

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 222**

**Senator Antani**

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**A BILL**

To amend sections 5739.02, 5739.03, and 5739.05 of  
the Revised Code to provide a three-day sales  
tax "holiday" each March during which sales of  
qualifying Energy Star products are exempt from  
sales and use taxes.

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

**Section 1.** That sections 5739.02, 5739.03, and 5739.05 of  
the Revised Code be amended to read as follows:

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

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

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

(2) Sales of food for human consumption off the premises 71  
where sold; 72

(3) Sales of food sold to students only in a cafeteria, 73  
dormitory, fraternity, or sorority maintained in a private, 74  
public, or parochial school, college, or university; 75

(4) Sales of newspapers and sales or transfers of 76  
magazines distributed as controlled circulation publications; 77

(5) The furnishing, preparing, or serving of meals without 78

charge by an employer to an employee provided the employer 79  
records the meals as part compensation for services performed or 80  
work done; 81

(6) (a) Sales of motor fuel upon receipt, use, 82  
distribution, or sale of which in this state a tax is imposed by 83  
the law of this state, but this exemption shall not apply to the 84  
sale of motor fuel on which a refund of the tax is allowable 85  
under division (A) of section 5735.14 of the Revised Code; and 86  
the tax commissioner may deduct the amount of tax levied by this 87  
section applicable to the price of motor fuel when granting a 88  
refund of motor fuel tax pursuant to division (A) of section 89  
5735.14 of the Revised Code and shall cause the amount deducted 90  
to be paid into the general revenue fund of this state; 91

(b) Sales of motor fuel other than that described in 92  
division (B) (6) (a) of this section and used for powering a 93  
refrigeration unit on a vehicle other than one used primarily to 94  
provide comfort to the operator or occupants of the vehicle. 95

(7) Sales of natural gas by a natural gas company or 96  
municipal gas utility, of water by a water-works company, or of 97  
steam by a heating company, if in each case the thing sold is 98  
delivered to consumers through pipes or conduits, and all sales 99  
of communications services by a telegraph company, all terms as 100  
defined in section 5727.01 of the Revised Code, and sales of 101  
electricity delivered through wires; 102

(8) Casual sales by a person, or auctioneer employed 103  
directly by the person to conduct such sales, except as to such 104  
sales of motor vehicles, watercraft or outboard motors required 105  
to be titled under section 1548.06 of the Revised Code, 106  
watercraft documented with the United States coast guard, 107  
snowmobiles, and all-purpose vehicles as defined in section 108

4519.01 of the Revised Code;	109
(9) (a) Sales of services or tangible personal property,	110
other than motor vehicles, mobile homes, and manufactured homes,	111
by churches, organizations exempt from taxation under section	112
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	113
organizations operated exclusively for charitable purposes as	114
defined in division (B) (12) of this section, provided that the	115
number of days on which such tangible personal property or	116
services, other than items never subject to the tax, are sold	117
does not exceed six in any calendar year, except as otherwise	118
provided in division (B) (9) (b) of this section. If the number of	119
days on which such sales are made exceeds six in any calendar	120
year, the church or organization shall be considered to be	121
engaged in business and all subsequent sales by it shall be	122
subject to the tax. In counting the number of days, all sales by	123
groups within a church or within an organization shall be	124
considered to be sales of that church or organization.	125
(b) The limitation on the number of days on which tax-	126
exempt sales may be made by a church or organization under	127
division (B) (9) (a) of this section does not apply to sales made	128
by student clubs and other groups of students of a primary or	129
secondary school, or a parent-teacher association, booster	130
group, or similar organization that raises money to support or	131
fund curricular or extracurricular activities of a primary or	132
secondary school.	133
(c) Divisions (B) (9) (a) and (b) of this section do not	134
apply to sales by a noncommercial educational radio or	135
television broadcasting station.	136
(10) Sales not within the taxing power of this state under	137
the Constitution or laws of the United States or the	138

Constitution of this state;	139
(11) Except for transactions that are sales under division	140
(B) (3) (r) of section 5739.01 of the Revised Code, the	141
transportation of persons or property, unless the transportation	142
is by a private investigation and security service;	143
(12) Sales of tangible personal property or services to	144
churches, to organizations exempt from taxation under section	145
501(c) (3) of the Internal Revenue Code of 1986, and to any other	146
nonprofit organizations operated exclusively for charitable	147
purposes in this state, no part of the net income of which	148
inures to the benefit of any private shareholder or individual,	149
and no substantial part of the activities of which consists of	150
carrying on propaganda or otherwise attempting to influence	151
legislation; sales to offices administering one or more homes	152
for the aged or one or more hospital facilities exempt under	153
section 140.08 of the Revised Code; and sales to organizations	154
described in division (D) of section 5709.12 of the Revised	155
Code.	156
"Charitable purposes" means the relief of poverty; the	157
improvement of health through the alleviation of illness,	158
disease, or injury; the operation of an organization exclusively	159
for the provision of professional, laundry, printing, and	160
purchasing services to hospitals or charitable institutions; the	161
operation of a home for the aged, as defined in section 5701.13	162
of the Revised Code; the operation of a radio or television	163
broadcasting station that is licensed by the federal	164
communications commission as a noncommercial educational radio	165
or television station; the operation of a nonprofit animal	166
adoption service or a county humane society; the promotion of	167
education by an institution of learning that maintains a faculty	168

of qualified instructors, teaches regular continuous courses of 169  
study, and confers a recognized diploma upon completion of a 170  
specific curriculum; the operation of a parent-teacher 171  
association, booster group, or similar organization primarily 172  
engaged in the promotion and support of the curricular or 173  
extracurricular activities of a primary or secondary school; the 174  
operation of a community or area center in which presentations 175  
in music, dramatics, the arts, and related fields are made in 176  
order to foster public interest and education therein; the 177  
production of performances in music, dramatics, and the arts; or 178  
the promotion of education by an organization engaged in 179  
carrying on research in, or the dissemination of, scientific and 180  
technological knowledge and information primarily for the 181  
public. 182

