

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 186**

**Representatives Brewer, Brennan**

**Cosponsors: Representatives Thomas, C., Rogers, Grim, Baker, Dell'Aquila,  
Forhan, McNally**

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**A BILL**

To amend sections 5739.01, 5739.02, 5739.03, and 1  
5739.17 of the Revised Code to exempt from sales 2  
and use tax sales of firearm safety devices. 3

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

**Section 1.** That sections 5739.01, 5739.02, 5739.03, and 4  
5739.17 of the Revised Code be amended to read as follows: 5

**Sec. 5739.01.** As used in this chapter: 6

(A) "Person" includes individuals, receivers, assignees, 7  
trustees in bankruptcy, estates, firms, partnerships, 8  
associations, joint-stock companies, joint ventures, clubs, 9  
societies, corporations, the state and its political 10  
subdivisions, and combinations of individuals of any form. 11

(B) "Sale" and "selling" include all of the following 12  
transactions for a consideration in any manner, whether 13  
absolutely or conditionally, whether for a price or rental, in 14  
money or by exchange, and by any means whatsoever: 15

(1) All transactions by which title or possession, or 16

both, of tangible personal property, is or is to be transferred, 17  
or a license to use or consume tangible personal property is or 18  
is to be granted; 19

(2) All transactions by which lodging by a hotel is or is 20  
to be furnished to transient guests; 21

(3) All transactions by which: 22

(a) An item of tangible personal property is or is to be 23  
repaired, except property, the purchase of which would not be 24  
subject to the tax imposed by section 5739.02 of the Revised 25  
Code; 26

(b) An item of tangible personal property is or is to be 27  
installed, except property, the purchase of which would not be 28  
subject to the tax imposed by section 5739.02 of the Revised 29  
Code or property that is or is to be incorporated into and will 30  
become a part of a production, transmission, transportation, or 31  
distribution system for the delivery of a public utility 32  
service; 33

(c) The service of washing, cleaning, waxing, polishing, 34  
or painting a motor vehicle is or is to be furnished; 35

(d) Laundry and dry cleaning services are or are to be 36  
provided; 37

(e) Automatic data processing, computer services, or 38  
electronic information services are or are to be provided for 39  
use in business when the true object of the transaction is the 40  
receipt by the consumer of automatic data processing, computer 41  
services, or electronic information services rather than the 42  
receipt of personal or professional services to which automatic 43  
data processing, computer services, or electronic information 44  
services are incidental or supplemental. Notwithstanding any 45

other provision of this chapter, such transactions that occur 46  
between members of an affiliated group are not sales. An 47  
"affiliated group" means two or more persons related in such a 48  
way that one person owns or controls the business operation of 49  
another member of the group. In the case of corporations with 50  
stock, one corporation owns or controls another if it owns more 51  
than fifty per cent of the other corporation's common stock with 52  
voting rights. 53

(f) Telecommunications service, including prepaid calling 54  
service, prepaid wireless calling service, or ancillary service, 55  
is or is to be provided, but not including coin-operated 56  
telephone service; 57

(g) Landscaping and lawn care service is or is to be 58  
provided; 59

(h) Private investigation and security service is or is to 60  
be provided; 61

(i) Information services or tangible personal property is 62  
provided or ordered by means of a nine hundred telephone call; 63

(j) Building maintenance and janitorial service is or is 64  
to be provided; 65

(k) Exterminating service is or is to be provided; 66

(l) Physical fitness facility service is or is to be 67  
provided; 68

(m) Recreation and sports club service is or is to be 69  
provided; 70

(n) Satellite broadcasting service is or is to be 71  
provided; 72

(o) Personal care service is or is to be provided to an 73  
individual. As used in this division, "personal care service" 74  
includes skin care, the application of cosmetics, manicuring, 75  
pedicuring, hair removal, tattooing, body piercing, tanning, 76  
massage, and other similar services. "Personal care service" 77  
does not include a service provided by or on the order of a 78  
licensed physician or licensed chiropractor, or the cutting, 79  
coloring, or styling of an individual's hair. 80

(p) The transportation of persons by motor vehicle or 81  
aircraft is or is to be provided, when the transportation is 82  
entirely within this state, except for transportation provided 83  
by an ambulance service, by a transit bus, as defined in section 84  
5735.01 of the Revised Code, and transportation provided by a 85  
citizen of the United States holding a certificate of public 86  
convenience and necessity issued under 49 U.S.C. 41102; 87

(q) Motor vehicle towing service is or is to be provided. 88  
As used in this division, "motor vehicle towing service" means 89  
the towing or conveyance of a wrecked, disabled, or illegally 90  
parked motor vehicle. 91

(r) Snow removal service is or is to be provided. As used 92  
in this division, "snow removal service" means the removal of 93  
snow by any mechanized means, but does not include the providing 94  
of such service by a person that has less than five thousand 95  
dollars in sales of such service during the calendar year. 96

(s) Electronic publishing service is or is to be provided 97  
to a consumer for use in business, except that such transactions 98  
occurring between members of an affiliated group, as defined in 99  
division (B) (3) (e) of this section, are not sales. 100

(4) All transactions by which printed, imprinted, 101

overprinted, lithographic, multilithic, blueprinted, 102  
photostatic, or other productions or reproductions of written or 103  
graphic matter are or are to be furnished or transferred; 104

(5) The production or fabrication of tangible personal 105  
property for a consideration for consumers who furnish either 106  
directly or indirectly the materials used in the production of 107  
fabrication work; and include the furnishing, preparing, or 108  
serving for a consideration of any tangible personal property 109  
consumed on the premises of the person furnishing, preparing, or 110  
serving such tangible personal property. Except as provided in 111  
section 5739.03 of the Revised Code, a construction contract 112  
pursuant to which tangible personal property is or is to be 113  
incorporated into a structure or improvement on and becoming a 114  
part of real property is not a sale of such tangible personal 115  
property. The construction contractor is the consumer of such 116  
tangible personal property, provided that the sale and 117  
installation of carpeting, the sale and installation of 118  
agricultural land tile, the sale and erection or installation of 119  
portable grain bins, or the provision of landscaping and lawn 120  
care service and the transfer of property as part of such 121  
service is never a construction contract. 122

As used in division (B) (5) of this section: 123

(a) "Agricultural land tile" means fired clay or concrete 124  
tile, or flexible or rigid perforated plastic pipe or tubing, 125  
incorporated or to be incorporated into a subsurface drainage 126  
system appurtenant to land used or to be used primarily in 127  
production by farming, agriculture, horticulture, or 128  
floriculture. The term does not include such materials when they 129  
are or are to be incorporated into a drainage system appurtenant 130  
to a building or structure even if the building or structure is 131

used or to be used in such production. 132

(b) "Portable grain bin" means a structure that is used or 133  
to be used by a person engaged in farming or agriculture to 134  
shelter the person's grain and that is designed to be 135  
disassembled without significant damage to its component parts. 136

(6) All transactions in which all of the shares of stock 137  
of a closely held corporation are transferred, or an ownership 138  
interest in a pass-through entity, as defined in section 5733.04 139  
of the Revised Code, is transferred, if the corporation or pass- 140  
through entity is not engaging in business and its entire assets 141  
consist of boats, planes, motor vehicles, or other tangible 142  
personal property operated primarily for the use and enjoyment 143  
of the shareholders or owners; 144

(7) All transactions in which a warranty, maintenance or 145  
service contract, or similar agreement by which the vendor of 146  
the warranty, contract, or agreement agrees to repair or 147  
maintain the tangible personal property of the consumer is or is 148  
to be provided; 149

(8) The transfer of copyrighted motion picture films used 150  
solely for advertising purposes, except that the transfer of 151  
such films for exhibition purposes is not a sale; 152

(9) All transactions by which tangible personal property 153  
is or is to be stored, except such property that the consumer of 154  
the storage holds for sale in the regular course of business; 155

(10) All transactions in which "guaranteed auto 156  
protection" is provided whereby a person promises to pay to the 157  
consumer the difference between the amount the consumer receives 158  
from motor vehicle insurance and the amount the consumer owes to 159  
a person holding title to or a lien on the consumer's motor 160

vehicle in the event the consumer's motor vehicle suffers a 161  
total loss under the terms of the motor vehicle insurance policy 162  
or is stolen and not recovered, if the protection and its price 163  
are included in the purchase or lease agreement; 164

(11) (a) Except as provided in division (B) (11) (b) of this 165  
section, all transactions by which health care services are paid 166  
for, reimbursed, provided, delivered, arranged for, or otherwise 167  
made available by a medicaid health insuring corporation 168  
pursuant to the corporation's contract with the state. 169

(b) If the centers for medicare and medicaid services of 170  
the United States department of health and human services 171  
determines that the taxation of transactions described in 172  
division (B) (11) (a) of this section constitutes an impermissible 173  
health care-related tax under the "Social Security Act," section 174  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 175  
the medicaid director shall notify the tax commissioner of that 176  
determination. Beginning with the first day of the month 177  
following that notification, the transactions described in 178  
division (B) (11) (a) of this section are not sales for the 179  
purposes of this chapter or Chapter 5741. of the Revised Code. 180  
The tax commissioner shall order that the collection of taxes 181  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 182  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 183  
for transactions occurring on or after that date. 184

(12) All transactions by which a specified digital product 185  
is provided for permanent use or less than permanent use, 186  
regardless of whether continued payment is required. 187

Except as provided in this section, "sale" and "selling" 188  
do not include transfers of interest in leased property where 189  
the original lessee and the terms of the original lease 190

agreement remain unchanged, or professional, insurance, or 191  
personal service transactions that involve the transfer of 192  
tangible personal property as an inconsequential element, for 193  
which no separate charges are made. 194

(C) "Vendor" means the person providing the service or by 195  
whom the transfer effected or license given by a sale is or is 196  
to be made or given and, for sales described in division (B)(3) 197  
(i) of this section, the telecommunications service vendor that 198  
provides the nine hundred telephone service; if two or more 199  
persons are engaged in business at the same place of business 200  
under a single trade name in which all collections on account of 201  
sales by each are made, such persons shall constitute a single 202  
vendor. 203

Physicians, dentists, hospitals, and veterinarians who are 204  
engaged in selling tangible personal property as received from 205  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 206  
articles, are vendors. Veterinarians who are engaged in 207  
transferring to others for a consideration drugs, the dispensing 208  
of which does not require an order of a licensed veterinarian or 209  
physician under federal law, are vendors. 210

The operator of any peer-to-peer car sharing program shall 211  
be considered to be the vendor. 212

(D)(1) "Consumer" means the person for whom the service is 213  
provided, to whom the transfer effected or license given by a 214  
sale is or is to be made or given, to whom the service described 215  
in division (B)(3)(f) or (i) of this section is charged, or to 216  
whom the admission is granted. 217

(2) Physicians, dentists, hospitals, and blood banks 218  
operated by nonprofit institutions and persons licensed to 219



practice veterinary medicine, surgery, and dentistry are 220  
consumers of all tangible personal property and services 221  
purchased by them in connection with the practice of medicine, 222  
dentistry, the rendition of hospital or blood bank service, or 223  
the practice of veterinary medicine, surgery, and dentistry. In 224  
addition to being consumers of drugs administered by them or by 225  
their assistants according to their direction, veterinarians 226  
also are consumers of drugs that under federal law may be 227  
dispensed only by or upon the order of a licensed veterinarian 228  
or physician, when transferred by them to others for a 229  
consideration to provide treatment to animals as directed by the 230  
veterinarian. 231

(3) A person who performs a facility management, or 232  
similar service contract for a contractee is a consumer of all 233  
tangible personal property and services purchased for use in 234  
connection with the performance of such contract, regardless of 235  
whether title to any such property vests in the contractee. The 236  
purchase of such property and services is not subject to the 237  
exception for resale under division (E) of this section. 238

(4) (a) In the case of a person who purchases printed 239  
matter for the purpose of distributing it or having it 240  
distributed to the public or to a designated segment of the 241  
public, free of charge, that person is the consumer of that 242  
printed matter, and the purchase of that printed matter for that 243  
purpose is a sale. 244

(b) In the case of a person who produces, rather than 245  
purchases, printed matter for the purpose of distributing it or 246  
having it distributed to the public or to a designated segment 247  
of the public, free of charge, that person is the consumer of 248  
all tangible personal property and services purchased for use or 249

consumption in the production of that printed matter. That 250  
person is not entitled to claim exemption under division (B) (42) 251  
(f) of section 5739.02 of the Revised Code for any material 252  
incorporated into the printed matter or any equipment, supplies, 253  
or services primarily used to produce the printed matter. 254

(c) The distribution of printed matter to the public or to 255  
a designated segment of the public, free of charge, is not a 256  
sale to the members of the public to whom the printed matter is 257  
distributed or to any persons who purchase space in the printed 258  
matter for advertising or other purposes. 259

(5) A person who makes sales of any of the services listed 260  
in division (B) (3) of this section is the consumer of any 261  
tangible personal property used in performing the service. The 262  
purchase of that property is not subject to the resale exception 263  
under division (E) of this section. 264

(6) A person who engages in highway transportation for 265  
hire is the consumer of all packaging materials purchased by 266  
that person and used in performing the service, except for 267  
packaging materials sold by such person in a transaction 268  
separate from the service. 269

(7) In the case of a transaction for health care services 270  
under division (B) (11) of this section, a medicaid health 271  
insuring corporation is the consumer of such services. The 272  
purchase of such services by a medicaid health insuring 273  
corporation is not subject to the exception for resale under 274  
division (E) of this section or to the exemptions provided under 275  
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 276  
the Revised Code. 277

(E) "Retail sale" and "sales at retail" include all sales, 278

except those in which the purpose of the consumer is to resell 279  
the thing transferred or benefit of the service provided, by a 280  
person engaging in business, in the form in which the same is, 281  
or is to be, received by the person. 282

(F) "Business" includes any activity engaged in by any 283  
person with the object of gain, benefit, or advantage, either 284  
direct or indirect. "Business" does not include the activity of 285  
a person in managing and investing the person's own funds. 286

(G) "Engaging in business" means commencing, conducting, 287  
or continuing in business, and liquidating a business when the 288  
liquidator thereof holds itself out to the public as conducting 289  
such business. Making a casual sale is not engaging in business. 290

