

As Introduced

131st General Assembly

Regular Session

2015-2016

S. B. No. 160

**Senators Hughes, Patton
Cosponsors: Senators Gardner, Eklund, Beagle, LaRose**

A BILL

To amend sections 351.021, 353.06, 5739.01, 1
5739.09, 5739.12, 5739.13, 5741.01, 5741.12, and 2
5741.13 and to enact section 5739.081 of the 3
Revised Code to require hotel intermediaries to 4
collect and remit applicable sales and use tax 5
on the full amount paid for hotel lodging, to 6
require hotel intermediaries to supply customers 7
with itemized invoices, to specify that a hotel 8
intermediary is presumed to have "substantial 9
nexus" with Ohio if the intermediary arranges 10
lodging at Ohio hotels, and to specify that 11
hotels are not liable for the failure of a hotel 12
intermediary to properly collect or remit 13
applicable taxes. 14

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

Section 1. That sections 351.021, 353.06, 5739.01, 15
5739.09, 5739.12, 5739.13, 5741.01, 5741.12, and 5741.13 be 16
amended and section 5739.081 of the Revised Code be enacted to 17
read as follows: 18

Sec. 351.021. (A) The resolution of the county 19

commissioners creating a convention facilities authority, or any amendment or supplement to that resolution, may authorize the authority to levy one or both of the excise taxes authorized by division (B) of this section to pay the cost of one or more facilities; to pay principal, interest, and premium on convention facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; to pay operating and maintenance costs of those facilities; and to pay the costs of administering the excise tax. 20
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(B) The board of directors of a convention facilities authority that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section may levy, by resolution adopted on or before December 31, 1988, either or both of the following: 29
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(1) Within the territory of the authority, an additional excise tax not to exceed four per cent on each transaction. The excise tax authorized by division (B)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(2) of this section. 35
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(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division (A) of section 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed nine-tenths of one per cent on each transaction. The 41
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excise tax authorized by division (B)(2) of this section may be 50
levied only if, on the effective date of the levy specified in 51
the resolution making the levy, the amount being levied pursuant 52
to division (A) of section 5739.08 of the Revised Code by each 53
municipal corporation or township in which the tax authorized by 54
division (B)(2) of this section will be levied, when added to 55
the amount levied under division (B)(2) of this section, does 56
not exceed three per cent on each transaction. The excise tax 57
authorized by division (B)(2) of this section shall be in 58
addition to any excise tax that is levied pursuant to section 59
5739.08 or 5739.09 of the Revised Code, or division (B)(1) of 60
this section. 61

(C)(1) The board of directors of a convention facilities 62
authority that is located in an eligible Appalachian county; 63
that has been authorized pursuant to resolution adopted, 64
amended, or supplemented by the board of county commissioners 65
pursuant to division (A) of this section; and that is not 66
levying a tax under division (B)(1) or (2) of this section may 67
levy within the territory of the authority, by resolution 68
adopted on or before December 31, 2005, an additional excise tax 69
not to exceed three per cent on each transaction. The excise tax 70
authorized under division (C)(1) of this section shall be in 71
addition to any excise tax levied pursuant to section 5739.08 or 72
5739.09 of the Revised Code. 73

As used in division (C)(1) of this section, "eligible 74
Appalachian county" means a county in this state designated as 75
being in the "Appalachian region" under the "Appalachian 76
Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 77
403, and having a population less than eighty thousand according 78
to the most recent federal decennial census. 79

(2) Division (C)(2) of this section applies only to a convention facilities authority located in a county with a population, according to the 2000 federal decennial census, of at least one hundred thirty-five thousand and not more than one hundred fifty thousand and containing entirely within its boundaries the territory of a municipal corporation with a population according to that census of more than fifty thousand. The board of directors of such a convention facilities authority, by resolution adopted on or before November 1, 2009, may levy within the territory of the authority an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests at a rate not to exceed three per cent on such transactions for the same purposes for which a tax may be levied under division (B) of this section. The resolution may be adopted only if the board of county commissioners of the county, by resolution, authorizes the levy of the tax. The resolution of the board of county commissioners is subject to referendum as prescribed by sections 305.31 to 305.41 of the Revised Code. If, pursuant to those procedures, a referendum is to be held, the board's resolution does not take effect until approved by a majority of electors voting on the question. The convention facilities authority may adopt the resolution authorized by division (C)(2) of this section before the election, but the authority's resolution shall not take effect if the board of commissioners' resolution is not approved at the election. A tax levied under division (C)(2) of this section is in addition to any tax levied under section 5739.09 of the Revised Code.

(D) The authority shall provide for the administration and allocation of an excise tax levied pursuant to division (B) or (C) of this section. All receipts arising from those excise