Nothing in this division shall be deemed to exempt sales 183  
to any organization for use in the operation or carrying on of a 184  
trade or business, or sales to a home for the aged for use in 185  
the operation of independent living facilities as defined in 186  
division (A) of section 5709.12 of the Revised Code. 187

(13) Building and construction materials and services sold 188  
to construction contractors for incorporation into a structure 189  
or improvement to real property under a construction contract 190  
with this state or a political subdivision of this state, or 191  
with the United States government or any of its agencies; 192  
building and construction materials and services sold to 193  
construction contractors for incorporation into a structure or 194  
improvement to real property that are accepted for ownership by 195  
this state or any of its political subdivisions, or by the 196  
United States government or any of its agencies at the time of 197  
completion of the structures or improvements; building and 198  
construction materials sold to construction contractors for 199

incorporation into a horticulture structure or livestock	200
structure for a person engaged in the business of horticulture	201
or producing livestock; building materials and services sold to	202
a construction contractor for incorporation into a house of	203
public worship or religious education, or a building used	204
exclusively for charitable purposes under a construction	205
contract with an organization whose purpose is as described in	206
division (B) (12) of this section; building materials and	207
services sold to a construction contractor for incorporation	208
into a building under a construction contract with an	209
organization exempt from taxation under section 501(c) (3) of the	210
Internal Revenue Code of 1986 when the building is to be used	211
exclusively for the organization's exempt purposes; building and	212
construction materials sold for incorporation into the original	213
construction of a sports facility under section 307.696 of the	214
Revised Code; building and construction materials and services	215
sold to a construction contractor for incorporation into real	216
property outside this state if such materials and services, when	217
sold to a construction contractor in the state in which the real	218
property is located for incorporation into real property in that	219
state, would be exempt from a tax on sales levied by that state;	220
building and construction materials for incorporation into a	221
transportation facility pursuant to a public-private agreement	222
entered into under sections 5501.70 to 5501.83 of the Revised	223
Code; and, until one calendar year after the construction of a	224
convention center that qualifies for property tax exemption	225
under section 5709.084 of the Revised Code is completed,	226
building and construction materials and services sold to a	227
construction contractor for incorporation into the real property	228
comprising that convention center;	229
(14) Sales of ships or vessels or rail rolling stock used	230



or to be used principally in interstate or foreign commerce, and 231  
repairs, alterations, fuel, and lubricants for such ships or 232  
vessels or rail rolling stock; 233

(15) Sales to persons primarily engaged in any of the 234  
activities mentioned in division (B)(42)(a), (g), or (h) of this 235  
section, to persons engaged in making retail sales, or to 236  
persons who purchase for sale from a manufacturer tangible 237  
personal property that was produced by the manufacturer in 238  
accordance with specific designs provided by the purchaser, of 239  
packages, including material, labels, and parts for packages, 240  
and of machinery, equipment, and material for use primarily in 241  
packaging tangible personal property produced for sale, 242  
including any machinery, equipment, and supplies used to make 243  
labels or packages, to prepare packages or products for 244  
labeling, or to label packages or products, by or on the order 245  
of the person doing the packaging, or sold at retail. "Packages" 246  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 247  
bindings, wrappings, and other similar devices and containers, 248  
but does not include motor vehicles or bulk tanks, trailers, or 249  
similar devices attached to motor vehicles. "Packaging" means 250  
placing in a package. Division (B)(15) of this section does not 251  
apply to persons engaged in highway transportation for hire. 252

(16) Sales of food to persons using supplemental nutrition 253  
assistance program benefits to purchase the food. As used in 254  
this division, "food" has the same meaning as in 7 U.S.C. 2012 255  
and federal regulations adopted pursuant to the Food and 256  
Nutrition Act of 2008. 257

(17) Sales to persons engaged in farming, agriculture, 258  
horticulture, or floriculture, of tangible personal property for 259  
use or consumption primarily in the production by farming, 260

agriculture, horticulture, or floriculture of other tangible 261  
personal property for use or consumption primarily in the 262  
production of tangible personal property for sale by farming, 263  
agriculture, horticulture, or floriculture; or material and 264  
parts for incorporation into any such tangible personal property 265  
for use or consumption in production; and of tangible personal 266  
property for such use or consumption in the conditioning or 267  
holding of products produced by and for such use, consumption, 268  
or sale by persons engaged in farming, agriculture, 269  
horticulture, or floriculture, except where such property is 270  
incorporated into real property; 271

(18) Sales of drugs for a human being that may be 272  
dispensed only pursuant to a prescription; insulin as recognized 273  
in the official United States pharmacopoeia; urine and blood 274  
testing materials when used by diabetics or persons with 275  
hypoglycemia to test for glucose or acetone; hypodermic syringes 276  
and needles when used by diabetics for insulin injections; 277  
epoetin alfa when purchased for use in the treatment of persons 278  
with medical disease; hospital beds when purchased by hospitals, 279  
nursing homes, or other medical facilities; and medical oxygen 280  
and medical oxygen-dispensing equipment when purchased by 281  
hospitals, nursing homes, or other medical facilities; 282

(19) Sales of prosthetic devices, durable medical 283  
equipment for home use, or mobility enhancing equipment, when 284  
made pursuant to a prescription and when such devices or 285  
equipment are for use by a human being. 286