(H) (1) (a) "Price," except as provided in divisions (H) (2), 291  
(3), and (4) of this section, means the total amount of 292  
consideration, including cash, credit, property, and services, 293  
for which tangible personal property or services are sold, 294  
leased, or rented, valued in money, whether received in money or 295  
otherwise, without any deduction for any of the following: 296

(i) The vendor's cost of the property sold; 297

(ii) The cost of materials used, labor or service costs, 298  
interest, losses, all costs of transportation to the vendor, all 299  
taxes imposed on the vendor, including the tax imposed under 300  
Chapter 5751. of the Revised Code, and any other expense of the 301  
vendor; 302

(iii) Charges by the vendor for any services necessary to 303  
complete the sale; 304

(iv) Delivery charges. As used in this division, "delivery 305  
charges" means charges by the vendor for preparation and 306  
delivery to a location designated by the consumer of tangible 307

personal property or a service, including transportation, 308  
shipping, postage, handling, crating, and packing. 309

(v) Installation charges; 310

(vi) Credit for any trade-in. 311

(b) "Price" includes consideration received by the vendor 312  
from a third party, if the vendor actually receives the 313  
consideration from a party other than the consumer, and the 314  
consideration is directly related to a price reduction or 315  
discount on the sale; the vendor has an obligation to pass the 316  
price reduction or discount through to the consumer; the amount 317  
of the consideration attributable to the sale is fixed and 318  
determinable by the vendor at the time of the sale of the item 319  
to the consumer; and one of the following criteria is met: 320

(i) The consumer presents a coupon, certificate, or other 321  
document to the vendor to claim a price reduction or discount 322  
where the coupon, certificate, or document is authorized, 323  
distributed, or granted by a third party with the understanding 324  
that the third party will reimburse any vendor to whom the 325  
coupon, certificate, or document is presented; 326

(ii) The consumer identifies the consumer's self to the 327  
seller as a member of a group or organization entitled to a 328  
price reduction or discount. A preferred customer card that is 329  
available to any patron does not constitute membership in such a 330  
group or organization. 331

(iii) The price reduction or discount is identified as a 332  
third party price reduction or discount on the invoice received 333  
by the consumer, or on a coupon, certificate, or other document 334  
presented by the consumer. 335

(c) "Price" does not include any of the following: 336

(i) Discounts, including cash, term, or coupons that are 337  
not reimbursed by a third party that are allowed by a vendor and 338  
taken by a consumer on a sale; 339

(ii) Interest, financing, and carrying charges from credit 340  
extended on the sale of tangible personal property or services, 341  
if the amount is separately stated on the invoice, bill of sale, 342  
or similar document given to the purchaser; 343

(iii) Any taxes legally imposed directly on the consumer 344  
that are separately stated on the invoice, bill of sale, or 345  
similar document given to the consumer. For the purpose of this 346  
division, the tax imposed under Chapter 5751. of the Revised 347  
Code is not a tax directly on the consumer, even if the tax or a 348  
portion thereof is separately stated. 349

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 350  
this section, any discount allowed by an automobile manufacturer 351  
to its employee, or to the employee of a supplier, on the 352  
purchase of a new motor vehicle from a new motor vehicle dealer 353  
in this state. 354

(v) The dollar value of a gift card that is not sold by a 355  
vendor or purchased by a consumer and that is redeemed by the 356  
consumer in purchasing tangible personal property or services if 357  
the vendor is not reimbursed and does not receive compensation 358  
from a third party to cover all or part of the gift card value. 359  
For the purposes of this division, a gift card is not sold by a 360  
vendor or purchased by a consumer if it is distributed pursuant 361  
to an awards, loyalty, or promotional program. Past and present 362  
purchases of tangible personal property or services by the 363  
consumer shall not be treated as consideration exchanged for a 364  
gift card. 365

(2) In the case of a sale of any new motor vehicle by a 366  
new motor vehicle dealer, as defined in section 4517.01 of the 367  
Revised Code, in which another motor vehicle is accepted by the 368  
dealer as part of the consideration received, "price" has the 369  
same meaning as in division (H)(1) of this section, reduced by 370  
the credit afforded the consumer by the dealer for the motor 371  
vehicle received in trade. 372

(3) In the case of a sale of any watercraft or outboard 373  
motor by a watercraft dealer licensed in accordance with section 374  
1547.543 of the Revised Code, in which another watercraft, 375  
watercraft and trailer, or outboard motor is accepted by the 376  
dealer as part of the consideration received, "price" has the 377  
same meaning as in division (H)(1) of this section, reduced by 378  
the credit afforded the consumer by the dealer for the 379  
watercraft, watercraft and trailer, or outboard motor received 380  
in trade. As used in this division, "watercraft" includes an 381  
outdrive unit attached to the watercraft. 382

(4) In the case of transactions for health care services 383  
under division (B)(11) of this section, "price" means the amount 384  
of managed care premiums received each month by a medicaid 385  
health insuring corporation. 386

(I) "Receipts" means the total amount of the prices of the 387  
sales of vendors, provided that the dollar value of gift cards 388  
distributed pursuant to an awards, loyalty, or promotional 389  
program, and cash discounts allowed and taken on sales at the 390  
time they are consummated are not included, minus any amount 391  
deducted as a bad debt pursuant to section 5739.121 of the 392  
Revised Code. "Receipts" does not include the sale price of 393  
property returned or services rejected by consumers when the 394  
full sale price and tax are refunded either in cash or by 395

credit. 396

(J) "Place of business" means any location at which a 397  
person engages in business. 398

(K) "Premises" includes any real property or portion 399  
thereof upon which any person engages in selling tangible 400  
personal property at retail or making retail sales and also 401  
includes any real property or portion thereof designated for, or 402  
devoted to, use in conjunction with the business engaged in by 403  
such person. 404

(L) "Casual sale" means a sale of an item of tangible 405  
personal property that was obtained by the person making the 406  
sale, through purchase or otherwise, for the person's own use 407  
and was previously subject to any state's taxing jurisdiction on 408  
its sale or use, and includes such items acquired for the 409  
seller's use that are sold by an auctioneer employed directly by 410  
the person for such purpose, provided the location of such sales 411  
is not the auctioneer's permanent place of business. As used in 412  
this division, "permanent place of business" includes any 413  
location where such auctioneer has conducted more than two 414  
auctions during the year. 415

(M) "Hotel" means every establishment kept, used, 416  
maintained, advertised, or held out to the public to be a place 417  
where sleeping accommodations are offered to guests, in which 418  
five or more rooms are used for the accommodation of such 419  
guests, whether the rooms are in one or several structures, 420  
except as otherwise provided in section 5739.091 of the Revised 421  
Code. 422

(N) "Transient guests" means persons occupying a room or 423  
rooms for sleeping accommodations for less than thirty 424

consecutive days. 425

(O) "Making retail sales" means the effecting of 426  
transactions wherein one party is obligated to pay the price and 427  
the other party is obligated to provide a service or to transfer 428  
title to or possession of the item sold. "Making retail sales" 429  
does not include the preliminary acts of promoting or soliciting 430  
the retail sales, other than the distribution of printed matter 431  
which displays or describes and prices the item offered for 432  
sale, nor does it include delivery of a predetermined quantity 433  
of tangible personal property or transportation of property or 434  
personnel to or from a place where a service is performed. 435

(P) "Used directly in the rendition of a public utility 436  
service" means that property that is to be incorporated into and 437  
will become a part of the consumer's production, transmission, 438  
transportation, or distribution system and that retains its 439  
classification as tangible personal property after such 440  
incorporation; fuel or power used in the production, 441  
transmission, transportation, or distribution system; and 442  
tangible personal property used in the repair and maintenance of 443  
the production, transmission, transportation, or distribution 444  
system, including only such motor vehicles as are specially 445  
designed and equipped for such use. Tangible personal property 446  
and services used primarily in providing highway transportation 447  
for hire are not used directly in the rendition of a public 448  
utility service. In this definition, "public utility" includes a 449  
citizen of the United States holding, and required to hold, a 450  
certificate of public convenience and necessity issued under 49 451  
U.S.C. 41102. 452

(Q) "Refining" means removing or separating a desirable 453  
product from raw or contaminated materials by distillation or 454



physical, mechanical, or chemical processes. 455

(R) "Assembly" and "assembling" mean attaching or fitting 456  
together parts to form a product, but do not include packaging a 457  
product. 458

(S) "Manufacturing operation" means a process in which 459  
materials are changed, converted, or transformed into a 460  
different state or form from which they previously existed and 461  
includes refining materials, assembling parts, and preparing raw 462  
materials and parts by mixing, measuring, blending, or otherwise 463  
committing such materials or parts to the manufacturing process. 464  
"Manufacturing operation" does not include packaging. 465

(T) "Fiscal officer" means, with respect to a regional 466  
transit authority, the secretary-treasurer thereof, and with 467  
respect to a county that is a transit authority, the fiscal 468  
officer of the county transit board if one is appointed pursuant 469  
to section 306.03 of the Revised Code or the county auditor if 470  
the board of county commissioners operates the county transit 471  
system. 472

(U) "Transit authority" means a regional transit authority 473  
created pursuant to section 306.31 of the Revised Code or a 474  
county in which a county transit system is created pursuant to 475  
section 306.01 of the Revised Code. For the purposes of this 476  
chapter, a transit authority must extend to at least the entire 477  
area of a single county. A transit authority that includes 478  
territory in more than one county must include all the area of 479  
the most populous county that is a part of such transit 480  
authority. County population shall be measured by the most 481  
recent census taken by the United States census bureau. 482

(V) "Legislative authority" means, with respect to a 483

regional transit authority, the board of trustees thereof, and 484  
with respect to a county that is a transit authority, the board 485  
of county commissioners. 486

(W) "Territory of the transit authority" means all of the 487  
area included within the territorial boundaries of a transit 488  
authority as they from time to time exist. Such territorial 489  
boundaries must at all times include all the area of a single 490  
county or all the area of the most populous county that is a 491  
part of such transit authority. County population shall be 492  
measured by the most recent census taken by the United States 493  
census bureau. 494

(X) "Providing a service" means providing or furnishing 495  
anything described in division (B) (3) of this section for 496  
consideration. 497

(Y) (1) (a) "Automatic data processing" means processing of 498  
others' data, including keypunching or similar data entry 499  
services together with verification thereof, or providing access 500  
to computer equipment for the purpose of processing data. 501

(b) "Computer services" means providing services 502  
consisting of specifying computer hardware configurations and 503  
evaluating technical processing characteristics, computer 504  
programming, and training of computer programmers and operators, 505  
provided in conjunction with and to support the sale, lease, or 506  
operation of taxable computer equipment or systems. 507

(c) "Electronic information services" means providing 508  
access to computer equipment by means of telecommunications 509  
equipment for the purpose of either of the following: 510

(i) Examining or acquiring data stored in or accessible to 511  
the computer equipment; 512

(ii) Placing data into the computer equipment to be 513  
retrieved by designated recipients with access to the computer 514  
equipment. 515

"Electronic information services" does not include 516  
electronic publishing. 517

(d) "Automatic data processing, computer services, or 518  
electronic information services" shall not include personal or 519  
professional services. 520

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 521  
section, "personal and professional services" means all services 522  
other than automatic data processing, computer services, or 523  
electronic information services, including but not limited to: 524

(a) Accounting and legal services such as advice on tax 525  
matters, asset management, budgetary matters, quality control, 526  
information security, and auditing and any other situation where 527  
the service provider receives data or information and studies, 528  
alters, analyzes, interprets, or adjusts such material; 529

(b) Analyzing business policies and procedures; 530

(c) Identifying management information needs; 531

(d) Feasibility studies, including economic and technical 532  
analysis of existing or potential computer hardware or software 533  
needs and alternatives; 534

(e) Designing policies, procedures, and custom software 535  
for collecting business information, and determining how data 536  
should be summarized, sequenced, formatted, processed, 537  
controlled, and reported so that it will be meaningful to 538  
management; 539

(f) Developing policies and procedures that document how 540

business events and transactions are to be authorized, executed, 541  
and controlled; 542

(g) Testing of business procedures; 543

(h) Training personnel in business procedure applications; 544

(i) Providing credit information to users of such 545  
information by a consumer reporting agency, as defined in the 546  
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 547  
U.S.C. 1681a(f), or as hereafter amended, including but not 548  
limited to gathering, organizing, analyzing, recording, and 549  
furnishing such information by any oral, written, graphic, or 550  
electronic medium; 551

(j) Providing debt collection services by any oral, 552  
written, graphic, or electronic means; 553

(k) Providing digital advertising services; 554

(l) Providing services to electronically file any federal, 555  
state, or local individual income tax return, report, or other 556  
related document or schedule with a federal, state, or local 557  
government entity or to electronically remit a payment of any 558  
such individual income tax to such an entity. For the purpose of 559  
this division, "individual income tax" does not include federal, 560  
state, or local taxes withheld by an employer from an employee's 561  
compensation. 562

The services listed in divisions (Y)(2)(a) to (l) of this 563  
section are not automatic data processing or computer services. 564

(Z) "Highway transportation for hire" means the 565  
transportation of personal property belonging to others for 566  
consideration by any of the following: 567

(1) The holder of a permit or certificate issued by this 568

state or the United States authorizing the holder to engage in 569  
transportation of personal property belonging to others for 570  
consideration over or on highways, roadways, streets, or any 571  
similar public thoroughfare; 572

(2) A person who engages in the transportation of personal 573  
property belonging to others for consideration over or on 574  
highways, roadways, streets, or any similar public thoroughfare 575  
but who could not have engaged in such transportation on 576  
December 11, 1985, unless the person was the holder of a permit 577  
or certificate of the types described in division (Z)(1) of this 578  
section; 579

(3) A person who leases a motor vehicle to and operates it 580  
for a person described by division (Z)(1) or (2) of this 581  
section. 582

(AA)(1) "Telecommunications service" means the electronic 583  
transmission, conveyance, or routing of voice, data, audio, 584  
video, or any other information or signals to a point, or 585  
between or among points. "Telecommunications service" includes 586  
such transmission, conveyance, or routing in which computer 587  
processing applications are used to act on the form, code, or 588  
protocol of the content for purposes of transmission, 589  
conveyance, or routing without regard to whether the service is 590  
referred to as voice-over internet protocol service or is 591  
classified by the federal communications commission as enhanced 592  
or value-added. "Telecommunications service" does not include 593  
any of the following: 594