taxes shall be expended for the purposes provided in, and in accordance with this section and section 351.141 of the Revised Code. An excise tax levied under division (B) or (C) of this section shall remain in effect at the rate at which it is levied for at least the duration of the period for which the receipts from the tax have been anticipated and pledged pursuant to section 351.141 of the Revised Code. 111
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(E) Except as provided in division (B)(2) of this section, the levy of an excise tax on each transaction pursuant to sections 5739.08 and 5739.09 of the Revised Code does not prevent a convention facilities authority from levying an excise tax pursuant to division (B) or (C) of this section. 118
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(F) A convention facilities authority located in a county with a population greater than eighty thousand but less than ninety thousand according to the 2010 federal decennial census that levies a tax under division (B) of this section may amend the resolution levying the tax to allocate a portion of the revenue from the tax for support of tourism-related sites or facilities and programs operated by the county or a municipal corporation within the county in which the authority is located or for the purpose of leasing lands for county fairs, erecting buildings for county fair purposes, making improvements on a county fairground, or for any purpose connected with the use of a county fairground or with the management thereof by the county in which the authority is located. The revenue allocated by the authority for such purposes in a calendar year shall not exceed fifteen per cent of the total revenue from the tax in the preceding calendar year. 123
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(G) The requirements under section 5739.081 of the Revised Code that apply to a tax levied by a municipal corporation 139
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| <u>pursuant to section 5739.08 of the Revised Code and to hotel intermediaries responsible for collecting and remitting that tax also apply with respect to a tax levied by a convention facilities authority under this section.</u> | 141 142 143 144 |
| Sec. 353.06. As used in this section, "hotel" and "transient guests" have the same meanings as in section 5739.01 of the Revised Code. | 145 146 147 |
| A resolution creating a lake facilities authority under section 353.02 of the Revised Code, or any amendments or supplements thereto, may authorize the authority to levy an excise tax on transactions by which lodging in a hotel is or is to be furnished to transient guests to pay any costs authorized under this chapter; to pay principal, interest, and premium on lake facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; and to pay the costs of administering the tax. | 148 149 150 151 152 153 154 155 156 |
| Upon the affirmative vote of at least a majority of the qualified electors in a primary or general election within the impacted lake district voting at an election held for the purpose of authorizing the tax, the board of directors of a lake facilities authority authorized to levy a tax under this section may, by resolution, levy an additional excise tax within the territory of the impacted lake district on all transactions by which lodging in a hotel is or is to be furnished to transient guests. The rate of the tax, when added to the aggregate rate of excise taxes levied in the impacted lake district pursuant to section 351.021, 5739.08, or 5739.09 of the Revised Code, shall not cause the total aggregate rate to exceed five per cent on any such transaction. | 157 158 159 160 161 162 163 164 165 166 167 168 169 |
| The lake facilities authority shall provide for the | 170 |

administration and allocation of a tax levied pursuant to this
section. All receipts arising from the tax shall be expended for
the purposes provided in, and in accordance with, this section.
An excise tax levied under this section shall remain in effect
at the rate at which it is levied for at least the duration of
the period for which the receipts from the tax have been
anticipated and pledged pursuant to section 353.08 of the
Revised Code.

The form of the ballot in an election held on the question
of levying a tax proposed pursuant to this section shall be as
follows or in any other form acceptable to the secretary of
state:

"An excise tax on all transactions by which lodging in a
hotel is or is to be furnished to transient guests within the
territory of the (name of impacted lake district)
for the purpose of at a rate of
for (number of years the tax is to be levied).

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| For the Excise Tax |
| Against the Excise Tax |

The requirements under section 5739.081 of the Revised
Code that apply to a tax levied by a municipal corporation
pursuant to section 5739.08 of the Revised Code and to hotel
intermediaries responsible for collecting and remitting that tax
also apply with respect to a tax levied by a lake facilities
authority under this section.

Sec. 5739.01. As used in this chapter:

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| (A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form. | 199 200 201 202 203 |
| (B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever: | 204 205 206 207 |
| (1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted; | 208 209 210 211 |
| (2) All transactions by which lodging by a hotel is or is to be furnished to transient guests, <u>including transactions conducted through a hotel intermediary</u> ; | 212 213 214 |
| (3) All transactions by which: | 215 |
| (a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code; | 216 217 218 219 |
| (b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service; | 220 221 222 223 224 225 226 |
| (c) The service of washing, cleaning, waxing, polishing, | 227 |

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| or painting a motor vehicle is or is to be furnished; | 228 |
| (d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided; | 229 230 231 232 |
| (e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights. | 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 |
| (f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service; | 249 250 251 252 |
| (g) Landscaping and lawn care service is or is to be provided; | 253 254 |
| (h) Private investigation and security service is or is to be provided; | 255 256 |

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| (i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call; | 257 258 |
| (j) Building maintenance and janitorial service is or is to be provided; | 259 260 |
| (k) Employment service is or is to be provided; | 261 |
| (l) Employment placement service is or is to be provided; | 262 |
| (m) Exterminating service is or is to be provided; | 263 |
| (n) Physical fitness facility service is or is to be provided; | 264 265 |
| (o) Recreation and sports club service is or is to be provided; | 266 267 |
| (p) On and after August 1, 2003, satellite broadcasting service is or is to be provided; | 268 269 |
| (q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair. | 270 271 272 273 274 275 276 277 278 |
| (r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States | 279 280 281 282 283 284 |

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| holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102; | 285 286 |
| (s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle. | 287 288 289 290 |
| (t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year. | 291 292 293 294 295 296 |
| (u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B) (3) (e) of this section, are not sales. | 297 298 299 300 |
| (4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred; | 301 302 303 304 |
| (5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be | 305 306 307 308 309 310 311 312 313 |

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| incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract. | 314 315 316 317 318 319 320 321 322 |
| As used in division (B)(5) of this section: | 323 |
| (a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production. | 324 325 326 327 328 329 330 331 332 |
| (b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts. | 333 334 335 336 |
| (6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment | 337 338 339 340 341 342 343 |

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| of the shareholders or owners; | 344 |
| (7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided; | 345 346 347 348 349 |
| (8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale; | 350 351 352 |
| (9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business; | 353 354 355 356 |
| (10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement; | 357 358 359 360 361 362 363 364 365 |
| (11) (a) Except as provided in division (B) (11) (b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state. | 366 367 368 369 370 371 |
| (b) If the centers for medicare and medicaid services of | 372 |