(20) Sales of emergency and fire protection vehicles and 287  
equipment to nonprofit organizations for use solely in providing 288  
fire protection and emergency services, including trauma care 289  
and emergency medical services, for political subdivisions of 290

the state;	291
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	292 293 294 295 296 297 298
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	299 300 301 302 303
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	304 305 306
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling	307 308 309 310 311 312 313 314 315 316 317 318 319 320

materials, and "packaging" means placing therein.	321
(25) (a) Sales of water to a consumer for residential use;	322
(b) Sales of water by a nonprofit corporation engaged	323
exclusively in the treatment, distribution, and sale of water to	324
consumers, if such water is delivered to consumers through pipes	325
or tubing.	326
(26) Fees charged for inspection or reinspection of motor	327
vehicles under section 3704.14 of the Revised Code;	328
(27) Sales to persons licensed to conduct a food service	329
operation pursuant to section 3717.43 of the Revised Code, of	330
tangible personal property primarily used directly for the	331
following:	332
(a) To prepare food for human consumption for sale;	333
(b) To preserve food that has been or will be prepared for	334
human consumption for sale by the food service operator, not	335
including tangible personal property used to display food for	336
selection by the consumer;	337
(c) To clean tangible personal property used to prepare or	338
serve food for human consumption for sale.	339
(28) Sales of animals by nonprofit animal adoption	340
services or county humane societies;	341
(29) Sales of services to a corporation described in	342
division (A) of section 5709.72 of the Revised Code, and sales	343
of tangible personal property that qualifies for exemption from	344
taxation under section 5709.72 of the Revised Code;	345
(30) Sales and installation of agricultural land tile, as	346
defined in division (B) (5) (a) of section 5739.01 of the Revised	347

Code;	348
(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;	349 350 351
(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;	352 353 354 355 356 357
(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;	358 359 360 361 362
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B) (42) (a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.	363 364 365 366 367 368 369 370 371 372 373 374 375 376 377

(35) (a) Sales where the purpose of the consumer is to use 378  
or consume the things transferred in making retail sales and 379  
consisting of newspaper inserts, catalogues, coupons, flyers, 380  
gift certificates, or other advertising material that prices and 381  
describes tangible personal property offered for retail sale. 382

(b) Sales to direct marketing vendors of preliminary 383  
materials such as photographs, artwork, and typesetting that 384  
will be used in printing advertising material; and of printed 385  
matter that offers free merchandise or chances to win sweepstake 386  
prizes and that is mailed to potential customers with 387  
advertising material described in division (B) (35) (a) of this 388  
section; 389

(c) Sales of equipment such as telephones, computers, 390  
facsimile machines, and similar tangible personal property 391  
primarily used to accept orders for direct marketing retail 392  
sales. 393

(d) Sales of automatic food vending machines that preserve 394  
food with a shelf life of forty-five days or less by 395  
refrigeration and dispense it to the consumer. 396

For purposes of division (B) (35) of this section, "direct 397  
marketing" means the method of selling where consumers order 398  
tangible personal property by United States mail, delivery 399  
service, or telecommunication and the vendor delivers or ships 400  
the tangible personal property sold to the consumer from a 401  
warehouse, catalogue distribution center, or similar fulfillment 402  
facility by means of the United States mail, delivery service, 403  
or common carrier. 404

(36) Sales to a person engaged in the business of 405  
horticulture or producing livestock of materials to be 406

incorporated into a horticulture structure or livestock structure; 407  
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(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students; 409  
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(38) Sales of tangible personal property that is not required to be registered or licensed under the laws of this state to a citizen of a foreign nation that is not a citizen of the United States, provided the property is delivered to a person in this state that is not a related member of the purchaser, is physically present in this state for the sole purpose of temporary storage and package consolidation, and is subsequently delivered to the purchaser at a delivery address in a foreign nation. As used in division (B)(38) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code, and "temporary storage" means the storage of tangible personal property for a period of not more than sixty days. 415  
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(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; 428  
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(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its 431  
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classification as tangible personal property after 437  
incorporation; fuel or power used in the production, 438  
transmission, or distribution of electricity; energy conversion 439  
equipment as defined in section 5727.01 of the Revised Code; and 440  
tangible personal property and services used in the repair and 441  
maintenance of the production, transmission, or distribution 442  
system, including only those motor vehicles as are specially 443  
designed and equipped for such use. The exemption provided in 444  
this division shall be in lieu of all other exemptions in 445  
division (B) (42) (a) or (n) of this section to which a provider 446  
of electricity may otherwise be entitled based on the use of the 447  
tangible personal property or service purchased in generating, 448  
transmitting, or distributing electricity. 449

(41) Sales to a person providing services under division 450  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 451  
personal property and services used directly and primarily in 452  
providing taxable services under that section. 453

(42) Sales where the purpose of the purchaser is to do any 454  
of the following: 455

(a) To incorporate the thing transferred as a material or 456  
a part into tangible personal property to be produced for sale 457  
by manufacturing, assembling, processing, or refining; or to use 458  
or consume the thing transferred directly in producing tangible 459  
personal property for sale by mining, including, without 460  
limitation, the extraction from the earth of all substances that 461  
are classed geologically as minerals, or directly in the 462  
rendition of a public utility service, except that the sales tax 463  
levied by this section shall be collected upon all meals, 464  
drinks, and food for human consumption sold when transporting 465  
persons. This paragraph does not exempt from "retail sale" or 466