(a) Data processing and information services that allow 595  
data to be generated, acquired, stored, processed, or retrieved 596  
and delivered by an electronic transmission to a consumer where 597  
the consumer's primary purpose for the underlying transaction is 598

the processed data or information; 599

(b) Installation or maintenance of wiring or equipment on 600  
a customer's premises; 601

(c) Tangible personal property; 602

(d) Advertising, including directory advertising; 603

(e) Billing and collection services provided to third 604  
parties; 605

(f) Internet access service; 606

(g) Radio and television audio and video programming 607  
services, regardless of the medium, including the furnishing of 608  
transmission, conveyance, and routing of such services by the 609  
programming service provider. Radio and television audio and 610  
video programming services include, but are not limited to, 611  
cable service, as defined in 47 U.S.C. 522(6), and audio and 612  
video programming services delivered by commercial mobile radio 613  
service providers, as defined in 47 C.F.R. 20.3; 614

(h) Ancillary service; 615

(i) Digital products delivered electronically, including 616  
software, music, video, reading materials, or ring tones. 617

(2) "Ancillary service" means a service that is associated 618  
with or incidental to the provision of telecommunications 619  
service, including conference bridging service, detailed 620  
telecommunications billing service, directory assistance, 621  
vertical service, and voice mail service. As used in this 622  
division: 623

(a) "Conference bridging service" means an ancillary 624  
service that links two or more participants of an audio or video 625

conference call, including providing a telephone number. 626  
"Conference bridging service" does not include 627  
telecommunications services used to reach the conference bridge. 628

(b) "Detailed telecommunications billing service" means an 629  
ancillary service of separately stating information pertaining 630  
to individual calls on a customer's billing statement. 631

(c) "Directory assistance" means an ancillary service of 632  
providing telephone number or address information. 633

(d) "Vertical service" means an ancillary service that is 634  
offered in connection with one or more telecommunications 635  
services, which offers advanced calling features that allow 636  
customers to identify callers and manage multiple calls and call 637  
connections, including conference bridging service. 638

(e) "Voice mail service" means an ancillary service that 639  
enables the customer to store, send, or receive recorded 640  
messages. "Voice mail service" does not include any vertical 641  
services that the customer may be required to have in order to 642  
utilize the voice mail service. 643

(3) "900 service" means an inbound toll telecommunications 644  
service purchased by a subscriber that allows the subscriber's 645  
customers to call in to the subscriber's prerecorded 646  
announcement or live service, and which is typically marketed 647  
under the name "900 service" and any subsequent numbers 648  
designated by the federal communications commission. "900 649  
service" does not include the charge for collection services 650  
provided by the seller of the telecommunications service to the 651  
subscriber, or services or products sold by the subscriber to 652  
the subscriber's customer. 653

(4) "Prepaid calling service" means the right to access 654

exclusively telecommunications services, which must be paid for 655  
in advance and which enables the origination of calls using an 656  
access number or authorization code, whether manually or 657  
electronically dialed, and that is sold in predetermined units 658  
or dollars of which the number declines with use in a known 659  
amount. 660

(5) "Prepaid wireless calling service" means a 661  
telecommunications service that provides the right to utilize 662  
mobile telecommunications service as well as other non- 663  
telecommunications services, including the download of digital 664  
products delivered electronically, and content and ancillary 665  
services, that must be paid for in advance and that is sold in 666  
predetermined units or dollars of which the number declines with 667  
use in a known amount. 668

(6) "Value-added non-voice data service" means a 669  
telecommunications service in which computer processing 670  
applications are used to act on the form, content, code, or 671  
protocol of the information or data primarily for a purpose 672  
other than transmission, conveyance, or routing. 673

(7) "Coin-operated telephone service" means a 674  
telecommunications service paid for by inserting money into a 675  
telephone accepting direct deposits of money to operate. 676

(8) "Customer" has the same meaning as in section 5739.034 677  
of the Revised Code. 678

(BB) "Laundry and dry cleaning services" means removing 679  
soil or dirt from towels, linens, articles of clothing, or other 680  
fabric items that belong to others and supplying towels, linens, 681  
articles of clothing, or other fabric items. "Laundry and dry 682  
cleaning services" does not include the provision of self- 683



service facilities for use by consumers to remove soil or dirt 684  
from towels, linens, articles of clothing, or other fabric 685  
items. 686

(CC) "Magazines distributed as controlled circulation 687  
publications" means magazines containing at least twenty-four 688  
pages, at least twenty-five per cent editorial content, issued 689  
at regular intervals four or more times a year, and circulated 690  
without charge to the recipient, provided that such magazines 691  
are not owned or controlled by individuals or business concerns 692  
which conduct such publications as an auxiliary to, and 693  
essentially for the advancement of the main business or calling 694  
of, those who own or control them. 695

(DD) "Landscaping and lawn care service" means the 696  
services of planting, seeding, sodding, removing, cutting, 697  
trimming, pruning, mulching, aerating, applying chemicals, 698  
watering, fertilizing, and providing similar services to 699  
establish, promote, or control the growth of trees, shrubs, 700  
flowers, grass, ground cover, and other flora, or otherwise 701  
maintaining a lawn or landscape grown or maintained by the owner 702  
for ornamentation or other nonagricultural purpose. However, 703  
"landscaping and lawn care service" does not include the 704  
providing of such services by a person who has less than five 705  
thousand dollars in sales of such services during the calendar 706  
year. 707

(EE) "Private investigation and security service" means 708  
the performance of any activity for which the provider of such 709  
service is required to be licensed pursuant to Chapter 4749. of 710  
the Revised Code, or would be required to be so licensed in 711  
performing such services in this state, and also includes the 712  
services of conducting polygraph examinations and of monitoring 713

or overseeing the activities on or in, or the condition of, the 714  
consumer's home, business, or other facility by means of 715  
electronic or similar monitoring devices. "Private investigation 716  
and security service" does not include special duty services 717  
provided by off-duty police officers, deputy sheriffs, and other 718  
peace officers regularly employed by the state or a political 719  
subdivision. 720

(FF) "Information services" means providing conversation, 721  
giving consultation or advice, playing or making a voice or 722  
other recording, making or keeping a record of the number of 723  
callers, and any other service provided to a consumer by means 724  
of a nine hundred telephone call, except when the nine hundred 725  
telephone call is the means by which the consumer makes a 726  
contribution to a recognized charity. 727

(GG) "Research and development" means designing, creating, 728  
or formulating new or enhanced products, equipment, or 729  
manufacturing processes, and also means conducting scientific or 730  
technological inquiry and experimentation in the physical 731  
sciences with the goal of increasing scientific knowledge which 732  
may reveal the bases for new or enhanced products, equipment, or 733  
manufacturing processes. 734

(HH) "Qualified research and development equipment" means 735  
either of the following: 736

(1) Capitalized tangible personal property, and leased 737  
personal property that would be capitalized if purchased, used 738  
by a person primarily to perform research and development; 739

(2) Any tangible personal property used by a megaproject 740  
operator primarily to perform research and development at the 741  
site of a megaproject that satisfies the criteria described in 742

division (A) (11) (a) (ii) of section 122.17 of the Revised Code 743  
during the period that the megaproject operator has an agreement 744  
for such megaproject with the tax credit authority under 745  
division (D) of that section that remains in effect and has not 746  
expired or been terminated. 747

"Qualified research and development equipment" does not 748  
include tangible personal property primarily used in testing, as 749  
defined in division (A) (4) of section 5739.011 of the Revised 750  
Code, or used for recording or storing test results, unless such 751  
property is primarily used by the consumer in testing the 752  
product, equipment, or manufacturing process being created, 753  
designed, or formulated by the consumer in the research and 754  
development activity or in recording or storing such test 755  
results. 756

(II) "Building maintenance and janitorial service" means 757  
cleaning the interior or exterior of a building and any tangible 758  
personal property located therein or thereon, including any 759  
services incidental to such cleaning for which no separate 760  
charge is made. However, "building maintenance and janitorial 761  
service" does not include the providing of such service by a 762  
person who has less than five thousand dollars in sales of such 763  
service during the calendar year. As used in this division, 764  
"cleaning" does not include sanitation services necessary for an 765  
establishment described in 21 U.S.C. 608 to comply with rules 766  
and regulations adopted pursuant to that section. 767

(JJ) "Exterminating service" means eradicating or 768  
attempting to eradicate vermin infestations from a building or 769  
structure, or the area surrounding a building or structure, and 770  
includes activities to inspect, detect, or prevent vermin 771  
infestation of a building or structure. 772

(KK) "Physical fitness facility service" means all 773  
transactions by which a membership is granted, maintained, or 774  
renewed, including initiation fees, membership dues, renewal 775  
fees, monthly minimum fees, and other similar fees and dues, by 776  
a physical fitness facility such as an athletic club, health 777  
spa, or gymnasium, which entitles the member to use the facility 778  
for physical exercise. 779

(LL) "Recreation and sports club service" means all 780  
transactions by which a membership is granted, maintained, or 781  
renewed, including initiation fees, membership dues, renewal 782  
fees, monthly minimum fees, and other similar fees and dues, by 783  
a recreation and sports club, which entitles the member to use 784  
the facilities of the organization. "Recreation and sports club" 785  
means an organization that has ownership of, or controls or 786  
leases on a continuing, long-term basis, the facilities used by 787  
its members and includes an aviation club, gun or shooting club, 788  
yacht club, card club, swimming club, tennis club, golf club, 789  
country club, riding club, amateur sports club, or similar 790  
organization. 791

(MM) "Livestock" means farm animals commonly raised for 792  
food, food production, or other agricultural purposes, 793  
including, but not limited to, cattle, sheep, goats, swine, 794  
poultry, and captive deer. "Livestock" does not include 795  
invertebrates, amphibians, reptiles, domestic pets, animals for 796  
use in laboratories or for exhibition, or other animals not 797  
commonly raised for food or food production. 798

(NN) "Livestock structure" means a building or structure 799  
used exclusively for the housing, raising, feeding, or 800  
sheltering of livestock, and includes feed storage or handling 801  
structures and structures for livestock waste handling. 802

(OO) "Horticulture" means the growing, cultivation, and 803  
production of flowers, fruits, herbs, vegetables, sod, 804  
mushrooms, and nursery stock. As used in this division, "nursery 805  
stock" has the same meaning as in section 927.51 of the Revised 806  
Code. 807

(PP) "Horticulture structure" means a building or 808  
structure used exclusively for the commercial growing, raising, 809  
or overwintering of horticultural products, and includes the 810  
area used for stocking, storing, and packing horticultural 811  
products when done in conjunction with the production of those 812  
products. 813

(QQ) "Newspaper" means an unbound publication bearing a 814  
title or name that is regularly published, at least as 815  
frequently as biweekly, and distributed from a fixed place of 816  
business to the public in a specific geographic area, and that 817  
contains a substantial amount of news matter of international, 818  
national, or local events of interest to the general public. 819

(RR) (1) "Feminine hygiene products" means tampons, panty 820  
liners, menstrual cups, sanitary napkins, and other similar 821  
tangible personal property designed for feminine hygiene in 822  
connection with the human menstrual cycle, but does not include 823  
grooming and hygiene products. 824

(2) "Grooming and hygiene products" means soaps and 825  
cleaning solutions, shampoo, toothpaste, mouthwash, 826  
antiperspirants, and sun tan lotions and screens, regardless of 827  
whether any of these products are over-the-counter drugs. 828

(3) "Over-the-counter drugs" means a drug that contains a 829  
label that identifies the product as a drug as required by 21 830  
C.F.R. 201.66, which label includes a drug facts panel or a 831

statement of the active ingredients with a list of those 832  
ingredients contained in the compound, substance, or 833  
preparation. 834

(SS) (1) "Lease" or "rental" means any transfer of the 835  
possession or control of tangible personal property for a fixed 836  
or indefinite term, for consideration. "Lease" or "rental" 837  
includes future options to purchase or extend, and agreements 838  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 839  
trailers where the amount of consideration may be increased or 840  
decreased by reference to the amount realized upon the sale or 841  
disposition of the property. "Lease" or "rental" does not 842  
include: 843

(a) A transfer of possession or control of tangible 844  
personal property under a security agreement or a deferred 845  
payment plan that requires the transfer of title upon completion 846  
of the required payments; 847

(b) A transfer of possession or control of tangible 848  
personal property under an agreement that requires the transfer 849  
of title upon completion of required payments and payment of an 850  
option price that does not exceed the greater of one hundred 851  
dollars or one per cent of the total required payments; 852

(c) Providing tangible personal property along with an 853  
operator for a fixed or indefinite period of time, if the 854  
operator is necessary for the property to perform as designed. 855  
For purposes of this division, the operator must do more than 856  
maintain, inspect, or set up the tangible personal property. 857

(2) "Lease" and "rental," as defined in division (SS) of 858  
this section, shall not apply to leases or rentals that exist 859  
before June 26, 2003. 860

(3) "Lease" and "rental" have the same meaning as in 861  
division (SS) (1) of this section regardless of whether a 862  
transaction is characterized as a lease or rental under 863  
generally accepted accounting principles, the Internal Revenue 864  
Code, Title XIII of the Revised Code, or other federal, state, 865  
or local laws. 866

(TT) "Mobile telecommunications service" has the same 867  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 868  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 869  
amended, and, on and after August 1, 2003, includes related fees 870  
and ancillary services, including universal service fees, 871  
detailed billing service, directory assistance, service 872  
initiation, voice mail service, and vertical services, such as 873  
caller ID and three-way calling. 874

(UU) "Certified service provider" has the same meaning as 875  
in section 5740.01 of the Revised Code. 876

(VV) "Satellite broadcasting service" means the 877  
distribution or broadcasting of programming or services by 878  
satellite directly to the subscriber's receiving equipment 879  
without the use of ground receiving or distribution equipment, 880  
except the subscriber's receiving equipment or equipment used in 881  
the uplink process to the satellite, and includes all service 882  
and rental charges, premium channels or other special services, 883  
installation and repair service charges, and any other charges 884  
having any connection with the provision of the satellite 885  
broadcasting service. 886