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| the United States department of health and human services | 373 |
| determines that the taxation of transactions described in | 374 |
| division (B) (11) (a) of this section constitutes an impermissible | 375 |
| health care-related tax under the "Social Security Act," section | 376 |
| 1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, | 377 |
| the medicaid director shall notify the tax commissioner of that | 378 |
| determination. Beginning with the first day of the month | 379 |
| following that notification, the transactions described in | 380 |
| division (B) (11) (a) of this section are not sales for the | 381 |
| purposes of this chapter or Chapter 5741. of the Revised Code. | 382 |
| The tax commissioner shall order that the collection of taxes | 383 |
| under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, | 384 |
| 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease | 385 |
| for transactions occurring on or after that date. | 386 |
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| (12) All transactions by which a specified digital product | 387 |
| is provided for permanent use or less than permanent use, | 388 |
| regardless of whether continued payment is required. | 389 |
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| Except as provided in this section, "sale" and "selling" | 390 |
| do not include transfers of interest in leased property where | 391 |
| the original lessee and the terms of the original lease | 392 |
| agreement remain unchanged, or professional, insurance, or | 393 |
| personal service transactions that involve the transfer of | 394 |
| tangible personal property as an inconsequential element, for | 395 |
| which no separate charges are made. | 396 |
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| (C) "Vendor" means the person providing the service or by | 397 |
| whom the transfer effected or license given by a sale is or is | 398 |
| to be made or given and, for sales described in division (B) (3) | 399 |
| (i) of this section, the telecommunications service vendor that | 400 |
| provides the nine hundred telephone service; if two or more | 401 |
| persons are engaged in business at the same place of business | 402 |

under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor. 403
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Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors. 406
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(D) (1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted. 413
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(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian. 418
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(3) A person who performs a facility management, or 432

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| similar service contract for a contractee is a consumer of all | 433 |
| tangible personal property and services purchased for use in | 434 |
| connection with the performance of such contract, regardless of | 435 |
| whether title to any such property vests in the contractee. The | 436 |
| purchase of such property and services is not subject to the | 437 |
| exception for resale under division (E) (1) of this section. | 438 |
| (4) (a) In the case of a person who purchases printed | 439 |
| matter for the purpose of distributing it or having it | 440 |
| distributed to the public or to a designated segment of the | 441 |
| public, free of charge, that person is the consumer of that | 442 |
| printed matter, and the purchase of that printed matter for that | 443 |
| purpose is a sale. | 444 |
| (b) In the case of a person who produces, rather than | 445 |
| purchases, printed matter for the purpose of distributing it or | 446 |
| having it distributed to the public or to a designated segment | 447 |
| of the public, free of charge, that person is the consumer of | 448 |
| all tangible personal property and services purchased for use or | 449 |
| consumption in the production of that printed matter. That | 450 |
| person is not entitled to claim exemption under division (B) (42) | 451 |
| (f) of section 5739.02 of the Revised Code for any material | 452 |
| incorporated into the printed matter or any equipment, supplies, | 453 |
| or services primarily used to produce the printed matter. | 454 |
| (c) The distribution of printed matter to the public or to | 455 |
| a designated segment of the public, free of charge, is not a | 456 |
| sale to the members of the public to whom the printed matter is | 457 |
| distributed or to any persons who purchase space in the printed | 458 |
| matter for advertising or other purposes. | 459 |
| (5) A person who makes sales of any of the services listed | 460 |
| in division (B) (3) of this section is the consumer of any | 461 |
| tangible personal property used in performing the service. The | 462 |

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| purchase of that property is not subject to the resale exception under division (E) (1) of this section. | 463 464 |
| (6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service. | 465 466 467 468 469 |
| (7) In the case of a transaction for health care services under division (B) (11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E) (1) of this section or to the exemptions provided under divisions (B) (12), (18), (19), and (22) of section 5739.02 of the Revised Code. | 470 471 472 473 474 475 476 477 |
| (E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person. | 478 479 480 481 482 |
| (F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds. | 483 484 485 486 |
| (G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business. | 487 488 489 490 |
| (H) (1) (a) "Price," except as provided in divisions (H) (2), | 491 |

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| (3), <u>and</u> (4), <u>and</u> (5) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following: | 492 493 494 495 496 |
| (i) The vendor's cost of the property sold; | 497 |
| (ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor; | 498 499 500 501 502 |
| (iii) Charges by the vendor for any services necessary to complete the sale; | 503 504 |
| (iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing. | 505 506 507 508 509 510 |
| (v) Installation charges; | 511 |
| (vi) Credit for any trade-in. | 512 |
| (b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item | 513 514 515 516 517 518 519 520 |

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| to the consumer; and one of the following criteria is met: | 521 |
| (i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented; | 522 523 524 525 526 527 |
| (ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization. | 528 529 530 531 532 |
| (iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer. | 533 534 535 536 |
| (c) "Price" does not include any of the following: | 537 |
| (i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale; | 538 539 540 |
| (ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; | 541 542 543 544 |
| (iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a | 545 546 547 548 549 |

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| portion thereof is separately stated. | 550 |
| (iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state. | 551 552 553 554 555 |
| (v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card. | 556 557 558 559 560 561 562 563 564 565 566 |
| (2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade. | 567 568 569 570 571 572 573 |
| (3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by | 574 575 576 577 578 579 |

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| the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft. | 580 581 582 583 |
| (4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation. | 584 585 586 587 |
| <u>(5) In the case of transactions in which the vendor is a hotel intermediary, "price" means the total amount paid by the consumer for hotel lodging as advertised by the intermediary.</u> | 588 589 590 |
| (I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit. | 591 592 593 594 595 596 597 598 599 600 |
| (J) "Place of business" means any location at which a person engages in business. | 601 602 |
| (K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person. | 603 604 605 606 607 608 |