"sales at retail" the sale of tangible personal property that is	467
to be incorporated into a structure or improvement to real	468
property.	469
(b) To hold the thing transferred as security for the	470
performance of an obligation of the vendor;	471
(c) To resell, hold, use, or consume the thing transferred	472
as evidence of a contract of insurance;	473
(d) To use or consume the thing directly in commercial	474
fishing;	475
(e) To incorporate the thing transferred as a material or	476
a part into, or to use or consume the thing transferred directly	477
in the production of, magazines distributed as controlled	478
circulation publications;	479
(f) To use or consume the thing transferred in the	480
production and preparation in suitable condition for market and	481
sale of printed, imprinted, overprinted, lithographic,	482
multilithic, blueprinted, photostatic, or other productions or	483
reproductions of written or graphic matter;	484
(g) To use the thing transferred, as described in section	485
5739.011 of the Revised Code, primarily in a manufacturing	486
operation to produce tangible personal property for sale;	487
(h) To use the benefit of a warranty, maintenance or	488
service contract, or similar agreement, as described in division	489
(B) (7) of section 5739.01 of the Revised Code, to repair or	490
maintain tangible personal property, if all of the property that	491
is the subject of the warranty, contract, or agreement would not	492
be subject to the tax imposed by this section;	493
(i) To use the thing transferred as qualified research and	494

development equipment;	495
(j) To use or consume the thing transferred primarily in	496
storing, transporting, mailing, or otherwise handling purchased	497
sales inventory in a warehouse, distribution center, or similar	498
facility when the inventory is primarily distributed outside	499
this state to retail stores of the person who owns or controls	500
the warehouse, distribution center, or similar facility, to	501
retail stores of an affiliated group of which that person is a	502
member, or by means of direct marketing. This division does not	503
apply to motor vehicles registered for operation on the public	504
highways. As used in this division, "affiliated group" has the	505
same meaning as in division (B) (3) (e) of section 5739.01 of the	506
Revised Code and "direct marketing" has the same meaning as in	507
division (B) (35) of this section.	508
(k) To use or consume the thing transferred to fulfill a	509
contractual obligation incurred by a warrantor pursuant to a	510
warranty provided as a part of the price of the tangible	511
personal property sold or by a vendor of a warranty, maintenance	512
or service contract, or similar agreement the provision of which	513
is defined as a sale under division (B) (7) of section 5739.01 of	514
the Revised Code;	515
(l) To use or consume the thing transferred in the	516
production of a newspaper for distribution to the public;	517
(m) To use tangible personal property to perform a service	518
listed in division (B) (3) of section 5739.01 of the Revised	519
Code, if the property is or is to be permanently transferred to	520
the consumer of the service as an integral part of the	521
performance of the service;	522
(n) To use or consume the thing transferred primarily in	523

producing tangible personal property for sale by farming, 524  
agriculture, horticulture, or floriculture. Persons engaged in 525  
rendering farming, agriculture, horticulture, or floriculture 526  
services for others are deemed engaged primarily in farming, 527  
agriculture, horticulture, or floriculture. This paragraph does 528  
not exempt from "retail sale" or "sales at retail" the sale of 529  
tangible personal property that is to be incorporated into a 530  
structure or improvement to real property. 531

(o) To use or consume the thing transferred in acquiring, 532  
formatting, editing, storing, and disseminating data or 533  
information by electronic publishing; 534

(p) To provide the thing transferred to the owner or 535  
lessee of a motor vehicle that is being repaired or serviced, if 536  
the thing transferred is a rented motor vehicle and the 537  
purchaser is reimbursed for the cost of the rented motor vehicle 538  
by a manufacturer, warrantor, or provider of a maintenance, 539  
service, or other similar contract or agreement, with respect to 540  
the motor vehicle that is being repaired or serviced; 541

(q) To use or consume the thing transferred directly in 542  
production of crude oil and natural gas for sale. Persons 543  
engaged in rendering production services for others are deemed 544  
engaged in production. 545

As used in division (B) (42) (q) of this section, 546  
"production" means operations and tangible personal property 547  
directly used to expose and evaluate an underground reservoir 548  
that may contain hydrocarbon resources, prepare the wellbore for 549  
production, and lift and control all substances yielded by the 550  
reservoir to the surface of the earth. 551

(i) For the purposes of division (B) (42) (q) of this 552

section, the "thing transferred" includes, but is not limited	553
to, any of the following:	554
(I) Services provided in the construction of permanent	555
access roads, services provided in the construction of the well	556
site, and services provided in the construction of temporary	557
impoundments;	558
(II) Equipment and rigging used for the specific purpose	559
of creating with integrity a wellbore pathway to underground	560
reservoirs;	561
(III) Drilling and workover services used to work within a	562
subsurface wellbore, and tangible personal property directly	563
used in providing such services;	564
(IV) Casing, tubulars, and float and centralizing	565
equipment;	566
(V) Trailers to which production equipment is attached;	567
(VI) Well completion services, including cementing of	568
casing, and tangible personal property directly used in	569
providing such services;	570
(VII) Wireline evaluation, mud logging, and perforation	571
services, and tangible personal property directly used in	572
providing such services;	573
(VIII) Reservoir stimulation, hydraulic fracturing, and	574
acidizing services, and tangible personal property directly used	575
in providing such services, including all material pumped	576
downhole;	577
(IX) Pressure pumping equipment;	578
(X) Artificial lift systems equipment;	579

(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	580 581 582
(XII) Tangible personal property directly used to control production equipment.	583 584
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	585 586 587
(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;	588 589 590
(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;	591 592 593
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	594 595 596
(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;	597 598 599 600
(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;	601 602 603 604
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	605 606
(VII) Well site fencing, lighting, or security systems;	607