(WW) "Tangible personal property" means personal property 887  
that can be seen, weighed, measured, felt, or touched, or that 888  
is in any other manner perceptible to the senses. For purposes 889  
of this chapter and Chapter 5741. of the Revised Code, "tangible 890

personal property" includes motor vehicles, electricity, water, 891  
gas, steam, and prewritten computer software. 892

(XX) "Municipal gas utility" means a municipal corporation 893  
that owns or operates a system for the distribution of natural 894  
gas. 895

(YY) "Computer" means an electronic device that accepts 896  
information in digital or similar form and manipulates it for a 897  
result based on a sequence of instructions. 898

(ZZ) "Computer software" means a set of coded instructions 899  
designed to cause a computer or automatic data processing 900  
equipment to perform a task. 901

(AAA) "Delivered electronically" means delivery of 902  
computer software from the seller to the purchaser by means 903  
other than tangible storage media. 904

(BBB) "Prewritten computer software" means computer 905  
software, including prewritten upgrades, that is not designed 906  
and developed by the author or other creator to the 907  
specifications of a specific purchaser. The combining of two or 908  
more prewritten computer software programs or prewritten 909  
portions thereof does not cause the combination to be other than 910  
prewritten computer software. "Prewritten computer software" 911  
includes software designed and developed by the author or other 912  
creator to the specifications of a specific purchaser when it is 913  
sold to a person other than the purchaser. If a person modifies 914  
or enhances computer software of which the person is not the 915  
author or creator, the person shall be deemed to be the author 916  
or creator only of such person's modifications or enhancements. 917  
Prewritten computer software or a prewritten portion thereof 918  
that is modified or enhanced to any degree, where such 919



modification or enhancement is designed and developed to the 920  
specifications of a specific purchaser, remains prewritten 921  
computer software; provided, however, that where there is a 922  
reasonable, separately stated charge or an invoice or other 923  
statement of the price given to the purchaser for the 924  
modification or enhancement, the modification or enhancement 925  
shall not constitute prewritten computer software. 926

(CCC) (1) "Food" means substances, whether in liquid, 927  
concentrated, solid, frozen, dried, or dehydrated form, that are 928  
sold for ingestion or chewing by humans and are consumed for 929  
their taste or nutritional value. "Food" does not include 930  
alcoholic beverages, dietary supplements, soft drinks, or 931  
tobacco. 932

(2) As used in division (CCC) (1) of this section: 933

(a) "Alcoholic beverages" means beverages that are 934  
suitable for human consumption and contain one-half of one per 935  
cent or more of alcohol by volume. 936

(b) "Dietary supplements" means any product, other than 937  
tobacco, that is intended to supplement the diet and that is 938  
intended for ingestion in tablet, capsule, powder, softgel, 939  
gelcap, or liquid form, or, if not intended for ingestion in 940  
such a form, is not represented as conventional food for use as 941  
a sole item of a meal or of the diet; that is required to be 942  
labeled as a dietary supplement, identifiable by the "supplement 943  
facts" box found on the label, as required by 21 C.F.R. 101.36; 944  
and that contains one or more of the following dietary 945  
ingredients: 946

(i) A vitamin; 947

(ii) A mineral; 948

(iii) An herb or other botanical;	949
(iv) An amino acid;	950
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	951 952
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (CCC) (2) (b) (i) to (v) of this section.	953 954 955
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	956 957 958 959 960
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	961 962
(DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	963 964 965 966 967 968 969 970 971
(EEE) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.	972 973 974 975
(FFF) "Durable medical equipment" means equipment,	976

including repair and replacement parts for such equipment, that 977  
can withstand repeated use, is primarily and customarily used to 978  
serve a medical purpose, generally is not useful to a person in 979  
the absence of illness or injury, and is not worn in or on the 980  
body. "Durable medical equipment" does not include mobility 981  
enhancing equipment. 982

(GGG) "Mobility enhancing equipment" means equipment, 983  
including repair and replacement parts for such equipment, that 984  
is primarily and customarily used to provide or increase the 985  
ability to move from one place to another and is appropriate for 986  
use either in a home or a motor vehicle, that is not generally 987  
used by persons with normal mobility, and that does not include 988  
any motor vehicle or equipment on a motor vehicle normally 989  
provided by a motor vehicle manufacturer. "Mobility enhancing 990  
equipment" does not include durable medical equipment. 991

(HHH) "Prosthetic device" means a replacement, corrective, 992  
or supportive device, including repair and replacement parts for 993  
the device, worn on or in the human body to artificially replace 994  
a missing portion of the body, prevent or correct physical 995  
deformity or malfunction, or support a weak or deformed portion 996  
of the body. As used in this division, before July 1, 2019, 997  
"prosthetic device" does not include corrective eyeglasses, 998  
contact lenses, or dental prosthesis. On or after July 1, 2019, 999  
"prosthetic device" does not include dental prosthesis but does 1000  
include corrective eyeglasses or contact lenses. 1001

(III) (1) "Fractional aircraft ownership program" means a 1002  
program in which persons within an affiliated group sell and 1003  
manage fractional ownership program aircraft, provided that at 1004  
least one hundred airworthy aircraft are operated in the program 1005  
and the program meets all of the following criteria: 1006

(a) Management services are provided by at least one 1007  
program manager within an affiliated group on behalf of the 1008  
fractional owners. 1009

(b) Each program aircraft is owned or possessed by at 1010  
least one fractional owner. 1011

(c) Each fractional owner owns or possesses at least a 1012  
one-sixteenth interest in at least one fixed-wing program 1013  
aircraft. 1014

(d) A dry-lease aircraft interchange arrangement is in 1015  
effect among all of the fractional owners. 1016

(e) Multi-year program agreements are in effect regarding 1017  
the fractional ownership, management services, and dry-lease 1018  
aircraft interchange arrangement aspects of the program. 1019

(2) As used in division (III) (1) of this section: 1020

(a) "Affiliated group" has the same meaning as in division 1021  
(B) (3) (e) of this section. 1022

(b) "Fractional owner" means a person that owns or 1023  
possesses at least a one-sixteenth interest in a program 1024  
aircraft and has entered into the agreements described in 1025  
division (III) (1) (e) of this section. 1026

(c) "Fractional ownership program aircraft" or "program 1027  
aircraft" means a turbojet aircraft that is owned or possessed 1028  
by a fractional owner and that has been included in a dry-lease 1029  
aircraft interchange arrangement and agreement under divisions 1030  
(III) (1) (d) and (e) of this section, or an aircraft a program 1031  
manager owns or possesses primarily for use in a fractional 1032  
aircraft ownership program. 1033

(d) "Management services" means administrative and 1034

aviation support services furnished under a fractional aircraft 1035  
ownership program in accordance with a management services 1036  
agreement under division (III) (1) (e) of this section, and 1037  
offered by the program manager to the fractional owners, 1038  
including, at a minimum, the establishment and implementation of 1039  
safety guidelines; the coordination of the scheduling of the 1040  
program aircraft and crews; program aircraft maintenance; 1041  
program aircraft insurance; crew training for crews employed, 1042  
furnished, or contracted by the program manager or the 1043  
fractional owner; the satisfaction of record-keeping 1044  
requirements; and the development and use of an operations 1045  
manual and a maintenance manual for the fractional aircraft 1046  
ownership program. 1047

(e) "Program manager" means the person that offers 1048  
management services to fractional owners pursuant to a 1049  
management services agreement under division (III) (1) (e) of this 1050  
section. 1051

(JJJ) "Electronic publishing" means providing access to 1052  
one or more of the following primarily for business customers, 1053  
including the federal government or a state government or a 1054  
political subdivision thereof, to conduct research: news; 1055  
business, financial, legal, consumer, or credit materials; 1056  
editorials, columns, reader commentary, or features; photos or 1057  
images; archival or research material; legal notices, identity 1058  
verification, or public records; scientific, educational, 1059  
instructional, technical, professional, trade, or other literary 1060  
materials; or other similar information which has been gathered 1061  
and made available by the provider to the consumer in an 1062  
electronic format. Providing electronic publishing includes the 1063  
functions necessary for the acquisition, formatting, editing, 1064  
storage, and dissemination of data or information that is the 1065

subject of a sale. 1066

(KKK) "Medicaid health insuring corporation" means a 1067  
health insuring corporation that holds a certificate of 1068  
authority under Chapter 1751. of the Revised Code and is under 1069  
contract with the department of medicaid pursuant to section 1070  
5167.10 of the Revised Code. 1071

(LLL) "Managed care premium" means any premium, 1072  
capitation, or other payment a medicaid health insuring 1073  
corporation receives for providing or arranging for the 1074  
provision of health care services to its members or enrollees 1075  
residing in this state. 1076

(MMM) "Captive deer" means deer and other cervidae that 1077  
have been legally acquired, or their offspring, that are 1078  
privately owned for agricultural or farming purposes. 1079

(NNN) "Gift card" means a document, card, certificate, or 1080  
other record, whether tangible or intangible, that may be 1081  
redeemed by a consumer for a dollar value when making a purchase 1082  
of tangible personal property or services. 1083

(OOO) "Specified digital product" means an electronically 1084  
transferred digital audiovisual work, digital audio work, or 1085  
digital book. 1086

As used in division (OOO) of this section: 1087

(1) "Digital audiovisual work" means a series of related 1088  
images that, when shown in succession, impart an impression of 1089  
motion, together with accompanying sounds, if any. 1090

(2) "Digital audio work" means a work that results from 1091  
the fixation of a series of musical, spoken, or other sounds, 1092  
including digitized sound files that are downloaded onto a 1093

device and that may be used to alert the customer with respect 1094  
to a communication. 1095

(3) "Digital book" means a work that is generally 1096  
recognized in the ordinary and usual sense as a book. 1097

(4) "Electronically transferred" means obtained by the 1098  
purchaser by means other than tangible storage media. 1099

(PPP) "Digital advertising services" means providing 1100  
access, by means of telecommunications equipment, to computer 1101  
equipment that is used to enter, upload, download, review, 1102  
manipulate, store, add, or delete data for the purpose of 1103  
electronically displaying, delivering, placing, or transferring 1104  
promotional advertisements to potential customers about products 1105  
or services or about industry or business brands. 1106

(QQQ) "Peer-to-peer car sharing program" has the same 1107  
meaning as in section 4516.01 of the Revised Code. 1108

(RRR) "Megaproject" and "megaproject operator" have the 1109  
same meanings as in section 122.17 of the Revised Code. 1110

(SSS) "Firearm safety device" means equipment that is 1111  
designed to prevent unauthorized access to, or the operation or 1112  
discharge of, a firearm and that is either of the following: 1113

(1) A device that, when installed on a firearm, is 1114  
designed to prevent the firearm from being operated without 1115  
first deactivating the device. 1116

(2) A gun safe, gun case, lockbox, or other device that is 1117  
designed to prevent access to a firearm unless an individual 1118  
uses a key, a combination, biometric data, or other similar 1119  
means. 1120

A "firearm safety device" does not include a glass-faced 1121

cabinet or other form of storage that is primarily designed to 1122  
allow for the display of firearms. 1123

**Sec. 5739.02.** For the purpose of providing revenue with 1124  
which to meet the needs of the state, for the use of the general 1125  
revenue fund of the state, for the purpose of securing a 1126  
thorough and efficient system of common schools throughout the 1127  
state, for the purpose of affording revenues, in addition to 1128  
those from general property taxes, permitted under 1129  
constitutional limitations, and from other sources, for the 1130  
support of local governmental functions, and for the purpose of 1131  
reimbursing the state for the expense of administering this 1132  
chapter, an excise tax is hereby levied on each retail sale made 1133  
in this state. 1134

(A) (1) The tax shall be collected as provided in section 1135  
5739.025 of the Revised Code. The rate of the tax shall be five 1136  
and three-fourths per cent. The tax applies and is collectible 1137  
when the sale is made, regardless of the time when the price is 1138  
paid or delivered. 1139

(2) In the case of the lease or rental, with a fixed term 1140  
of more than thirty days or an indefinite term with a minimum 1141  
period of more than thirty days, of any motor vehicles designed 1142  
by the manufacturer to carry a load of not more than one ton, 1143  
watercraft, outboard motor, or aircraft, or of any tangible 1144  
personal property, other than motor vehicles designed by the 1145  
manufacturer to carry a load of more than one ton, to be used by 1146  
the lessee or renter primarily for business purposes, the tax 1147  
shall be collected by the vendor at the time the lease or rental 1148  
is consummated and shall be calculated by the vendor on the 1149  
basis of the total amount to be paid by the lessee or renter 1150  
under the lease agreement. If the total amount of the 1151



consideration for the lease or rental includes amounts that are 1152  
not calculated at the time the lease or rental is executed, the 1153  
tax shall be calculated and collected by the vendor at the time 1154  
such amounts are billed to the lessee or renter. In the case of 1155  
an open-end lease or rental, the tax shall be calculated by the 1156  
vendor on the basis of the total amount to be paid during the 1157  
initial fixed term of the lease or rental, and for each 1158  
subsequent renewal period as it comes due. As used in this 1159  
division, "motor vehicle" has the same meaning as in section 1160  
4501.01 of the Revised Code, and "watercraft" includes an 1161  
outdrive unit attached to the watercraft. 1162

A lease with a renewal clause and a termination penalty or 1163  
similar provision that applies if the renewal clause is not 1164  
exercised is presumed to be a sham transaction. In such a case, 1165  
the tax shall be calculated and paid on the basis of the entire 1166  
length of the lease period, including any renewal periods, until 1167  
the termination penalty or similar provision no longer applies. 1168  
The taxpayer shall bear the burden, by a preponderance of the 1169  
evidence, that the transaction or series of transactions is not 1170  
a sham transaction. 1171

(3) Except as provided in division (A) (2) of this section, 1172  
in the case of a sale, the price of which consists in whole or 1173  
in part of the lease or rental of tangible personal property, 1174  
the tax shall be measured by the installments of that lease or 1175  
rental. 1176

(4) In the case of a sale of a physical fitness facility 1177  
service or recreation and sports club service, the price of 1178  
which consists in whole or in part of a membership for the 1179  
receipt of the benefit of the service, the tax applicable to the 1180  
sale shall be measured by the installments thereof. 1181

