of all items 1021  
purchased by the contractor under the claim of exemption, if it 1022  
is subsequently determined that the exemption is not properly 1023  
claimed. The certification shall be in such form as the tax 1024  
commissioner prescribes. 1025

(7) If a transaction is claimed to be exempt under 1026  
division ~~(B) (13)~~ (B) (13) (e) of section 5739.02 of the Revised 1027  
Code, the person that leases a sports facility, as defined in 1028  
section 307.696 of the Revised Code, wholly owned by a county 1029  
may provide and sign, on behalf of the county, an exemption 1030  
certificate required under this section for that exemption. 1031

(C) As used in this division, "contractee" means a person 1032  
who seeks to enter or enters into a contract or agreement with a 1033  
contractor or vendor for the construction of real property or 1034  
for the sale and installation onto real property of tangible 1035  
personal property. 1036

Any contractor or vendor may request from any contractee a 1037  
certification of what portion of the property to be transferred 1038  
under such contract or agreement is to be incorporated into the 1039  
realty and what portion will retain its status as tangible 1040  
personal property after installation is completed. The 1041  
contractor or vendor shall request the certification by 1042  
certified mail delivered to the contractee, return receipt 1043  
requested. Upon receipt of such request and prior to entering 1044  
into the contract or agreement, the contractee shall provide to 1045

the contractor or vendor a certification sufficiently detailed 1046  
to enable the contractor or vendor to ascertain the resulting 1047  
classification of all materials purchased or fabricated by the 1048  
contractor or vendor and transferred to the contractee. This 1049  
requirement applies to a contractee regardless of whether the 1050  
contractee holds a direct payment permit under section 5739.031 1051  
of the Revised Code or provides to the contractor or vendor an 1052  
exemption certificate as provided under this section. 1053

For the purposes of the taxes levied by this chapter and 1054  
Chapter 5741. of the Revised Code, the contractor or vendor may 1055  
in good faith rely on the contractee's certification. 1056  
Notwithstanding division (B) of section 5739.01 of the Revised 1057  
Code, if the tax commissioner determines that certain property 1058  
certified by the contractee as tangible personal property 1059  
pursuant to this division is, in fact, real property, the 1060  
contractee shall be considered to be the consumer of all 1061  
materials so incorporated into that real property and shall be 1062  
liable for the applicable tax, and the contractor or vendor 1063  
shall be excused from any liability on those materials. 1064

If a contractee fails to provide such certification upon 1065  
the request of the contractor or vendor, the contractor or 1066  
vendor shall comply with the provisions of this chapter and 1067  
Chapter 5741. of the Revised Code without the certification. If 1068  
the tax commissioner determines that such compliance has been 1069  
performed in good faith and that certain property treated as 1070  
tangible personal property by the contractor or vendor is, in 1071  
fact, real property, the contractee shall be considered to be 1072  
the consumer of all materials so incorporated into that real 1073  
property and shall be liable for the applicable tax, and the 1074  
construction contractor or vendor shall be excused from any 1075  
liability on those materials. 1076

This division does not apply to any contract or agreement 1077  
where the tax commissioner determines as a fact that a 1078  
certification under this division was made solely on the 1079  
decision or advice of the contractor or vendor. 1080

(D) Notwithstanding division (B) of section 5739.01 of the 1081  
Revised Code, whenever the total rate of tax imposed under this 1082  
chapter is increased after the date after a construction 1083  
contract is entered into, the contractee shall reimburse the 1084  
construction contractor for any additional tax paid on tangible 1085  
property consumed or services received pursuant to the contract. 1086

(E) A vendor who files a petition for reassessment 1087  
contesting the assessment of tax on sales for which the vendor 1088  
obtained no valid exemption certificates and for which the 1089  
vendor failed to establish that the sales were properly not 1090  
subject to the tax during the one-hundred-twenty-day period 1091  
allowed under division (B) of this section, may present to the 1092  
tax commissioner additional evidence to prove that the sales 1093  
were properly subject to a claim of exception or exemption. The 1094  
vendor shall file such evidence within ninety days of the 1095  
receipt by the vendor of the notice of assessment, except that, 1096  
upon application and for reasonable cause, the period for 1097  
submitting such evidence shall be extended thirty days. 1098

The commissioner shall consider such additional evidence 1099  
in reaching the final determination on the assessment and 1100  
petition for reassessment. 1101

(F) Whenever a vendor refunds the price, minus any 1102  
separately stated delivery charge, of an item of tangible 1103  
personal property on which the tax imposed under this chapter 1104  
has been paid, the vendor shall also refund the amount of tax 1105  
paid, minus the amount of tax attributable to the delivery 1106

charge. 1107

**Section 2.** That existing sections 5739.02 and 5739.03 of 1108  
the Revised Code are hereby repealed. 1109

**Section 3.** The amendment by this act of sections 5739.02 1110  
and 5739.03 of the Revised Code applies on and after the first 1111  
day of the first month beginning after the effective date of 1112  
this section. 1113