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| (L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year. | 609 610 611 612 613 614 615 616 617 618 619 |
| (M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code. | 620 621 622 623 624 625 626 |
| (N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days. | 627 628 629 |
| (O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or | 630 631 632 633 634 635 636 637 638 |

personnel to or from a place where a service is performed. 639

(P) "Used directly in the rendition of a public utility 640
service" means that property that is to be incorporated into and 641
will become a part of the consumer's production, transmission, 642
transportation, or distribution system and that retains its 643
classification as tangible personal property after such 644
incorporation; fuel or power used in the production, 645
transmission, transportation, or distribution system; and 646
tangible personal property used in the repair and maintenance of 647
the production, transmission, transportation, or distribution 648
system, including only such motor vehicles as are specially 649
designed and equipped for such use. Tangible personal property 650
and services used primarily in providing highway transportation 651
for hire are not used directly in the rendition of a public 652
utility service. In this definition, "public utility" includes a 653
citizen of the United States holding, and required to hold, a 654
certificate of public convenience and necessity issued under 49 655
U.S.C. 41102. 656

(Q) "Refining" means removing or separating a desirable 657
product from raw or contaminated materials by distillation or 658
physical, mechanical, or chemical processes. 659

(R) "Assembly" and "assembling" mean attaching or fitting 660
together parts to form a product, but do not include packaging a 661
product. 662

(S) "Manufacturing operation" means a process in which 663
materials are changed, converted, or transformed into a 664
different state or form from which they previously existed and 665
includes refining materials, assembling parts, and preparing raw 666
materials and parts by mixing, measuring, blending, or otherwise 667
committing such materials or parts to the manufacturing process. 668

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| "Manufacturing operation" does not include packaging. | 669 |
| (T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system. | 670 671 672 673 674 675 676 |
| (U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau. | 677 678 679 680 681 682 683 684 685 686 |
| (V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners. | 687 688 689 690 |
| (W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau. | 691 692 693 694 695 696 697 698 |

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| (X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration. | 699 700 701 |
| (Y) (1) (a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data. | 702 703 704 705 |
| (b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems. | 706 707 708 709 710 711 |
| (c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following: | 712 713 714 |
| (i) Examining or acquiring data stored in or accessible to the computer equipment; | 715 716 |
| (ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment. | 717 718 719 |
| For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section. | 720 721 722 723 724 |
| (d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services. | 725 726 727 |

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| (2) As used in divisions (B) (3) (e) and (Y) (1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to: | 728 729 730 731 |
| (a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material; | 732 733 734 735 736 |
| (b) Analyzing business policies and procedures; | 737 |
| (c) Identifying management information needs; | 738 |
| (d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives; | 739 740 741 |
| (e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management; | 742 743 744 745 746 |
| (f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled; | 747 748 749 |
| (g) Testing of business procedures; | 750 |
| (h) Training personnel in business procedure applications; | 751 |
| (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not | 752 753 754 755 |

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| limited to gathering, organizing, analyzing, recording, and | 756 |
| furnishing such information by any oral, written, graphic, or | 757 |
| electronic medium; | 758 |
| (j) Providing debt collection services by any oral, | 759 |
| written, graphic, or electronic means. | 760 |
| The services listed in divisions (Y) (2) (a) to (j) of this | 761 |
| section are not automatic data processing or computer services. | 762 |
| (z) "Highway transportation for hire" means the | 763 |
| transportation of personal property belonging to others for | 764 |
| consideration by any of the following: | 765 |
| (1) The holder of a permit or certificate issued by this | 766 |
| state or the United States authorizing the holder to engage in | 767 |
| transportation of personal property belonging to others for | 768 |
| consideration over or on highways, roadways, streets, or any | 769 |
| similar public thoroughfare; | 770 |
| (2) A person who engages in the transportation of personal | 771 |
| property belonging to others for consideration over or on | 772 |
| highways, roadways, streets, or any similar public thoroughfare | 773 |
| but who could not have engaged in such transportation on | 774 |
| December 11, 1985, unless the person was the holder of a permit | 775 |
| or certificate of the types described in division (z) (1) of this | 776 |
| section; | 777 |
| (3) A person who leases a motor vehicle to and operates it | 778 |
| for a person described by division (z) (1) or (2) of this | 779 |
| section. | 780 |
| (aa) (1) "Telecommunications service" means the electronic | 781 |
| transmission, conveyance, or routing of voice, data, audio, | 782 |
| video, or any other information or signals to a point, or | 783 |
| between or among points. "Telecommunications service" includes | 784 |

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| such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, | 785 |
| conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following: | 786 |
| (a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information; | 787 |
| (b) Installation or maintenance of wiring or equipment on a customer's premises; | 788 |
| (c) Tangible personal property; | 789 |
| (d) Advertising, including directory advertising; | 790 |
| (e) Billing and collection services provided to third parties; | 791 |
| (f) Internet access service; | 792 |
| (g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3; | 793 |
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| (h) Ancillary service; | 813 |
| (i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones. | 814 815 |
| (2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division: | 816 817 818 819 820 821 |
| (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge. | 822 823 824 825 826 |
| (b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. | 827 828 829 |
| (c) "Directory assistance" means an ancillary service of providing telephone number or address information. | 830 831 |
| (d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. | 832 833 834 835 836 |
| (e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. | 837 838 839 840 841 |

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| (3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. | 842 843 844 845 846 847 848 849 850 851 |
| (4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount. | 852 853 854 855 856 857 858 |
| (5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount. | 859 860 861 862 863 864 865 866 |
| (6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing. | 867 868 869 870 871 |

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| (7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate. | 872 873 874 |
| (8) "Customer" has the same meaning as in section 5739.034 of the Revised Code. | 875 876 |
| (BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items. | 877 878 879 880 881 882 883 884 |
| (CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them. | 885 886 887 888 889 890 891 892 893 |
| (DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, | 894 895 896 897 898 899 900 901 |