(B) The tax does not apply to the following:	1182
(1) Sales to the state or any of its political	1183
subdivisions, or to any other state or its political	1184
subdivisions if the laws of that state exempt from taxation	1185
sales made to this state and its political subdivisions;	1186
(2) Sales of food for human consumption off the premises	1187
where sold;	1188
(3) Sales of food sold to students only in a cafeteria,	1189
dormitory, fraternity, or sorority maintained in a private,	1190
public, or parochial school, college, or university;	1191
(4) Sales of newspapers and sales or transfers of	1192
magazines distributed as controlled circulation publications;	1193
(5) The furnishing, preparing, or serving of meals without	1194
charge by an employer to an employee provided the employer	1195
records the meals as part compensation for services performed or	1196
work done;	1197
(6) (a) Sales of motor fuel upon receipt, use,	1198
distribution, or sale of which in this state a tax is imposed by	1199
the law of this state, but this exemption shall not apply to the	1200
sale of motor fuel on which a refund of the tax is allowable	1201
under division (A) of section 5735.14 of the Revised Code; and	1202
the tax commissioner may deduct the amount of tax levied by this	1203
section applicable to the price of motor fuel when granting a	1204
refund of motor fuel tax pursuant to division (A) of section	1205
5735.14 of the Revised Code and shall cause the amount deducted	1206
to be paid into the general revenue fund of this state;	1207
(b) Sales of motor fuel other than that described in	1208
division (B) (6) (a) of this section and used for powering a	1209
refrigeration unit on a vehicle other than one used primarily to	1210

provide comfort to the operator or occupants of the vehicle. 1211

(7) Sales of natural gas by a natural gas company or 1212  
municipal gas utility, of water by a water-works company, or of 1213  
steam by a heating company, if in each case the thing sold is 1214  
delivered to consumers through pipes or conduits, and all sales 1215  
of communications services by a telegraph company, all terms as 1216  
defined in section 5727.01 of the Revised Code, and sales of 1217  
electricity delivered through wires; 1218

(8) Casual sales by a person, or auctioneer employed 1219  
directly by the person to conduct such sales, except as to such 1220  
sales of motor vehicles, watercraft or outboard motors required 1221  
to be titled under section 1548.06 of the Revised Code, 1222  
watercraft documented with the United States coast guard, 1223  
snowmobiles, and all-purpose vehicles as defined in section 1224  
4519.01 of the Revised Code; 1225

(9) (a) Sales of services or tangible personal property, 1226  
other than motor vehicles, mobile homes, and manufactured homes, 1227  
by churches, organizations exempt from taxation under section 1228  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1229  
organizations operated exclusively for charitable purposes as 1230  
defined in division (B)(12) of this section, provided that the 1231  
number of days on which such tangible personal property or 1232  
services, other than items never subject to the tax, are sold 1233  
does not exceed six in any calendar year, except as otherwise 1234  
provided in division (B)(9)(b) of this section. If the number of 1235  
days on which such sales are made exceeds six in any calendar 1236  
year, the church or organization shall be considered to be 1237  
engaged in business and all subsequent sales by it shall be 1238  
subject to the tax. In counting the number of days, all sales by 1239  
groups within a church or within an organization shall be 1240

considered to be sales of that church or organization. 1241

(b) The limitation on the number of days on which tax- 1242  
exempt sales may be made by a church or organization under 1243  
division (B) (9) (a) of this section does not apply to sales made 1244  
by student clubs and other groups of students of a primary or 1245  
secondary school, or a parent-teacher association, booster 1246  
group, or similar organization that raises money to support or 1247  
fund curricular or extracurricular activities of a primary or 1248  
secondary school. 1249

(c) Divisions (B) (9) (a) and (b) of this section do not 1250  
apply to sales by a noncommercial educational radio or 1251  
television broadcasting station. 1252

(10) Sales not within the taxing power of this state under 1253  
the Constitution or laws of the United States or the 1254  
Constitution of this state; 1255

(11) Except for transactions that are sales under division 1256  
(B) (3) (p) of section 5739.01 of the Revised Code, the 1257  
transportation of persons or property, unless the transportation 1258  
is by a private investigation and security service; 1259

(12) Sales of tangible personal property or services to 1260  
churches, to organizations exempt from taxation under section 1261  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 1262  
nonprofit organizations operated exclusively for charitable 1263  
purposes in this state, no part of the net income of which 1264  
inures to the benefit of any private shareholder or individual, 1265  
and no substantial part of the activities of which consists of 1266  
carrying on propaganda or otherwise attempting to influence 1267  
legislation; sales to offices administering one or more homes 1268  
for the aged or one or more hospital facilities exempt under 1269

section 140.08 of the Revised Code; and sales to organizations 1270  
described in division (D) of section 5709.12 of the Revised 1271  
Code. 1272

"Charitable purposes" means the relief of poverty; the 1273  
improvement of health through the alleviation of illness, 1274  
disease, or injury; the operation of an organization exclusively 1275  
for the provision of professional, laundry, printing, and 1276  
purchasing services to hospitals or charitable institutions; the 1277  
operation of a home for the aged, as defined in section 5701.13 1278  
of the Revised Code; the operation of a radio or television 1279  
broadcasting station that is licensed by the federal 1280  
communications commission as a noncommercial educational radio 1281  
or television station; the operation of a nonprofit animal 1282  
adoption service or a county humane society; the promotion of 1283  
education by an institution of learning that maintains a faculty 1284  
of qualified instructors, teaches regular continuous courses of 1285  
study, and confers a recognized diploma upon completion of a 1286  
specific curriculum; the operation of a parent-teacher 1287  
association, booster group, or similar organization primarily 1288  
engaged in the promotion and support of the curricular or 1289  
extracurricular activities of a primary or secondary school; the 1290  
operation of a community or area center in which presentations 1291  
in music, dramatics, the arts, and related fields are made in 1292  
order to foster public interest and education therein; the 1293  
production of performances in music, dramatics, and the arts; or 1294  
the promotion of education by an organization engaged in 1295  
carrying on research in, or the dissemination of, scientific and 1296  
technological knowledge and information primarily for the 1297  
public. 1298

Nothing in this division shall be deemed to exempt sales 1299  
to any organization for use in the operation or carrying on of a 1300

trade or business, or sales to a home for the aged for use in 1301  
the operation of independent living facilities as defined in 1302  
division (A) of section 5709.12 of the Revised Code. 1303

(13) Building and construction materials and services sold 1304  
to construction contractors for incorporation into a structure 1305  
or improvement to real property under a construction contract 1306  
with this state or a political subdivision of this state, or 1307  
with the United States government or any of its agencies; 1308  
building and construction materials and services sold to 1309  
construction contractors for incorporation into a structure or 1310  
improvement to real property that are accepted for ownership by 1311  
this state or any of its political subdivisions, or by the 1312  
United States government or any of its agencies at the time of 1313  
completion of the structures or improvements; building and 1314  
construction materials sold to construction contractors for 1315  
incorporation into a horticulture structure or livestock 1316  
structure for a person engaged in the business of horticulture 1317  
or producing livestock; building materials and services sold to 1318  
a construction contractor for incorporation into a house of 1319  
public worship or religious education, or a building used 1320  
exclusively for charitable purposes under a construction 1321  
contract with an organization whose purpose is as described in 1322  
division (B) (12) of this section; building materials and 1323  
services sold to a construction contractor for incorporation 1324  
into a building under a construction contract with an 1325  
organization exempt from taxation under section 501(c) (3) of the 1326  
Internal Revenue Code of 1986 when the building is to be used 1327  
exclusively for the organization's exempt purposes; building and 1328  
construction materials sold for incorporation into the original 1329  
construction of a sports facility under section 307.696 of the 1330  
Revised Code; building and construction materials and services 1331

1332 sold to a construction contractor for incorporation into real  
1333 property outside this state if such materials and services, when  
1334 sold to a construction contractor in the state in which the real  
1335 property is located for incorporation into real property in that  
1336 state, would be exempt from a tax on sales levied by that state;  
1337 building and construction materials for incorporation into a  
1338 transportation facility pursuant to a public-private agreement  
1339 entered into under sections 5501.70 to 5501.83 of the Revised  
1340 Code; until one calendar year after the construction of a  
1341 convention center that qualifies for property tax exemption  
1342 under section 5709.084 of the Revised Code is completed,  
1343 building and construction materials and services sold to a  
1344 construction contractor for incorporation into the real property  
1345 comprising that convention center; and building and construction  
1346 materials sold for incorporation into a structure or improvement  
1347 to real property that is used primarily as, or primarily in  
1348 support of, a manufacturing facility or research and development  
1349 facility and that is to be owned by a megaproject operator upon  
1350 completion and located at the site of a megaproject that  
1351 satisfies the criteria described in division (A) (11) (a) (ii) of  
1352 section 122.17 of the Revised Code, provided that the sale  
1353 occurs during the period that the megaproject operator has an  
1354 agreement for such megaproject with the tax credit authority  
1355 under division (D) of section 122.17 of the Revised Code that  
1356 remains in effect and has not expired or been terminated.

1357 (14) Sales of ships or vessels or rail rolling stock used  
1358 or to be used principally in interstate or foreign commerce, and  
1359 repairs, alterations, fuel, and lubricants for such ships or  
1360 vessels or rail rolling stock;

1361 (15) Sales to persons primarily engaged in any of the  
1362 activities mentioned in division (B) (42) (a), (g), or (h) of this

section, to persons engaged in making retail sales, or to 1363  
persons who purchase for sale from a manufacturer tangible 1364  
personal property that was produced by the manufacturer in 1365  
accordance with specific designs provided by the purchaser, of 1366  
packages, including material, labels, and parts for packages, 1367  
and of machinery, equipment, and material for use primarily in 1368  
packaging tangible personal property produced for sale, 1369  
including any machinery, equipment, and supplies used to make 1370  
labels or packages, to prepare packages or products for 1371  
labeling, or to label packages or products, by or on the order 1372  
of the person doing the packaging, or sold at retail. "Packages" 1373  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1374  
bindings, wrappings, and other similar devices and containers, 1375  
but does not include motor vehicles or bulk tanks, trailers, or 1376  
similar devices attached to motor vehicles. "Packaging" means 1377  
placing in a package. Division (B)(15) of this section does not 1378  
apply to persons engaged in highway transportation for hire. 1379

(16) Sales of food to persons using supplemental nutrition 1380  
assistance program benefits to purchase the food. As used in 1381  
this division, "food" has the same meaning as in 7 U.S.C. 2012 1382  
and federal regulations adopted pursuant to the Food and 1383  
Nutrition Act of 2008. 1384

(17) Sales to persons engaged in farming, agriculture, 1385  
horticulture, or floriculture, of tangible personal property for 1386  
use or consumption primarily in the production by farming, 1387  
agriculture, horticulture, or floriculture of other tangible 1388  
personal property for use or consumption primarily in the 1389  
production of tangible personal property for sale by farming, 1390  
agriculture, horticulture, or floriculture; or material and 1391  
parts for incorporation into any such tangible personal property 1392  
for use or consumption in production; and of tangible personal 1393



property for such use or consumption in the conditioning or 1394  
holding of products produced by and for such use, consumption, 1395  
or sale by persons engaged in farming, agriculture, 1396  
horticulture, or floriculture, except where such property is 1397  
incorporated into real property; 1398

(18) Sales of drugs for a human being that may be 1399  
dispensed only pursuant to a prescription; insulin as recognized 1400  
in the official United States pharmacopoeia; urine and blood 1401  
testing materials when used by diabetics or persons with 1402  
hypoglycemia to test for glucose or acetone; hypodermic syringes 1403  
and needles when used by diabetics for insulin injections; 1404  
epoetin alfa when purchased for use in the treatment of persons 1405  
with medical disease; hospital beds when purchased by hospitals, 1406  
nursing homes, or other medical facilities; and medical oxygen 1407  
and medical oxygen-dispensing equipment when purchased by 1408  
hospitals, nursing homes, or other medical facilities; 1409

(19) Sales of prosthetic devices, durable medical 1410  
equipment for home use, or mobility enhancing equipment, when 1411  
made pursuant to a prescription and when such devices or 1412  
equipment are for use by a human being. 1413

(20) Sales of emergency and fire protection vehicles and 1414  
equipment to nonprofit organizations for use solely in providing 1415  
fire protection and emergency services, including trauma care 1416  
and emergency medical services, for political subdivisions of 1417  
the state; 1418

(21) Sales of tangible personal property manufactured in 1419  
this state, if sold by the manufacturer in this state to a 1420  
retailer for use in the retail business of the retailer outside 1421  
of this state and if possession is taken from the manufacturer 1422  
by the purchaser within this state for the sole purpose of 1423

immediately removing the same from this state in a vehicle owned 1424  
by the purchaser; 1425

(22) Sales of services provided by the state or any of its 1426  
political subdivisions, agencies, instrumentalities, 1427  
institutions, or authorities, or by governmental entities of the 1428  
state or any of its political subdivisions, agencies, 1429  
instrumentalities, institutions, or authorities; 1430

(23) Sales of motor vehicles to nonresidents of this state 1431  
under the circumstances described in division (B) of section 1432  
5739.029 of the Revised Code; 1433

(24) Sales to persons engaged in the preparation of eggs 1434  
for sale of tangible personal property used or consumed directly 1435  
in such preparation, including such tangible personal property 1436  
used for cleaning, sanitizing, preserving, grading, sorting, and 1437  
classifying by size; packages, including material and parts for 1438  
packages, and machinery, equipment, and material for use in 1439  
packaging eggs for sale; and handling and transportation 1440  
equipment and parts therefor, except motor vehicles licensed to 1441  
operate on public highways, used in intraplant or interplant 1442  
transfers or shipment of eggs in the process of preparation for 1443  
sale, when the plant or plants within or between which such 1444  
transfers or shipments occur are operated by the same person. 1445  
"Packages" includes containers, cases, baskets, flats, fillers, 1446  
filler flats, cartons, closure materials, labels, and labeling 1447  
materials, and "packaging" means placing therein. 1448