(VIII) Communication devices or services;	608
(IX) Office supplies;	609
(X) Trailers used as offices or lodging;	610
(XI) Motor vehicles of any kind;	611
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	612 613
(XIII) Tangible personal property used primarily as a safety device;	614 615
(XIV) Data collection or monitoring devices;	616
(XV) Access ladders, stairs, or platforms attached to storage tanks.	617 618
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.	619 620 621 622 623
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	624 625 626 627
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	628 629 630
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises	631 632 633 634

in washing, cleaning, or waxing a motor vehicle, provided no 635  
other personal property or personal service is provided as part 636  
of the transaction. 637

(44) Sales of replacement and modification parts for 638  
engines, airframes, instruments, and interiors in, and paint 639  
for, aircraft used primarily in a fractional aircraft ownership 640  
program, and sales of services for the repair, modification, and 641  
maintenance of such aircraft, and machinery, equipment, and 642  
supplies primarily used to provide those services. 643

(45) Sales of telecommunications service that is used 644  
directly and primarily to perform the functions of a call 645  
center. As used in this division, "call center" means any 646  
physical location where telephone calls are placed or received 647  
in high volume for the purpose of making sales, marketing, 648  
customer service, technical support, or other specialized 649  
business activity, and that employs at least fifty individuals 650  
that engage in call center activities on a full-time basis, or 651  
sufficient individuals to fill fifty full-time equivalent 652  
positions. 653

(46) Sales by a telecommunications service vendor of 900 654  
service to a subscriber. This division does not apply to 655  
information services. 656

(47) Sales of value-added non-voice data service. This 657  
division does not apply to any similar service that is not 658  
otherwise a telecommunications service. 659

(48) Sales of feminine hygiene products. 660

(49) Sales of materials, parts, equipment, or engines used 661  
in the repair or maintenance of aircraft or avionics systems of 662  
such aircraft, and sales of repair, remodeling, replacement, or 663

maintenance services in this state performed on aircraft or on 664  
an aircraft's avionics, engine, or component materials or parts. 665  
As used in division (B) (49) of this section, "aircraft" means 666  
aircraft of more than six thousand pounds maximum certified 667  
takeoff weight or used exclusively in general aviation. 668

(50) Sales of full flight simulators that are used for 669  
pilot or flight-crew training, sales of repair or replacement 670  
parts or components, and sales of repair or maintenance services 671  
for such full flight simulators. "Full flight simulator" means a 672  
replica of a specific type, or make, model, and series of 673  
aircraft cockpit. It includes the assemblage of equipment and 674  
computer programs necessary to represent aircraft operations in 675  
ground and flight conditions, a visual system providing an out- 676  
of-the-cockpit view, and a system that provides cues at least 677  
equivalent to those of a three-degree-of-freedom motion system, 678  
and has the full range of capabilities of the systems installed 679  
in the device as described in appendices A and B of part 60 of 680  
chapter 1 of title 14 of the Code of Federal Regulations. 681

(51) Any transfer or lease of tangible personal property 682  
between the state and JobsOhio in accordance with section 683  
4313.02 of the Revised Code. 684

(52) (a) Sales to a qualifying corporation. 685

(b) As used in division (B) (52) of this section: 686

(i) "Qualifying corporation" means a nonprofit corporation 687  
organized in this state that leases from an eligible county 688  
land, buildings, structures, fixtures, and improvements to the 689  
land that are part of or used in a public recreational facility 690  
used by a major league professional athletic team or a class A 691  
to class AAA minor league affiliate of a major league 692



professional athletic team for a significant portion of the 693  
team's home schedule, provided the following apply: 694

(I) The facility is leased from the eligible county 695  
pursuant to a lease that requires substantially all of the 696  
revenue from the operation of the business or activity conducted 697  
by the nonprofit corporation at the facility in excess of 698  
operating costs, capital expenditures, and reserves to be paid 699  
to the eligible county at least once per calendar year. 700

(II) Upon dissolution and liquidation of the nonprofit 701  
corporation, all of its net assets are distributable to the 702  
board of commissioners of the eligible county from which the 703  
corporation leases the facility. 704

(ii) "Eligible county" has the same meaning as in section 705  
307.695 of the Revised Code. 706

(53) Sales to or by a cable service provider, video 707  
service provider, or radio or television broadcast station 708  
regulated by the federal government of cable service or 709  
programming, video service or programming, audio service or 710  
programming, or electronically transferred digital audiovisual 711  
or audio work. As used in division (B) (53) of this section, 712  
"cable service" and "cable service provider" have the same 713  
meanings as in section 1332.01 of the Revised Code, and "video 714  
service," "video service provider," and "video programming" have 715  
the same meanings as in section 1332.21 of the Revised Code. 716

(54) Sales of a digital audio work electronically 717  
transferred for delivery through use of a machine, such as a 718  
juke box, that does all of the following: 719