"landscaping and lawn care service" does not include the 902
providing of such services by a person who has less than five 903
thousand dollars in sales of such services during the calendar 904
year. 905

(EE) "Private investigation and security service" means 906
the performance of any activity for which the provider of such 907
service is required to be licensed pursuant to Chapter 4749. of 908
the Revised Code, or would be required to be so licensed in 909
performing such services in this state, and also includes the 910
services of conducting polygraph examinations and of monitoring 911
or overseeing the activities on or in, or the condition of, the 912
consumer's home, business, or other facility by means of 913
electronic or similar monitoring devices. "Private investigation 914
and security service" does not include special duty services 915
provided by off-duty police officers, deputy sheriffs, and other 916
peace officers regularly employed by the state or a political 917
subdivision. 918

(FF) "Information services" means providing conversation, 919
giving consultation or advice, playing or making a voice or 920
other recording, making or keeping a record of the number of 921
callers, and any other service provided to a consumer by means 922
of a nine hundred telephone call, except when the nine hundred 923
telephone call is the means by which the consumer makes a 924
contribution to a recognized charity. 925

(GG) "Research and development" means designing, creating, 926
or formulating new or enhanced products, equipment, or 927
manufacturing processes, and also means conducting scientific or 928
technological inquiry and experimentation in the physical 929
sciences with the goal of increasing scientific knowledge which 930
may reveal the bases for new or enhanced products, equipment, or 931

manufacturing processes. 932

(HH) "Qualified research and development equipment" means
capitalized tangible personal property, and leased personal
property that would be capitalized if purchased, used by a
person primarily to perform research and development. Tangible
personal property primarily used in testing, as defined in
division (A) (4) of section 5739.011 of the Revised Code, or used
for recording or storing test results, is not qualified research
and development equipment unless such property is primarily used
by the consumer in testing the product, equipment, or
manufacturing process being created, designed, or formulated by
the consumer in the research and development activity or in
recording or storing such test results. 944

(II) "Building maintenance and janitorial service" means
cleaning the interior or exterior of a building and any tangible
personal property located therein or thereon, including any
services incidental to such cleaning for which no separate
charge is made. However, "building maintenance and janitorial
service" does not include the providing of such service by a
person who has less than five thousand dollars in sales of such
service during the calendar year. 952

(JJ) "Employment service" means providing or supplying
personnel, on a temporary or long-term basis, to perform work or
labor under the supervision or control of another, when the
personnel so provided or supplied receive their wages, salary,
or other compensation from the provider or supplier of the
employment service or from a third party that provided or
supplied the personnel to the provider or supplier. "Employment
service" does not include: 960

(1) Acting as a contractor or subcontractor, where the 961

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| personnel performing the work are not under the direct control of the purchaser. | 962 963 |
| (2) Medical and health care services. | 964 |
| (3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis. | 965 966 967 968 |
| (4) Transactions between members of an affiliated group, as defined in division (B) (3) (e) of this section. | 969 970 |
| (5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party. | 971 972 973 974 975 976 |
| (KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position. | 977 978 979 |
| (LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure. | 980 981 982 983 984 |
| (MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility | 985 986 987 988 989 990 |

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| for physical exercise. | 991 |
| (NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization. | 992 993 994 995 996 997 998 999 1000 1001 1002 1003 |
| (OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production. | 1004 1005 1006 1007 1008 1009 1010 |
| (PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling. | 1011 1012 1013 1014 |
| (QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code. | 1015 1016 1017 1018 1019 |

(RR) "Horticulture structure" means a building or
structure used exclusively for the commercial growing, raising,
or overwintering of horticultural products, and includes the
area used for stocking, storing, and packing horticultural
products when done in conjunction with the production of those
products. 1020
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(SS) "Newspaper" means an unbound publication bearing a
title or name that is regularly published, at least as
frequently as biweekly, and distributed from a fixed place of
business to the public in a specific geographic area, and that
contains a substantial amount of news matter of international,
national, or local events of interest to the general public. 1026
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(TT) "Professional racing team" means a person that
employs at least twenty full-time employees for the purpose of
conducting a motor vehicle racing business for profit. The
person must conduct the business with the purpose of racing one
or more motor racing vehicles in at least ten competitive
professional racing events each year that comprise all or part
of a motor racing series sanctioned by one or more motor racing
sanctioning organizations. A "motor racing vehicle" means a
vehicle for which the chassis, engine, and parts are designed
exclusively for motor racing, and does not include a stock or
production model vehicle that may be modified for use in racing. 1032
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For the purposes of this division: 1043

(1) A "competitive professional racing event" is a motor
vehicle racing event sanctioned by one or more motor racing
sanctioning organizations, at which aggregate cash prizes in
excess of eight hundred thousand dollars are awarded to the
competitors. 1044
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(2) "Full-time employee" means an individual who is 1049

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| employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment. | 1050 1051 1052 |
| (UU) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include: | 1053 1054 1055 1056 1057 1058 1059 1060 1061 |
| (a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments; | 1062 1063 1064 1065 |
| (b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments; | 1066 1067 1068 1069 1070 |
| (c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set up the tangible personal property. | 1071 1072 1073 1074 1075 |
| (2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003. | 1076 1077 1078 |

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| (3) "Lease" and "rental" have the same meaning as in division (UU) (1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws. | 1079 1080 1081 1082 1083 1084 |
| (VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling. | 1085 1086 1087 1088 1089 1090 1091 1092 |
| (WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. | 1093 1094 |
| (XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service. | 1095 1096 1097 1098 1099 1100 1101 1102 1103 1104 |
| (YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible | 1105 1106 1107 1108 |