(25) (a) Sales of water to a consumer for residential use; 1449

(b) Sales of water by a nonprofit corporation engaged 1450  
exclusively in the treatment, distribution, and sale of water to 1451  
consumers, if such water is delivered to consumers through pipes 1452

or tubing. 1453

(26) Fees charged for inspection or reinspection of motor 1454  
vehicles under section 3704.14 of the Revised Code; 1455

(27) Sales to persons licensed to conduct a food service 1456  
operation pursuant to section 3717.43 of the Revised Code, of 1457  
tangible personal property primarily used directly for the 1458  
following: 1459

(a) To prepare food for human consumption for sale; 1460

(b) To preserve food that has been or will be prepared for 1461  
human consumption for sale by the food service operator, not 1462  
including tangible personal property used to display food for 1463  
selection by the consumer; 1464

(c) To clean tangible personal property used to prepare or 1465  
serve food for human consumption for sale. 1466

(28) Sales of animals by nonprofit animal adoption 1467  
services or county humane societies; 1468

(29) Sales of services to a corporation described in 1469  
division (A) of section 5709.72 of the Revised Code, and sales 1470  
of tangible personal property that qualifies for exemption from 1471  
taxation under section 5709.72 of the Revised Code; 1472

(30) Sales and installation of agricultural land tile, as 1473  
defined in division (B) (5) (a) of section 5739.01 of the Revised 1474  
Code; 1475

(31) Sales and erection or installation of portable grain 1476  
bins, as defined in division (B) (5) (b) of section 5739.01 of the 1477  
Revised Code; 1478

(32) The sale, lease, repair, and maintenance of, parts 1479

for, or items attached to or incorporated in, motor vehicles 1480  
that are primarily used for transporting tangible personal 1481  
property belonging to others by a person engaged in highway 1482  
transportation for hire, except for packages and packaging used 1483  
for the transportation of tangible personal property; 1484

(33) Sales to the state headquarters of any veterans' 1485  
organization in this state that is either incorporated and 1486  
issued a charter by the congress of the United States or is 1487  
recognized by the United States veterans administration, for use 1488  
by the headquarters; 1489

(34) Sales to a telecommunications service vendor, mobile 1490  
telecommunications service vendor, or satellite broadcasting 1491  
service vendor of tangible personal property and services used 1492  
directly and primarily in transmitting, receiving, switching, or 1493  
recording any interactive, one- or two-way electromagnetic 1494  
communications, including voice, image, data, and information, 1495  
through the use of any medium, including, but not limited to, 1496  
poles, wires, cables, switching equipment, computers, and record 1497  
storage devices and media, and component parts for the tangible 1498  
personal property. The exemption provided in this division shall 1499  
be in lieu of all other exemptions under division (B) (42) (a) or 1500  
(n) of this section to which the vendor may otherwise be 1501  
entitled, based upon the use of the thing purchased in providing 1502  
the telecommunications, mobile telecommunications, or satellite 1503  
broadcasting service. 1504

(35) (a) Sales where the purpose of the consumer is to use 1505  
or consume the things transferred in making retail sales and 1506  
consisting of newspaper inserts, catalogues, coupons, flyers, 1507  
gift certificates, or other advertising material that prices and 1508  
describes tangible personal property offered for retail sale. 1509

(b) Sales to direct marketing vendors of preliminary 1510  
materials such as photographs, artwork, and typesetting that 1511  
will be used in printing advertising material; and of printed 1512  
matter that offers free merchandise or chances to win sweepstake 1513  
prizes and that is mailed to potential customers with 1514  
advertising material described in division (B) (35) (a) of this 1515  
section; 1516

(c) Sales of equipment such as telephones, computers, 1517  
facsimile machines, and similar tangible personal property 1518  
primarily used to accept orders for direct marketing retail 1519  
sales. 1520

(d) Sales of automatic food vending machines that preserve 1521  
food with a shelf life of forty-five days or less by 1522  
refrigeration and dispense it to the consumer. 1523

For purposes of division (B) (35) of this section, "direct 1524  
marketing" means the method of selling where consumers order 1525  
tangible personal property by United States mail, delivery 1526  
service, or telecommunication and the vendor delivers or ships 1527  
the tangible personal property sold to the consumer from a 1528  
warehouse, catalogue distribution center, or similar fulfillment 1529  
facility by means of the United States mail, delivery service, 1530  
or common carrier. 1531

(36) Sales to a person engaged in the business of 1532  
horticulture or producing livestock of materials to be 1533  
incorporated into a horticulture structure or livestock 1534  
structure; 1535

(37) Sales of personal computers, computer monitors, 1536  
computer keyboards, modems, and other peripheral computer 1537  
equipment to an individual who is licensed or certified to teach 1538

in an elementary or a secondary school in this state for use by 1539  
that individual in preparation for teaching elementary or 1540  
secondary school students; 1541

(38) Sales of tangible personal property that is not 1542  
required to be registered or licensed under the laws of this 1543  
state to a citizen of a foreign nation that is not a citizen of 1544  
the United States, provided the property is delivered to a 1545  
person in this state that is not a related member of the 1546  
purchaser, is physically present in this state for the sole 1547  
purpose of temporary storage and package consolidation, and is 1548  
subsequently delivered to the purchaser at a delivery address in 1549  
a foreign nation. As used in division (B) (38) of this section, 1550  
"related member" has the same meaning as in section 5733.042 of 1551  
the Revised Code, and "temporary storage" means the storage of 1552  
tangible personal property for a period of not more than sixty 1553  
days. 1554

(39) Sales of used manufactured homes and used mobile 1555  
homes, as defined in section 5739.0210 of the Revised Code, made 1556  
on or after January 1, 2000; 1557

(40) Sales of tangible personal property and services to a 1558  
provider of electricity used or consumed directly and primarily 1559  
in generating, transmitting, or distributing electricity for use 1560  
by others, including property that is or is to be incorporated 1561  
into and will become a part of the consumer's production, 1562  
transmission, or distribution system and that retains its 1563  
classification as tangible personal property after 1564  
incorporation; fuel or power used in the production, 1565  
transmission, or distribution of electricity; energy conversion 1566  
equipment as defined in section 5727.01 of the Revised Code; and 1567  
tangible personal property and services used in the repair and 1568

maintenance of the production, transmission, or distribution 1569  
system, including only those motor vehicles as are specially 1570  
designed and equipped for such use. The exemption provided in 1571  
this division shall be in lieu of all other exemptions in 1572  
division (B) (42) (a) or (n) of this section to which a provider 1573  
of electricity may otherwise be entitled based on the use of the 1574  
tangible personal property or service purchased in generating, 1575  
transmitting, or distributing electricity. 1576

(41) Sales to a person providing services under division 1577  
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 1578  
personal property and services used directly and primarily in 1579  
providing taxable services under that section. 1580

(42) Sales where the purpose of the purchaser is to do any 1581  
of the following: 1582

(a) To incorporate the thing transferred as a material or 1583  
a part into tangible personal property to be produced for sale 1584  
by manufacturing, assembling, processing, or refining; or to use 1585  
or consume the thing transferred directly in producing tangible 1586  
personal property for sale by mining, including, without 1587  
limitation, the extraction from the earth of all substances that 1588  
are classed geologically as minerals, or directly in the 1589  
rendition of a public utility service, except that the sales tax 1590  
levied by this section shall be collected upon all meals, 1591  
drinks, and food for human consumption sold when transporting 1592  
persons. This paragraph does not exempt from "retail sale" or 1593  
"sales at retail" the sale of tangible personal property that is 1594  
to be incorporated into a structure or improvement to real 1595  
property. 1596

(b) To hold the thing transferred as security for the 1597  
performance of an obligation of the vendor; 1598

(c) To resell, hold, use, or consume the thing transferred	1599
as evidence of a contract of insurance;	1600
(d) To use or consume the thing directly in commercial	1601
fishing;	1602
(e) To incorporate the thing transferred as a material or	1603
a part into, or to use or consume the thing transferred directly	1604
in the production of, magazines distributed as controlled	1605
circulation publications;	1606
(f) To use or consume the thing transferred in the	1607
production and preparation in suitable condition for market and	1608
sale of printed, imprinted, overprinted, lithographic,	1609
multilithic, blueprinted, photostatic, or other productions or	1610
reproductions of written or graphic matter;	1611
(g) To use the thing transferred, as described in section	1612
5739.011 of the Revised Code, primarily in a manufacturing	1613
operation to produce tangible personal property for sale;	1614
(h) To use the benefit of a warranty, maintenance or	1615
service contract, or similar agreement, as described in division	1616
(B) (7) of section 5739.01 of the Revised Code, to repair or	1617
maintain tangible personal property, if all of the property that	1618
is the subject of the warranty, contract, or agreement would not	1619
be subject to the tax imposed by this section;	1620
(i) To use the thing transferred as qualified research and	1621
development equipment;	1622
(j) To use or consume the thing transferred primarily in	1623
storing, transporting, mailing, or otherwise handling purchased	1624
sales inventory in a warehouse, distribution center, or similar	1625
facility when the inventory is primarily distributed outside	1626
this state to retail stores of the person who owns or controls	1627



the warehouse, distribution center, or similar facility, to 1628  
retail stores of an affiliated group of which that person is a 1629  
member, or by means of direct marketing. This division does not 1630  
apply to motor vehicles registered for operation on the public 1631  
highways. As used in this division, "affiliated group" has the 1632  
same meaning as in division (B) (3) (e) of section 5739.01 of the 1633  
Revised Code and "direct marketing" has the same meaning as in 1634  
division (B) (35) of this section. 1635

(k) To use or consume the thing transferred to fulfill a 1636  
contractual obligation incurred by a warrantor pursuant to a 1637  
warranty provided as a part of the price of the tangible 1638  
personal property sold or by a vendor of a warranty, maintenance 1639  
or service contract, or similar agreement the provision of which 1640  
is defined as a sale under division (B) (7) of section 5739.01 of 1641  
the Revised Code; 1642

(l) To use or consume the thing transferred in the 1643  
production of a newspaper for distribution to the public; 1644

(m) To use tangible personal property to perform a service 1645  
listed in division (B) (3) of section 5739.01 of the Revised 1646  
Code, if the property is or is to be permanently transferred to 1647  
the consumer of the service as an integral part of the 1648  
performance of the service; 1649

(n) To use or consume the thing transferred primarily in 1650  
producing tangible personal property for sale by farming, 1651  
agriculture, horticulture, or floriculture. Persons engaged in 1652  
rendering farming, agriculture, horticulture, or floriculture 1653  
services for others are deemed engaged primarily in farming, 1654  
agriculture, horticulture, or floriculture. This paragraph does 1655  
not exempt from "retail sale" or "sales at retail" the sale of 1656  
tangible personal property that is to be incorporated into a 1657

structure or improvement to real property. 1658

(o) To use or consume the thing transferred in acquiring, 1659  
formatting, editing, storing, and disseminating data or 1660  
information by electronic publishing; 1661

(p) To provide the thing transferred to the owner or 1662  
lessee of a motor vehicle that is being repaired or serviced, if 1663  
the thing transferred is a rented motor vehicle and the 1664  
purchaser is reimbursed for the cost of the rented motor vehicle 1665  
by a manufacturer, warrantor, or provider of a maintenance, 1666  
service, or other similar contract or agreement, with respect to 1667  
the motor vehicle that is being repaired or serviced; 1668

(q) To use or consume the thing transferred directly in 1669  
production of crude oil and natural gas for sale. Persons 1670  
engaged in rendering production services for others are deemed 1671  
engaged in production. 1672

As used in division (B) (42) (q) of this section, 1673  
"production" means operations and tangible personal property 1674  
directly used to expose and evaluate an underground reservoir 1675  
that may contain hydrocarbon resources, prepare the wellbore for 1676  
production, and lift and control all substances yielded by the 1677  
reservoir to the surface of the earth. 1678

(i) For the purposes of division (B) (42) (q) of this 1679  
section, the "thing transferred" includes, but is not limited 1680  
to, any of the following: 1681

(I) Services provided in the construction of permanent 1682  
access roads, services provided in the construction of the well 1683  
site, and services provided in the construction of temporary 1684  
impoundments; 1685

(II) Equipment and rigging used for the specific purpose 1686

of creating with integrity a wellbore pathway to underground 1687  
reservoirs; 1688

(III) Drilling and workover services used to work within a 1689  
subsurface wellbore, and tangible personal property directly 1690  
used in providing such services; 1691

(IV) Casing, tubulars, and float and centralizing 1692  
equipment; 1693

(V) Trailers to which production equipment is attached; 1694

(VI) Well completion services, including cementing of 1695  
casing, and tangible personal property directly used in 1696  
providing such services; 1697

(VII) Wireline evaluation, mud logging, and perforation 1698  
services, and tangible personal property directly used in 1699  
providing such services; 1700

(VIII) Reservoir stimulation, hydraulic fracturing, and 1701  
acidizing services, and tangible personal property directly used 1702  
in providing such services, including all material pumped 1703  
downhole; 1704

(IX) Pressure pumping equipment; 1705

(X) Artificial lift systems equipment; 1706

(XI) Wellhead equipment and well site equipment used to 1707  
separate, stabilize, and control hydrocarbon phases and produced 1708  
water; 1709

(XII) Tangible personal property directly used to control 1710  
production equipment. 1711

(ii) For the purposes of division (B) (42) (q) of this 1712  
section, the "thing transferred" does not include any of the 1713

following:	1714
(I) Tangible personal property used primarily in the	1715
exploration and production of any mineral resource regulated	1716
under Chapter 1509. of the Revised Code other than oil or gas;	1717
(II) Tangible personal property used primarily in storing,	1718
holding, or delivering solutions or chemicals used in well	1719
stimulation as defined in section 1509.01 of the Revised Code;	1720
(III) Tangible personal property used primarily in	1721
preparing, installing, or reclaiming foundations for drilling or	1722
pumping equipment or well stimulation material tanks;	1723
(IV) Tangible personal property used primarily in	1724
transporting, delivering, or removing equipment to or from the	1725
well site or storing such equipment before its use at the well	1726
site;	1727
(V) Tangible personal property used primarily in gathering	1728
operations occurring off the well site, including gathering	1729
pipelines transporting hydrocarbon gas or liquids away from a	1730
crude oil or natural gas production facility;	1731
(VI) Tangible personal property that is to be incorporated	1732
into a structure or improvement to real property;	1733
(VII) Well site fencing, lighting, or security systems;	1734
(VIII) Communication devices or services;	1735
(IX) Office supplies;	1736
(X) Trailers used as offices or lodging;	1737
(XI) Motor vehicles of any kind;	1738
(XII) Tangible personal property used primarily for the	1739
storage of drilling byproducts and fuel not used for production;	1740