(a) Accepts direct payments to operate; 720

(b) Automatically plays a selected digital audio work for 721

a single play upon receipt of a payment described in division	722
(B) (54) (a) of this section;	723
(c) Operates exclusively for the purpose of playing	724
digital audio works in a commercial establishment.	725
(55) (a) Sales of the following occurring on the first	726
Friday of August and the following Saturday and Sunday of each	727
year, beginning in 2018:	728
(i) An item of clothing, the price of which is seventy-	729
five dollars or less;	730
(ii) An item of school supplies, the price of which is	731
twenty dollars or less;	732
(iii) An item of school instructional material, the price	733
of which is twenty dollars or less.	734
(b) As used in division (B) (55) of this section:	735
(i) "Clothing" means all human wearing apparel suitable	736
for general use. "Clothing" includes, but is not limited to,	737
aprons, household and shop; athletic supporters; baby receiving	738
blankets; bathing suits and caps; beach capes and coats; belts	739
and suspenders; boots; coats and jackets; costumes; diapers,	740
children and adult, including disposable diapers; earmuffs;	741
footlets; formal wear; garters and garter belts; girdles; gloves	742
and mittens for general use; hats and caps; hosiery; insoles for	743
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	744
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	745
sneakers; socks and stockings; steel-toed shoes; underwear;	746
uniforms, athletic and nonathletic; and wedding apparel.	747
"Clothing" does not include items purchased for use in a trade	748
or business; clothing accessories or equipment; protective	749
equipment; sports or recreational equipment; belt buckles sold	750

separately; costume masks sold separately; patches and emblems 751  
sold separately; sewing equipment and supplies including, but 752  
not limited to, knitting needles, patterns, pins, scissors, 753  
sewing machines, sewing needles, tape measures, and thimbles; 754  
and sewing materials that become part of "clothing" including, 755  
but not limited to, buttons, fabric, lace, thread, yarn, and 756  
zippers. 757

(ii) "School supplies" means items commonly used by a 758  
student in a course of study. "School supplies" includes only 759  
the following items: binders; book bags; calculators; cellophane 760  
tape; blackboard chalk; compasses; composition books; crayons; 761  
erasers; folders, expandable, pocket, plastic, and manila; glue, 762  
paste, and paste sticks; highlighters; index cards; index card 763  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 764  
loose-leaf ruled notebook paper, copy paper, graph paper, 765  
tracing paper, manila paper, colored paper, poster board, and 766  
construction paper; pencil boxes and other school supply boxes; 767  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 768  
and writing tablets. "School supplies" does not include any item 769  
purchased for use in a trade or business. 770

(iii) "School instructional material" means written 771  
material commonly used by a student in a course of study as a 772  
reference and to learn the subject being taught. "School 773  
instructional material" includes only the following items: 774  
reference books, reference maps and globes, textbooks, and 775  
workbooks. "School instructional material" does not include any 776  
material purchased for use in a trade or business. 777

(56) (a) Sales of diapers or incontinence underpads sold 778  
pursuant to a prescription, for the benefit of a medicaid 779  
recipient with a diagnosis of incontinence, and by a medicaid 780

provider that maintains a valid provider agreement under section 781  
5164.30 of the Revised Code with the department of medicaid, 782  
provided that the medicaid program covers diapers or 783  
incontinence underpads as an incontinence garment. 784

(b) As used in division (B) (56) (a) of this section: 785

(i) "Diaper" means an absorbent garment worn by humans who 786  
are incapable of, or have difficulty, controlling their bladder 787  
or bowel movements. 788

(ii) "Incontinence underpad" means an absorbent product, 789  
not worn on the body, designed to protect furniture or other 790  
tangible personal property from soiling or damage due to human 791  
incontinence. 792

(57) Sales of qualifying energy star products occurring on 793  
the first Friday in March and the following Saturday and Sunday 794  
of each year. 795

As used in this division, "qualifying energy star product" 796  
means a device that carries the energy star label indicating 797  
that the device meets the energy efficiency criteria of the 798  
energy star program established by the United States department 799  
of energy and the United States environmental protection agency 800  
and that is categorized as an appliance or water heater or as 801  
heating and cooling equipment under that program. "Qualifying 802  
energy star product" does not include any device that is rented, 803  
purchased for use in a trade or business, or purchased by a 804  
person who will affix or install the device on behalf of the 805  
ultimate consumer. For the purposes of this division, a sale of 806  
a qualifying energy star product is considered to "occur" during 807  
the specified three-day period if, regardless of the date the 808  
device is delivered, the purchaser paid for the device during 809

the specified period and did not request any delay in the 810  
shipment or delivery of the device. 811

(C) For the purpose of the proper administration of this 812  
chapter, and to prevent the evasion of the tax, it is presumed 813  
that all sales made in this state are subject to the tax until 814  
the contrary is established. 815

(D) The tax collected by the vendor from the consumer 816  
under this chapter is not part of the price, but is a tax 817  
collection for the benefit of the state, and of counties levying 818  
an additional sales tax pursuant to section 5739.021 or 5739.026 819  
of the Revised Code and of transit authorities levying an 820  
additional sales tax pursuant to section 5739.023 of the Revised 821  
Code. Except for the discount authorized under section 5739.12 822  
of the Revised Code and the effects of any rounding pursuant to 823  
section 5703.055 of the Revised Code, no person other than the 824  
state or such a county or transit authority shall derive any 825  
benefit from the collection or payment of the tax levied by this 826  
section or section 5739.021, 5739.023, or 5739.026 of the 827  
Revised Code. 828

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 829  
section 5739.051 of the Revised Code, the tax imposed by or 830  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 831  
the Revised Code shall be paid by the consumer to the vendor, 832  
and each vendor shall collect from the consumer, as a trustee 833  
for the state of Ohio, the full and exact amount of the tax 834  
payable on each taxable sale, in the manner and at the times 835  
provided as follows: 836

(1) If the price is, at or prior to the provision of the 837  
service or the delivery of possession of the thing sold to the 838  
consumer, paid in currency passed from hand to hand by the 839

consumer or the consumer's agent to the vendor or the vendor's 840  
agent, the vendor or the vendor's agent shall collect the tax 841  
with and at the same time as the price; 842