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| personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software. | 1109 1110 |
| (ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address. | 1111 1112 1113 1114 1115 1116 1117 1118 1119 1120 |
| (AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. | 1121 1122 1123 |
| (BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. | 1124 1125 1126 |
| (CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. | 1127 1128 1129 |
| (DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other | 1130 1131 1132 1133 1134 1135 1136 1137 |

creator to the specifications of a specific purchaser when it is 1138
sold to a person other than the purchaser. If a person modifies 1139
or enhances computer software of which the person is not the 1140
author or creator, the person shall be deemed to be the author 1141
or creator only of such person's modifications or enhancements. 1142
Prewritten computer software or a prewritten portion thereof 1143
that is modified or enhanced to any degree, where such 1144
modification or enhancement is designed and developed to the 1145
specifications of a specific purchaser, remains prewritten 1146
computer software; provided, however, that where there is a 1147
reasonable, separately stated charge or an invoice or other 1148
statement of the price given to the purchaser for the 1149
modification or enhancement, the modification or enhancement 1150
shall not constitute prewritten computer software. 1151

(EEE) (1) "Food" means substances, whether in liquid, 1152
concentrated, solid, frozen, dried, or dehydrated form, that are 1153
sold for ingestion or chewing by humans and are consumed for 1154
their taste or nutritional value. "Food" does not include 1155
alcoholic beverages, dietary supplements, soft drinks, or 1156
tobacco. 1157

(2) As used in division (EEE) (1) of this section: 1158

(a) "Alcoholic beverages" means beverages that are 1159
suitable for human consumption and contain one-half of one per 1160
cent or more of alcohol by volume. 1161

(b) "Dietary supplements" means any product, other than 1162
tobacco, that is intended to supplement the diet and that is 1163
intended for ingestion in tablet, capsule, powder, softgel, 1164
gelcap, or liquid form, or, if not intended for ingestion in 1165
such a form, is not represented as conventional food for use as 1166
a sole item of a meal or of the diet; that is required to be 1167

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| labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients: | 1168 1169 1170 1171 |
| (i) A vitamin; | 1172 |
| (ii) A mineral; | 1173 |
| (iii) An herb or other botanical; | 1174 |
| (iv) An amino acid; | 1175 |
| (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; | 1176 1177 |
| (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section. | 1178 1179 1180 |
| (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. | 1181 1182 1183 1184 1185 |
| (d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. | 1186 1187 |
| (FFF) "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 | 1188 1189 1190 1191 1192 1193 1194 1195 |

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| or any function of the body. | 1196 |
| (GGG) "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. | 1197 1198 1199 1200 |
| (HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment. | 1201 1202 1203 1204 1205 1206 1207 |
| (III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment. | 1208 1209 1210 1211 1212 1213 1214 1215 1216 |
| (JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis. | 1217 1218 1219 1220 1221 1222 1223 1224 |

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| (KKK) (1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria: | 1225 1226 1227 1228 1229 |
| (a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners. | 1230 1231 1232 |
| (b) Each program aircraft is owned or possessed by at least one fractional owner. | 1233 1234 |
| (c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft. | 1235 1236 1237 |
| (d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners. | 1238 1239 |
| (e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. | 1240 1241 1242 |
| (2) As used in division (KKK) (1) of this section: | 1243 |
| (a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section. | 1244 1245 |
| (b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK) (1) (e) of this section. | 1246 1247 1248 1249 |
| (c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease | 1250 1251 1252 |

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| aircraft interchange arrangement and agreement under divisions (KKK) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. | 1253 1254 1255 1256 |
| (d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK) (1) (e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program. | 1257 1258 1259 1260 1261 1262 1263 1264 1265 1266 1267 1268 1269 1270 |
| (e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK) (1) (e) of this section. | 1271 1272 1273 1274 |
| (LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, | 1275 1276 1277 1278 1279 1280 1281 1282 |

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| instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale. | 1283 1284 1285 1286 1287 1288 1289 |
| (MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code. | 1290 1291 1292 1293 1294 |
| (NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state. | 1295 1296 1297 1298 1299 |
| (OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes. | 1300 1301 1302 |
| (PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services. | 1303 1304 1305 1306 |
| (QQQ) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book. | 1307 1308 1309 |
| As used in division (QQQ) of this section: | 1310 |
| (1) "Digital audiovisual work" means a series of related | 1311 |

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| images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any. | 1312 1313 |
| (2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication. | 1314 1315 1316 1317 1318 |
| (3) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book. | 1319 1320 |
| (4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media. | 1321 1322 |
| <u>(RRR) "Hotel intermediary" means a person, other than a hotel or a person receiving a commission from a hotel, that brokers, coordinates, or otherwise arranges for the purchase, sale, use, or possession of lodging at hotels to or by transient guests.</u> | 1323 1324 1325 1326 1327 |
| <u>Sec. 5739.081. (A) A tax levied by the legislative authority of a municipal corporation pursuant to section 5739.08 of the Revised Code on transactions by which lodging by a hotel is or is to be furnished to transient guests, if the transaction is conducted through a hotel intermediary, shall be levied on the total amount paid by the consumer for hotel lodging as advertised by the intermediary. The hotel intermediary shall collect the tax due from the purchaser and remit it to the municipal corporation.</u> | 1328 1329 1330 1331 1332 1333 1334 1335 1336 |
| <u>(B) If any person responsible for collecting the tax fails to remit the tax to the municipal corporation, the person shall be personally liable for any tax collected and not remitted, including any hotel intermediary that does not remit the correct</u> | 1337 1338 1339 1340 |