(XIII) Tangible personal property used primarily as a 1741  
safety device; 1742

(XIV) Data collection or monitoring devices; 1743

(XV) Access ladders, stairs, or platforms attached to 1744  
storage tanks. 1745

The enumeration of tangible personal property in division 1746  
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 1747  
and any tangible personal property not so enumerated shall not 1748  
necessarily be construed to be a "thing transferred" for the 1749  
purposes of division (B) (42) (q) of this section. 1750

The commissioner shall adopt and promulgate rules under 1751  
sections 119.01 to 119.13 of the Revised Code that the 1752  
commissioner deems necessary to administer division (B) (42) (q) 1753  
of this section. 1754

As used in division (B) (42) of this section, "thing" 1755  
includes all transactions included in divisions (B) (3) (a), (b), 1756  
and (e) of section 5739.01 of the Revised Code. 1757

(43) Sales conducted through a coin operated device that 1758  
activates vacuum equipment or equipment that dispenses water, 1759  
whether or not in combination with soap or other cleaning agents 1760  
or wax, to the consumer for the consumer's use on the premises 1761  
in washing, cleaning, or waxing a motor vehicle, provided no 1762  
other personal property or personal service is provided as part 1763  
of the transaction. 1764

(44) Sales of replacement and modification parts for 1765  
engines, airframes, instruments, and interiors in, and paint 1766  
for, aircraft used primarily in a fractional aircraft ownership 1767  
program, and sales of services for the repair, modification, and 1768  
maintenance of such aircraft, and machinery, equipment, and 1769

supplies primarily used to provide those services. 1770

(45) Sales of telecommunications service that is used 1771  
directly and primarily to perform the functions of a call 1772  
center. As used in this division, "call center" means any 1773  
physical location where telephone calls are placed or received 1774  
in high volume for the purpose of making sales, marketing, 1775  
customer service, technical support, or other specialized 1776  
business activity, and that employs at least fifty individuals 1777  
that engage in call center activities on a full-time basis, or 1778  
sufficient individuals to fill fifty full-time equivalent 1779  
positions. 1780

(46) Sales by a telecommunications service vendor of 900 1781  
service to a subscriber. This division does not apply to 1782  
information services. 1783

(47) Sales of value-added non-voice data service. This 1784  
division does not apply to any similar service that is not 1785  
otherwise a telecommunications service. 1786

(48) Sales of feminine hygiene products. 1787

(49) Sales of materials, parts, equipment, or engines used 1788  
in the repair or maintenance of aircraft or avionics systems of 1789  
such aircraft, and sales of repair, remodeling, replacement, or 1790  
maintenance services in this state performed on aircraft or on 1791  
an aircraft's avionics, engine, or component materials or parts. 1792  
As used in division (B) (49) of this section, "aircraft" means 1793  
aircraft of more than six thousand pounds maximum certified 1794  
takeoff weight or used exclusively in general aviation. 1795

(50) Sales of full flight simulators that are used for 1796  
pilot or flight-crew training, sales of repair or replacement 1797  
parts or components, and sales of repair or maintenance services 1798

for such full flight simulators. "Full flight simulator" means a 1799  
replica of a specific type, or make, model, and series of 1800  
aircraft cockpit. It includes the assemblage of equipment and 1801  
computer programs necessary to represent aircraft operations in 1802  
ground and flight conditions, a visual system providing an out- 1803  
of-the-cockpit view, and a system that provides cues at least 1804  
equivalent to those of a three-degree-of-freedom motion system, 1805  
and has the full range of capabilities of the systems installed 1806  
in the device as described in appendices A and B of part 60 of 1807  
chapter 1 of title 14 of the Code of Federal Regulations. 1808

(51) Any transfer or lease of tangible personal property 1809  
between the state and JobsOhio in accordance with section 1810  
4313.02 of the Revised Code. 1811

(52) (a) Sales to a qualifying corporation. 1812

(b) As used in division (B) (52) of this section: 1813

(i) "Qualifying corporation" means a nonprofit corporation 1814  
organized in this state that leases from an eligible county 1815  
land, buildings, structures, fixtures, and improvements to the 1816  
land that are part of or used in a public recreational facility 1817  
used by a major league professional athletic team or a class A 1818  
to class AAA minor league affiliate of a major league 1819  
professional athletic team for a significant portion of the 1820  
team's home schedule, provided the following apply: 1821

(I) The facility is leased from the eligible county 1822  
pursuant to a lease that requires substantially all of the 1823  
revenue from the operation of the business or activity conducted 1824  
by the nonprofit corporation at the facility in excess of 1825  
operating costs, capital expenditures, and reserves to be paid 1826  
to the eligible county at least once per calendar year. 1827

(II) Upon dissolution and liquidation of the nonprofit 1828  
corporation, all of its net assets are distributable to the 1829  
board of commissioners of the eligible county from which the 1830  
corporation leases the facility. 1831

(ii) "Eligible county" has the same meaning as in section 1832  
307.695 of the Revised Code. 1833

(53) Sales to or by a cable service provider, video 1834  
service provider, or radio or television broadcast station 1835  
regulated by the federal government of cable service or 1836  
programming, video service or programming, audio service or 1837  
programming, or electronically transferred digital audiovisual 1838  
or audio work. As used in division (B) (53) of this section, 1839  
"cable service" and "cable service provider" have the same 1840  
meanings as in section 1332.01 of the Revised Code, and "video 1841  
service," "video service provider," and "video programming" have 1842  
the same meanings as in section 1332.21 of the Revised Code. 1843

(54) Sales of a digital audio work electronically 1844  
transferred for delivery through use of a machine, such as a 1845  
juke box, that does all of the following: 1846

(a) Accepts direct payments to operate; 1847

(b) Automatically plays a selected digital audio work for 1848  
a single play upon receipt of a payment described in division 1849  
(B) (54) (a) of this section; 1850

(c) Operates exclusively for the purpose of playing 1851  
digital audio works in a commercial establishment. 1852

(55) (a) Sales of the following occurring on the first 1853  
Friday of August and the following Saturday and Sunday of each 1854  
year, beginning in 2018: 1855



(i) An item of clothing, the price of which is seventy- 1856  
five dollars or less; 1857

(ii) An item of school supplies, the price of which is 1858  
twenty dollars or less; 1859

(iii) An item of school instructional material, the price 1860  
of which is twenty dollars or less. 1861

(b) As used in division (B) (55) of this section: 1862

(i) "Clothing" means all human wearing apparel suitable 1863  
for general use. "Clothing" includes, but is not limited to, 1864  
aprons, household and shop; athletic supporters; baby receiving 1865  
blankets; bathing suits and caps; beach capes and coats; belts 1866  
and suspenders; boots; coats and jackets; costumes; diapers, 1867  
children and adult, including disposable diapers; earmuffs; 1868  
footlets; formal wear; garters and garter belts; girdles; gloves 1869  
and mittens for general use; hats and caps; hosiery; insoles for 1870  
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1871  
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1872  
sneakers; socks and stockings; steel-toed shoes; underwear; 1873  
uniforms, athletic and nonathletic; and wedding apparel. 1874  
"Clothing" does not include items purchased for use in a trade 1875  
or business; clothing accessories or equipment; protective 1876  
equipment; sports or recreational equipment; belt buckles sold 1877  
separately; costume masks sold separately; patches and emblems 1878  
sold separately; sewing equipment and supplies including, but 1879  
not limited to, knitting needles, patterns, pins, scissors, 1880  
sewing machines, sewing needles, tape measures, and thimbles; 1881  
and sewing materials that become part of "clothing" including, 1882  
but not limited to, buttons, fabric, lace, thread, yarn, and 1883  
zippers. 1884

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

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

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

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

(i) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder

or bowel movements. 1915

(ii) "Incontinence underpad" means an absorbent product, 1916  
not worn on the body, designed to protect furniture or other 1917  
tangible personal property from soiling or damage due to human 1918  
incontinence. 1919

(57) Sales of investment metal bullion and investment 1920  
coins. "Investment metal bullion" means any bullion described in 1921  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 1922  
whether that bullion is in the physical possession of a trustee. 1923  
"Investment coin" means any coin composed primarily of gold, 1924  
silver, platinum, or palladium. 1925

(58) Sales of tangible personal property used primarily 1926  
for any of the following purposes by a megaproject operator at 1927  
the site of a megaproject that satisfies the criteria described 1928  
in division (A) (11) (a) (ii) of section 122.17 of the Revised 1929  
Code, provided that the sale occurs during the period that the 1930  
megaproject operator has an agreement for such megaproject with 1931  
the tax credit authority under division (D) of section 122.17 of 1932  
the Revised Code that remains in effect and has not expired or 1933  
been terminated: 1934

(a) To store, transmit, convey, distribute, recycle, 1935  
circulate, or clean water, steam, or other gases used in or 1936  
produced as a result of manufacturing activity, including items 1937  
that support or aid in the operation of such property; 1938

(b) To clean or prepare inventory, at any stage of storage 1939  
or production, or equipment used in a manufacturing activity, 1940  
including chemicals, solvents, catalysts, soaps, and other items 1941  
that support or aid in the operation of property; 1942

(c) To regulate, treat, filter, condition, improve, clean, 1943

maintain, or monitor environmental conditions within areas where 1944  
manufacturing activities take place; 1945

(d) To handle, transport, or convey inventory during 1946  
production or manufacturing. 1947

(59) Documentary services charges imposed pursuant to 1948  
section 4517.261 or 4781.24 of the Revised Code. 1949

(60) Sales of firearm safety devices. 1950

(C) For the purpose of the proper administration of this 1951  
chapter, and to prevent the evasion of the tax, it is presumed 1952  
that all sales made in this state are subject to the tax until 1953  
the contrary is established. 1954

(D) The tax collected by the vendor from the consumer 1955  
under this chapter is not part of the price, but is a tax 1956  
collection for the benefit of the state, and of counties levying 1957  
an additional sales tax pursuant to section 5739.021 or 5739.026 1958  
of the Revised Code and of transit authorities levying an 1959  
additional sales tax pursuant to section 5739.023 of the Revised 1960  
Code. Except for the discount authorized under section 5739.12 1961  
of the Revised Code and the effects of any rounding pursuant to 1962  
section 5703.055 of the Revised Code, no person other than the 1963  
state or such a county or transit authority shall derive any 1964  
benefit from the collection or payment of the tax levied by this 1965  
section or section 5739.021, 5739.023, or 5739.026 of the 1966  
Revised Code. 1967

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 1968  
section 5739.051 of the Revised Code, the tax imposed by or 1969  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 1970  
the Revised Code shall be paid by the consumer to the vendor, 1971  
and each vendor shall collect from the consumer, as a trustee 1972

for the state of Ohio, the full and exact amount of the tax 1973  
payable on each taxable sale, in the manner and at the times 1974  
provided as follows: 1975

(1) If the price is, at or prior to the provision of the 1976  
service or the delivery of possession of the thing sold to the 1977  
consumer, paid in currency passed from hand to hand by the 1978  
consumer or the consumer's agent to the vendor or the vendor's 1979  
agent, the vendor or the vendor's agent shall collect the tax 1980  
with and at the same time as the price; 1981

(2) If the price is otherwise paid or to be paid, the 1982  
vendor or the vendor's agent shall, at or prior to the provision 1983  
of the service or the delivery of possession of the thing sold 1984  
to the consumer, charge the tax imposed by or pursuant to 1985  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 1986  
Code to the account of the consumer, which amount shall be 1987  
collected by the vendor from the consumer in addition to the 1988  
price. Such sale shall be reported on and the amount of the tax 1989  
applicable thereto shall be remitted with the return for the 1990  
period in which the sale is made, and the amount of the tax 1991  
shall become a legal charge in favor of the vendor and against 1992  
the consumer. 1993

(B) (1) (a) If any sale is claimed to be exempt under 1994  
division (E) of section 5739.01 of the Revised Code or under 1995  
section 5739.02 of the Revised Code, with the exception of 1996  
divisions (B) (1) to (11), (28), (48), (55), ~~or (59)~~, or (60) of 1997  
section 5739.02 of the Revised Code, the consumer must provide 1998  
to the vendor, and the vendor must obtain from the consumer, a 1999  
certificate specifying the reason that the sale is not legally 2000  
subject to the tax. The certificate shall be in such form, and 2001  
shall be provided either in a hard copy form or electronic form, 2002

as the tax commissioner prescribes. 2003

(b) A vendor that obtains a fully completed exemption 2004  
certificate from a consumer is relieved of liability for 2005  
collecting and remitting tax on any sale covered by that 2006  
certificate. If it is determined the exemption was improperly 2007  
claimed, the consumer shall be liable for any tax due on that 2008  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 2009  
Chapter 5741. of the Revised Code. Relief under this division 2010  
from liability does not apply to any of the following: 2011

(i) A vendor that fraudulently fails to collect tax; 2012

(ii) A vendor that solicits consumers to participate in 2013  
the unlawful claim of an exemption; 2014

(iii) A vendor that accepts an exemption certificate from 2015  
a consumer that claims an exemption based on who purchases or 2016  
who sells property or a service, when the subject of the 2017  
transaction sought to be covered by the exemption certificate is 2018  
actually received by the consumer at a location operated by the 2019  
vendor in this state, and this state has posted to its web site 2020  
an exemption certificate form that clearly and affirmatively 2021  
indicates that the claimed exemption is not available in this 2022  
state; 2023

(iv) A vendor that accepts an exemption certificate from a 2024  
consumer who claims a multiple points of use exemption under 2025  
division (D) of section 5739.033 of the Revised Code, if the 2026  
item purchased is tangible personal property, other than 2027  
prewritten computer software. 2028

(2) The vendor shall maintain records, including exemption 2029  
certificates, of all sales on which a consumer has claimed an 2030  
exemption, and provide them to the tax commissioner on request. 2031