(2) If the price is otherwise paid or to be paid, the 843  
vendor or the vendor's agent shall, at or prior to the provision 844  
of the service or the delivery of possession of the thing sold 845  
to the consumer, charge the tax imposed by or pursuant to 846  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 847  
Code to the account of the consumer, which amount shall be 848  
collected by the vendor from the consumer in addition to the 849  
price. Such sale shall be reported on and the amount of the tax 850  
applicable thereto shall be remitted with the return for the 851  
period in which the sale is made, and the amount of the tax 852  
shall become a legal charge in favor of the vendor and against 853  
the consumer. 854

(B) (1) (a) If any sale is claimed to be exempt under 855  
division (E) of section 5739.01 of the Revised Code or under 856  
section 5739.02 of the Revised Code, with the exception of 857  
divisions (B) (1) to (11), (28), (48), ~~or (55)~~, or (57) of 858  
section 5739.02 of the Revised Code, or if the consumer claims 859  
the transaction is not a taxable sale due to one or more of the 860  
exclusions provided under divisions (JJ) (1) to (5) of section 861  
5739.01 of the Revised Code, the consumer must provide to the 862  
vendor, and the vendor must obtain from the consumer, a 863  
certificate specifying the reason that the sale is not legally 864  
subject to the tax. The certificate shall be in such form, and 865  
shall be provided either in a hard copy form or electronic form, 866  
as the tax commissioner prescribes. 867

(b) A vendor that obtains a fully completed exemption 868  
certificate from a consumer is relieved of liability for 869

collecting and remitting tax on any sale covered by that 870  
certificate. If it is determined the exemption was improperly 871  
claimed, the consumer shall be liable for any tax due on that 872  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 873  
Chapter 5741. of the Revised Code. Relief under this division 874  
from liability does not apply to any of the following: 875

(i) A vendor that fraudulently fails to collect tax; 876

(ii) A vendor that solicits consumers to participate in 877  
the unlawful claim of an exemption; 878

(iii) A vendor that accepts an exemption certificate from 879  
a consumer that claims an exemption based on who purchases or 880  
who sells property or a service, when the subject of the 881  
transaction sought to be covered by the exemption certificate is 882  
actually received by the consumer at a location operated by the 883  
vendor in this state, and this state has posted to its web site 884  
an exemption certificate form that clearly and affirmatively 885  
indicates that the claimed exemption is not available in this 886  
state; 887

(iv) A vendor that accepts an exemption certificate from a 888  
consumer who claims a multiple points of use exemption under 889  
division (D) of section 5739.033 of the Revised Code, if the 890  
item purchased is tangible personal property, other than 891  
prewritten computer software. 892

(2) The vendor shall maintain records, including exemption 893  
certificates, of all sales on which a consumer has claimed an 894  
exemption, and provide them to the tax commissioner on request. 895

(3) The tax commissioner may establish an identification 896  
system whereby the commissioner issues an identification number 897  
to a consumer that is exempt from payment of the tax. The 898

consumer must present the number to the vendor, if any sale is 899  
claimed to be exempt as provided in this section. 900

(4) If no certificate is provided or obtained within 901  
ninety days after the date on which such sale is consummated, it 902  
shall be presumed that the tax applies. Failure to have so 903  
provided or obtained a certificate shall not preclude a vendor, 904  
within one hundred twenty days after the tax commissioner gives 905  
written notice of intent to levy an assessment, from either 906  
establishing that the sale is not subject to the tax, or 907  
obtaining, in good faith, a fully completed exemption 908  
certificate. 909

(5) Certificates need not be obtained nor provided where 910  
the identity of the consumer is such that the transaction is 911  
never subject to the tax imposed or where the item of tangible 912  
personal property sold or the service provided is never subject 913  
to the tax imposed, regardless of use, or when the sale is in 914  
interstate commerce. 915

(6) If a transaction is claimed to be exempt under 916  
division (B)(13) of section 5739.02 of the Revised Code, the 917  
contractor shall obtain certification of the claimed exemption 918  
from the contractee. This certification shall be in addition to 919  
an exemption certificate provided by the contractor to the 920  
vendor. A contractee that provides a certification under this 921  
division shall be deemed to be the consumer of all items 922  
purchased by the contractor under the claim of exemption, if it 923  
is subsequently determined that the exemption is not properly 924  
claimed. The certification shall be in such form as the tax 925  
commissioner prescribes. 926

(C) As used in this division, "contractee" means a person 927  
who seeks to enter or enters into a contract or agreement with a 928



contractor or vendor for the construction of real property or 929  
for the sale and installation onto real property of tangible 930  
personal property. 931

Any contractor or vendor may request from any contractee a 932  
certification of what portion of the property to be transferred 933  
under such contract or agreement is to be incorporated into the 934  
realty and what portion will retain its status as tangible 935  
personal property after installation is completed. The 936  
contractor or vendor shall request the certification by 937  
certified mail delivered to the contractee, return receipt 938  
requested. Upon receipt of such request and prior to entering 939  
into the contract or agreement, the contractee shall provide to 940  
the contractor or vendor a certification sufficiently detailed 941  
to enable the contractor or vendor to ascertain the resulting 942  
classification of all materials purchased or fabricated by the 943  
contractor or vendor and transferred to the contractee. This 944  
requirement applies to a contractee regardless of whether the 945  
contractee holds a direct payment permit under section 5739.031 946  
of the Revised Code or provides to the contractor or vendor an 947  
exemption certificate as provided under this section. 948

For the purposes of the taxes levied by this chapter and 949  
Chapter 5741. of the Revised Code, the contractor or vendor may 950  
in good faith rely on the contractee's certification. 951  
Notwithstanding division (B) of section 5739.01 of the Revised 952  
Code, if the tax commissioner determines that certain property 953  
certified by the contractee as tangible personal property 954  
pursuant to this division is, in fact, real property, the 955  
contractee shall be considered to be the consumer of all 956  
materials so incorporated into that real property and shall be 957  
liable for the applicable tax, and the contractor or vendor 958  
shall be excused from any liability on those materials. 959