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| <u>amount of tax as required under division (A) of this section.</u> | 1341 |
| <u>The municipal corporation may make an assessment against such a person based on any information in the municipal corporation's possession.</u> | 1342 |
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| <u>(C) If a person responsible for collecting the tax fails to collect the tax on any transaction subject to the tax, the person shall be personally liable for the amount of the tax applicable to the transaction, including any hotel intermediary that does not collect and remit the correct amount of tax as required under division (A) of this section. The municipal corporation may make an assessment against such a person based upon any information in the municipal corporation's possession.</u> | 1345 |
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| <u>(D) A hotel intermediary responsible for collecting the tax shall give the purchaser an invoice or other statement of the price displaying the total amount the purchaser paid to the intermediary for the hotel lodging transaction and the amount of tax the intermediary collected on such amount. This invoice or statement shall be delivered to the purchaser before the transient guest completes the guest's hotel stay and may be combined with the invoice required under division (H) of section 5739.12 or division (D) of section 5741.12 of the Revised Code.</u> | 1353 |
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| Sec. 5739.09. (A) (1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty | 1362 |
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does not exceed ten per cent of the amount of tax due, and the
rate at which interest accrues does not exceed the rate per
annum prescribed pursuant to section 5703.47 of the Revised
Code. Except as provided in divisions (A) (2), (3), (4), (5),
(6), and (7) of this section, the regulations shall provide,
after deducting the real and actual costs of administering the
tax, for the return to each municipal corporation or township
that does not levy an excise tax on the transactions, a uniform
percentage of the tax collected in the municipal corporation or
in the unincorporated portion of the township from each
transaction, not to exceed thirty-three and one-third per cent.
The remainder of the revenue arising from the tax shall be
deposited in a separate fund and shall be spent solely to make
contributions to the convention and visitors' bureau operating
within the county, including a pledge and contribution of any
portion of the remainder pursuant to an agreement authorized by
section 307.678 or 307.695 of the Revised Code, provided that if
the board of county commissioners of an eligible county as
defined in section 307.678 or 307.695 of the Revised Code adopts
a resolution amending a resolution levying a tax under this
division to provide that revenue from the tax shall be used by
the board as described in either division (D) of section 307.678
or division (H) of section 307.695 of the Revised Code, the
remainder of the revenue shall be used as described in the
resolution making that amendment. Except as provided in division
(A) (2), (3), (4), (5), (6), or (7) or (H) of this section, on
and after May 10, 1994, a board of county commissioners may not
levy an excise tax pursuant to this division in any municipal
corporation or township located wholly or partly within the
county that has in effect an ordinance or resolution levying an
excise tax pursuant to division (B) of this section. The board
of a county that has levied a tax under division (C) of this

section may, by resolution adopted within ninety days after July 1403
15, 1985, by a majority of the members of the board, amend the 1404
resolution levying a tax under this division to provide for a 1405
portion of that tax to be pledged and contributed in accordance 1406
with an agreement entered into under section 307.695 of the 1407
Revised Code. A tax, any revenue from which is pledged pursuant 1408
to such an agreement, shall remain in effect at the rate at 1409
which it is imposed for the duration of the period for which the 1410
revenue from the tax has been so pledged. 1411

The board of county commissioners of an eligible county as 1412
defined in section 307.695 of the Revised Code may, by 1413
resolution adopted by a majority of the members of the board, 1414
amend a resolution levying a tax under this division to provide 1415
that the revenue from the tax shall be used by the board as 1416
described in division (H) of section 307.695 of the Revised 1417
Code, in which case the tax shall remain in effect at the rate 1418
at which it was imposed for the duration of any agreement 1419
entered into by the board under section 307.695 of the Revised 1420
Code, the duration during which any securities issued by the 1421
board under that section are outstanding, or the duration of the 1422
period during which the board owns a project as defined in 1423
section 307.695 of the Revised Code, whichever duration is 1424
longest. 1425

The board of county commissioners of an eligible county as 1426
defined in section 307.678 of the Revised Code may, by 1427
resolution, amend a resolution levying a tax under this division 1428
to provide that revenue from the tax, not to exceed five hundred 1429
thousand dollars each year, may be used as described in division 1430
(D) of section 307.678 of the Revised Code. 1431

(2) A board of county commissioners that levies an excise 1432

tax under division (A)(1) of this section on June 30, 1997, at a 1433
rate of three per cent, and that has pledged revenue from the 1434
tax to an agreement entered into under section 307.695 of the 1435
Revised Code or, in the case of the board of county 1436
commissioners of an eligible county as defined in section 1437
307.695 of the Revised Code, has amended a resolution levying a 1438
tax under division (C) of this section to provide that proceeds 1439
from the tax shall be used by the board as described in division 1440
(H) of section 307.695 of the Revised Code, may, at any time by 1441
a resolution adopted by a majority of the members of the board, 1442
amend the resolution levying a tax under division (A)(1) of this 1443
section to provide for an increase in the rate of that tax up to 1444
seven per cent on each transaction; to provide that revenue from 1445
the increase in the rate shall be used as described in division 1446
(H) of section 307.695 of the Revised Code or be spent solely to 1447
make contributions to the convention and visitors' bureau 1448
operating within the county to be used specifically for 1449
promotion, advertising, and marketing of the region in which the 1450
county is located; and to provide that the rate in excess of the 1451
three per cent levied under division (A)(1) of this section 1452
shall remain in effect at the rate at which it is imposed for 1453
the duration of the period during which any agreement is in 1454
effect that was entered into under section 307.695 of the 1455
Revised Code by the board of county commissioners levying a tax 1456
under division (A)(1) of this section, the duration of the 1457
period during which any securities issued by the board under 1458
division (I) of section 307.695 of the Revised Code are 1459
outstanding, or the duration of the period during which the 1460
board owns a project as defined in section 307.695 of the 1461
Revised Code, whichever duration is longest. The amendment also 1462
shall provide that no portion of that revenue need be returned 1463
to townships or municipal corporations as would otherwise be 1464