(3) The tax commissioner may establish an identification 2032  
system whereby the commissioner issues an identification number 2033  
to a consumer that is exempt from payment of the tax. The 2034  
consumer must present the number to the vendor, if any sale is 2035  
claimed to be exempt as provided in this section. 2036

(4) If no certificate is provided or obtained within 2037  
ninety days after the date on which such sale is consummated, it 2038  
shall be presumed that the tax applies. Failure to have so 2039  
provided or obtained a certificate shall not preclude a vendor, 2040  
within one hundred twenty days after the tax commissioner gives 2041  
written notice of intent to levy an assessment, from either 2042  
establishing that the sale is not subject to the tax, or 2043  
obtaining, in good faith, a fully completed exemption 2044  
certificate. 2045

(5) Certificates need not be obtained nor provided where 2046  
the identity of the consumer is such that the transaction is 2047  
never subject to the tax imposed or where the item of tangible 2048  
personal property sold or the service provided is never subject 2049  
to the tax imposed, regardless of use, or when the sale is in 2050  
interstate commerce. 2051

(6) If a transaction is claimed to be exempt under 2052  
division (B) (13) of section 5739.02 of the Revised Code, the 2053  
contractor shall obtain certification of the claimed exemption 2054  
from the contractee. This certification shall be in addition to 2055  
an exemption certificate provided by the contractor to the 2056  
vendor. A contractee that provides a certification under this 2057  
division shall be deemed to be the consumer of all items 2058  
purchased by the contractor under the claim of exemption, if it 2059  
is subsequently determined that the exemption is not properly 2060  
claimed. The certification shall be in such form as the tax 2061

commissioner prescribes. 2062

(C) As used in this division, "contractee" means a person 2063  
who seeks to enter or enters into a contract or agreement with a 2064  
contractor or vendor for the construction of real property or 2065  
for the sale and installation onto real property of tangible 2066  
personal property. 2067

Any contractor or vendor may request from any contractee a 2068  
certification of what portion of the property to be transferred 2069  
under such contract or agreement is to be incorporated into the 2070  
realty and what portion will retain its status as tangible 2071  
personal property after installation is completed. The 2072  
contractor or vendor shall request the certification by 2073  
certified mail delivered to the contractee, return receipt 2074  
requested. Upon receipt of such request and prior to entering 2075  
into the contract or agreement, the contractee shall provide to 2076  
the contractor or vendor a certification sufficiently detailed 2077  
to enable the contractor or vendor to ascertain the resulting 2078  
classification of all materials purchased or fabricated by the 2079  
contractor or vendor and transferred to the contractee. This 2080  
requirement applies to a contractee regardless of whether the 2081  
contractee holds a direct payment permit under section 5739.031 2082  
of the Revised Code or provides to the contractor or vendor an 2083  
exemption certificate as provided under this section. 2084

For the purposes of the taxes levied by this chapter and 2085  
Chapter 5741. of the Revised Code, the contractor or vendor may 2086  
in good faith rely on the contractee's certification. 2087  
Notwithstanding division (B) of section 5739.01 of the Revised 2088  
Code, if the tax commissioner determines that certain property 2089  
certified by the contractee as tangible personal property 2090  
pursuant to this division is, in fact, real property, the 2091



contractee shall be considered to be the consumer of all 2092  
materials so incorporated into that real property and shall be 2093  
liable for the applicable tax, and the contractor or vendor 2094  
shall be excused from any liability on those materials. 2095

If a contractee fails to provide such certification upon 2096  
the request of the contractor or vendor, the contractor or 2097  
vendor shall comply with the provisions of this chapter and 2098  
Chapter 5741. of the Revised Code without the certification. If 2099  
the tax commissioner determines that such compliance has been 2100  
performed in good faith and that certain property treated as 2101  
tangible personal property by the contractor or vendor is, in 2102  
fact, real property, the contractee shall be considered to be 2103  
the consumer of all materials so incorporated into that real 2104  
property and shall be liable for the applicable tax, and the 2105  
construction contractor or vendor shall be excused from any 2106  
liability on those materials. 2107

This division does not apply to any contract or agreement 2108  
where the tax commissioner determines as a fact that a 2109  
certification under this division was made solely on the 2110  
decision or advice of the contractor or vendor. 2111

(D) Notwithstanding division (B) of section 5739.01 of the 2112  
Revised Code, whenever the total rate of tax imposed under this 2113  
chapter is increased after the date after a construction 2114  
contract is entered into, the contractee shall reimburse the 2115  
construction contractor for any additional tax paid on tangible 2116  
property consumed or services received pursuant to the contract. 2117

(E) A vendor who files a petition for reassessment 2118  
contesting the assessment of tax on sales for which the vendor 2119  
obtained no valid exemption certificates and for which the 2120  
vendor failed to establish that the sales were properly not 2121

subject to the tax during the one-hundred-twenty-day period 2122  
allowed under division (B) of this section, may present to the 2123  
tax commissioner additional evidence to prove that the sales 2124  
were properly subject to a claim of exception or exemption. The 2125  
vendor shall file such evidence within ninety days of the 2126  
receipt by the vendor of the notice of assessment, except that, 2127  
upon application and for reasonable cause, the period for 2128  
submitting such evidence shall be extended thirty days. 2129

The commissioner shall consider such additional evidence 2130  
in reaching the final determination on the assessment and 2131  
petition for reassessment. 2132

(F) Whenever a vendor refunds the price, minus any 2133  
separately stated delivery charge, of an item of tangible 2134  
personal property on which the tax imposed under this chapter 2135  
has been paid, the vendor shall also refund the amount of tax 2136  
paid, minus the amount of tax attributable to the delivery 2137  
charge. 2138

**Sec. 5739.17.** (A) No person shall engage in making retail 2139  
sales subject to a tax imposed by or pursuant to section 2140  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as 2141  
a business without having a license therefor, except as 2142  
otherwise provided in divisions (A) (1), (2), and (3) of this 2143  
section. 2144

(1) In the dissolution of a partnership by death, the 2145  
surviving partner may operate under the license of the 2146  
partnership for a period of sixty days. 2147

(2) The heirs or legal representatives of deceased 2148  
persons, and receivers and trustees in bankruptcy, appointed by 2149  
any competent authority, may operate under the license of the 2150

person so succeeded in possession. 2151

(3) Two or more persons who are not partners may operate a 2152  
single place of business under one license. In such case neither 2153  
the retirement of any such person from business at that place of 2154  
business, nor the entrance of any person, under an existing 2155  
arrangement, shall affect the license or require the issuance of 2156  
a new license, unless the person retiring from the business is 2157  
the individual named on the vendor's license. 2158

Except as otherwise provided in this section, each 2159  
applicant for a license shall make out and deliver to the county 2160  
auditor of each county in which the applicant desires to engage 2161  
in business, upon a blank to be furnished by such auditor for 2162  
that purpose, a statement showing the name of the applicant, 2163  
each place of business in the county where the applicant will 2164  
make retail sales, the nature of the business, and any other 2165  
information the tax commissioner reasonably prescribes in the 2166  
form of a statement prescribed by the commissioner. 2167

At the time of making the application, the applicant shall 2168  
pay into the county treasury a license fee in the sum of twenty- 2169  
five dollars for each fixed place of business in the county that 2170  
will be the situs of retail sales. Upon receipt of the 2171  
application and exhibition of the county treasurer's receipt, 2172  
showing the payment of the license fee, the county auditor shall 2173  
issue to the applicant a license for each fixed place of 2174  
business designated in the application, authorizing the 2175  
applicant to engage in business at that location. 2176

(B) If a vendor's identity changes, the vendor shall apply 2177  
for a new license. If a vendor wishes to move an existing fixed 2178  
place of business to a new location within the same county, the 2179  
vendor shall obtain a new vendor's license or submit a request 2180

to the commissioner to transfer the existing vendor's license to 2181  
the new location. When the new location has been verified as 2182  
being within the same county, the commissioner shall authorize 2183  
the transfer and notify the county auditor of the change of 2184  
location. If a vendor wishes to move an existing fixed place of 2185  
business to another county, the vendor's license shall not 2186  
transfer and the vendor shall obtain a new vendor's license from 2187  
the county in which the business is to be located. The form of 2188  
the license shall be prescribed by the commissioner. The fees 2189  
collected shall be credited to the general fund of the county. 2190  
If a vendor fails to notify the commissioner of a change of 2191  
location of its fixed place of business or that its business has 2192  
closed, the commissioner may cancel the vendor's license if 2193  
ordinary mail sent to the location shown on the license is 2194  
returned because of an undeliverable address. 2195

(C) The commissioner may establish or participate in a 2196  
registration system whereby any vendor may obtain a vendor's 2197  
license by submitting to the commissioner a vendor's license 2198  
application and a license fee of twenty-five dollars for each 2199  
fixed place of business at which the vendor intends to make 2200  
retail sales. Under this registration system, the commissioner 2201  
shall issue a vendor's license to the applicant on behalf of the 2202  
county auditor of the county in which the applicant desires to 2203  
engage in business, and shall forward a copy of the application 2204  
and license fee to that county. All such license fees received 2205  
by the commissioner for the issuance of vendor's licenses shall 2206  
be deposited into the vendor's license application fund, which 2207  
is hereby created in the state treasury. The commissioner shall 2208  
certify to the director of budget and management within ten 2209  
business days after the close of a month the license fees to be 2210  
transmitted to each county from the vendor's license application 2211

fund for vendor's license applications received by the 2212  
commissioner during that month. License fees transmitted to a 2213  
county for which payment was not received by the commissioner 2214  
may be netted against a future distribution to that county, 2215  
including distributions made pursuant to section 5739.21 of the 2216  
Revised Code. 2217

A vendor that makes retail sales subject to tax under 2218  
Chapter 5739. of the Revised Code pursuant to a permit issued by 2219  
the division of liquor control shall obtain a vendor's license 2220  
in the identical name and for the identical address as shown on 2221  
the permit. 2222

Except as otherwise provided in this section, if a vendor 2223  
has no fixed place of business and sells from a vehicle, each 2224  
vehicle intended to be used within a county constitutes a place 2225  
of business for the purpose of this section. 2226

(D) As used in this section, "transient vendor" means any 2227  
person who makes sales of tangible personal property from 2228  
vending machines located on land owned by others, who leases 2229  
titled motor vehicles, titled watercraft, or titled outboard 2230  
motors, who effectuates leases that are taxed according to 2231  
division (A)(2) of section 5739.02 of the Revised Code, or who, 2232  
in the usual course of the person's business, transports 2233  
inventory, stock of goods, or similar tangible personal property 2234  
to a temporary place of business or temporary exhibition, show, 2235  
fair, flea market, or similar event in a county in which the 2236  
person has no fixed place of business, for the purpose of making 2237  
retail sales of such property. A "temporary place of business" 2238  
means any public or quasi-public place including, but not 2239  
limited to, a hotel, rooming house, storeroom, building, part of 2240  
a building, tent, vacant lot, railroad car, or motor vehicle 2241

that is temporarily occupied for the purpose of making retail 2242  
sales of goods to the public. A place of business is not 2243  
temporary if the same person conducted business at the place 2244  
continuously for more than six months or occupied the premises 2245  
as the person's permanent residence for more than six months, or 2246  
if the person intends it to be a fixed place of business. 2247

Any transient vendor, in lieu of obtaining a vendor's 2248  
license under division (A) of this section for counties in which 2249  
the transient vendor has no fixed place of business, may apply 2250  
to the tax commissioner, on a form prescribed by the 2251  
commissioner, for a transient vendor's license. The transient 2252  
vendor's license authorizes the transient vendor to make retail 2253  
sales in any county in which the transient vendor does not 2254  
maintain a fixed place of business. Any holder of a transient 2255  
vendor's license shall not be required to obtain a separate 2256  
vendor's license from the county auditor in that county. Upon 2257  
the commissioner's determination that an applicant is a 2258  
transient vendor, the applicant shall pay a license fee in the 2259  
amount of twenty-five dollars, at which time the tax 2260  
commissioner shall issue the license. The tax commissioner may 2261  
require a vendor to be licensed as a transient vendor if, in the 2262  
opinion of the commissioner, such licensing is necessary for the 2263  
efficient administration of the tax. 2264

Any holder of a valid transient vendor's license may make 2265  
retail sales at a temporary place of business or temporary 2266  
exhibition, show, fair, flea market, or similar event, held 2267  
anywhere in the state without complying with any provision of 2268  
section 311.37 of the Revised Code. Any holder of a valid 2269  
vendor's license may make retail sales as a transient vendor at 2270  
a temporary place of business or temporary exhibition, show, 2271  
fair, flea market, or similar event held in any county in which 2272

the vendor maintains a fixed place of business for which the 2273  
vendor holds a vendor's license without obtaining a transient 2274  
vendor's license. 2275

(E) Any vendor who is issued a license pursuant to this 2276  
section shall display the license or a copy of it prominently, 2277  
in plain view, at every place of business of the vendor. 2278

(F) No owner, organizer, or promoter who operates a fair, 2279  
flea market, show, exhibition, convention, or similar event at 2280  
which transient vendors are present shall fail to keep a 2281  
comprehensive record of all such vendors, listing the vendor's 2282  
name, permanent address, vendor's license number, and the type 2283  
of goods sold. Such records shall be kept for four years and 2284  
shall be open to inspection by the commissioner. 2285

(G) The commissioner may issue additional types of 2286  
licenses if required to efficiently administer the tax imposed 2287  
by this chapter. 2288

(H) A vendor shall post in a conspicuous manner at all 2289  
points of sale on the vendor's premises where firearms are sold 2290  
a notice that says the following: "The State of Ohio has 2291  
exempted the sale of firearm safety devices from the sales and 2292  
use tax imposed by this state and local governments." The 2293  
vendor, upon the retail sale or transfer of a firearm, shall 2294  
furnish such a written notice to the consumer. 2295

**Section 2.** That existing sections 5739.01, 5739.02, 2296  
5739.03, and 5739.17 of the Revised Code are hereby repealed. 2297

**Section 3.** The amendment by this act of sections 5739.01, 2298  
5739.02, 5739.03, and 5739.17 of the Revised Code applies on and 2299  
after the first day of the first month beginning after the 2300  
effective date of this section. 2301