If a contractee fails to provide such certification upon 960  
the request of the contractor or vendor, the contractor or 961  
vendor shall comply with the provisions of this chapter and 962  
Chapter 5741. of the Revised Code without the certification. If 963  
the tax commissioner determines that such compliance has been 964  
performed in good faith and that certain property treated as 965  
tangible personal property by the contractor or vendor is, in 966  
fact, real property, the contractee shall be considered to be 967  
the consumer of all materials so incorporated into that real 968  
property and shall be liable for the applicable tax, and the 969  
construction contractor or vendor shall be excused from any 970  
liability on those materials. 971

This division does not apply to any contract or agreement 972  
where the tax commissioner determines as a fact that a 973  
certification under this division was made solely on the 974  
decision or advice of the contractor or vendor. 975

(D) Notwithstanding division (B) of section 5739.01 of the 976  
Revised Code, whenever the total rate of tax imposed under this 977  
chapter is increased after the date after a construction 978  
contract is entered into, the contractee shall reimburse the 979  
construction contractor for any additional tax paid on tangible 980  
property consumed or services received pursuant to the contract. 981

(E) A vendor who files a petition for reassessment 982  
contesting the assessment of tax on sales for which the vendor 983  
obtained no valid exemption certificates and for which the 984  
vendor failed to establish that the sales were properly not 985  
subject to the tax during the one-hundred-twenty-day period 986  
allowed under division (B) of this section, may present to the 987  
tax commissioner additional evidence to prove that the sales 988  
were properly subject to a claim of exception or exemption. The 989

vendor shall file such evidence within ninety days of the 990  
receipt by the vendor of the notice of assessment, except that, 991  
upon application and for reasonable cause, the period for 992  
submitting such evidence shall be extended thirty days. 993

The commissioner shall consider such additional evidence 994  
in reaching the final determination on the assessment and 995  
petition for reassessment. 996

(F) Whenever a vendor refunds the price, minus any 997  
separately stated delivery charge, of an item of tangible 998  
personal property on which the tax imposed under this chapter 999  
has been paid, the vendor shall also refund the amount of tax 1000  
paid, minus the amount of tax attributable to the delivery 1001  
charge. 1002

**Sec. 5739.05.** (A) (1) The tax commissioner shall enforce 1003  
and administer sections 5739.01 to 5739.31 of the Revised Code, 1004  
which are hereby declared to be sections which the commissioner 1005  
is required to administer within the meaning of sections 5703.17 1006  
to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. 1007  
The commissioner may adopt and promulgate, in accordance with 1008  
sections 119.01 to 119.13 of the Revised Code, such rules as the 1009  
commissioner deems necessary to administer sections 5739.01 to 1010  
5739.31 of the Revised Code. 1011

(2) (a) On or before the first day of May of each year, the 1012  
commissioner shall make available to vendors a notice explaining 1013  
the three-day exemption period required under division (B) (55) 1014  
of section 5739.02 of the Revised Code. 1015

(b) On or before the first day of December of each year, 1016  
the commissioner shall make available to vendors a notice 1017  
explaining the three-day exemption period required under 1018

division (B) (57) of section 5739.02 of the Revised Code. 1019

(B) Upon application, the commissioner may authorize a 1020  
vendor to pay on a predetermined basis the tax levied by or 1021  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 1022  
the Revised Code upon sales of things produced or distributed or 1023  
services provided by such vendor, and the commissioner may waive 1024  
the collection of the tax from the consumer. The commissioner 1025  
shall not grant such authority unless the commissioner finds 1026  
that the granting of the authority would improve compliance and 1027  
increase the efficiency of the administration of the tax. The 1028  
person to whom such authority is granted shall post a notice, if 1029  
required by the commissioner, at the location where the product 1030  
is offered for sale that the tax is included in the selling 1031  
price. The commissioner may adopt rules to administer this 1032  
division. 1033

(C) Upon application, the commissioner may authorize a 1034  
vendor to remit, on the basis of a prearranged agreement under 1035  
this division, the tax levied by section 5739.02 or pursuant to 1036  
section 5739.021, 5739.023, or 5739.026 of the Revised Code. The 1037  
proportions and ratios in a prearranged agreement shall be 1038  
determined either by a test check conducted by the commissioner 1039  
under terms and conditions agreed to by the commissioner and the 1040  
vendor or by any other method agreed upon by the vendor and the 1041  
commissioner. If the parties are unable to agree to the terms 1042  
and conditions of the test check or other method, the 1043  
application shall be denied. 1044

If used, the test check shall determine the proportion 1045  
that taxable retail sales bear to all of the vendor's retail 1046  
sales and the ratio which the tax required to be collected under 1047  
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the 1048

Revised Code bears to the receipts from the vendor's taxable retail sales. 1049  
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The vendor's liability for remitting the tax shall be based solely upon the proportions and ratios established in the agreement until such time that the vendor or the commissioner believes that the nature of the vendor's business has so changed as to make the agreement no longer representative. The commissioner may give notice to the vendor at any time that the authorization is revoked or the vendor may notify the commissioner that the vendor no longer elects to report under the authorization. Such notice shall be delivered to the other party personally or by registered mail. The revocation or cancellation is effective the last day of the month in which the vendor or the commissioner receives the notice. 1051  
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**Section 2.** That existing sections 5739.02, 5739.03, and 5739.05 of the Revised Code are hereby repealed. 1063  
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