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| required under division (A) (1) of this section. | 1465 |
| (3) A board of county commissioners that levies a tax under division (A) (1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following: | 1466 1467 1468 1469 1470 |
| (a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction; | 1471 1472 |
| (b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter; | 1473 1474 1475 1476 1477 1478 1479 1480 |
| (c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A) (1) of this section; | 1481 1482 1483 1484 |
| (d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds. | 1485 1486 1487 1488 1489 1490 1491 1492 1493 |

Division (A) (3) of this section does not apply to the 1494
board of county commissioners of any county in which a 1495
convention center or facility exists or is being constructed on 1496
November 15, 1998, or of any county in which a convention 1497
facilities authority levies a tax pursuant to section 351.021 of 1498
the Revised Code on that date. 1499

As used in division (A) (3) of this section, "cost" and 1500
"facility" have the same meanings as in section 351.01 of the 1501
Revised Code, and "convention center" has the same meaning as in 1502
section 307.695 of the Revised Code. 1503

(4)(a) A board of county commissioners that levies a tax 1504
under division (A) (1) of this section on June 30, 2002, at a 1505
rate of three per cent may, by resolution adopted not later than 1506
September 30, 2002, amend the resolution levying the tax to 1507
provide for all of the following: 1508

(i) That the rate of the tax shall be increased by not 1509
more than an additional three and one-half per cent on each 1510
transaction; 1511

(ii) That all of the revenue from the increase in rate 1512
shall be pledged and contributed to a convention facilities 1513
authority established by the board of county commissioners under 1514
Chapter 351. of the Revised Code on or before May 15, 2002, and 1515
be used to pay costs of constructing, expanding, maintaining, 1516
operating, or promoting a convention center in the county, 1517
including paying bonds, or notes issued in anticipation of 1518
bonds, as provided by that chapter; 1519

(iii) That no portion of the revenue arising from the 1520
increase in rate need be returned to municipal corporations or 1521
townships as otherwise required under division (A) (1) of this 1522

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| section; | 1523 |
| (iv) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds. | 1524 1525 1526 1527 1528 1529 1530 1531 1532 |
| (b) Any board of county commissioners that, pursuant to division (A) (4)(a) of this section, has amended a resolution levying the tax authorized by division (A)(1) of this section may further amend the resolution to provide that the revenue referred to in division (A) (4)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county. | 1533 1534 1535 1536 1537 1538 1539 1540 1541 1542 1543 1544 |
| As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code. | 1545 1546 1547 1548 |
| (5)(a) As used in division (A)(5) of this section: | 1549 |
| (i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code. | 1550 1551 |

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| (ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard. | 1552 1553 1554 1555 1556 1557 1558 |
| (b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following: | 1559 1560 1561 1562 1563 1564 |
| (i) Amend a resolution previously adopted under division (A) (1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division; | 1565 1566 1567 1568 |
| (ii) Amend a resolution previously adopted under division (A) (1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose. | 1569 1570 1571 1572 |
| (c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A) (5) (b) (ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board. | 1573 1574 1575 1576 1577 1578 1579 |
| (6) A board of county commissioners of a county organized | 1580 |

under a county charter adopted pursuant to Article X, Section 3, 1581
Ohio Constitution, and that levies an excise tax under division 1582
(A) (1) of this section at a rate of three per cent and levies an 1583
additional excise tax under division (E) of this section at a 1584
rate of one and one-half per cent may, by resolution adopted not 1585
later than January 1, 2008, by a majority of the members of the 1586
board, amend the resolution levying a tax under division (A) (1) 1587
of this section to provide for an increase in the rate of that 1588
tax by not more than an additional one per cent on transactions 1589
by which lodging by a hotel is or is to be furnished to 1590
transient guests. Notwithstanding divisions (A) (1) and (E) of 1591
this section, the resolution shall provide that all of the 1592
revenue from the increase in rate, after deducting the real and 1593
actual costs of administering the tax, shall be used to pay the 1594
costs of improving, expanding, equipping, financing, or 1595
operating a convention center by a convention and visitors' 1596
bureau in the county. The increase in rate shall remain in 1597
effect for the period specified in the resolution, not to exceed 1598
ten years. The increase in rate shall be subject to the 1599
regulations adopted under division (A) (1) of this section, 1600
except that the resolution may provide that no portion of the 1601
revenue from the increase in the rate shall be returned to 1602
townships or municipal corporations as would otherwise be 1603
required under that division. 1604

(7) Division (A) (7) of this section applies only to a 1605
county with a population greater than sixty-five thousand and 1606
less than seventy thousand according to the most recent federal 1607
decennial census and in which, on December 31, 2006, an excise 1608
tax is levied under division (A) (1) of this section at a rate 1609
not less than and not greater than three per cent, and in which 1610
the most recent increase in the rate of that tax was enacted or 1611

took effect in November 1984. 1612

The board of county commissioners of a county to which 1613
this division applies, by resolution adopted by a majority of 1614
the members of the board, may increase the rate of the tax by 1615
not more than one per cent on transactions by which lodging by a 1616
hotel is or is to be furnished to transient guests. The increase 1617
in rate shall be for the purpose of paying expenses deemed 1618
necessary by the convention and visitors' bureau operating in 1619
the county to promote travel and tourism. The increase in rate 1620
shall remain in effect for the period specified in the 1621
resolution, not to exceed twenty years, provided that the 1622
increase in rate may not continue beyond the time when the 1623
purpose for which the increase is levied ceases to exist. If 1624
revenue from the increase in rate is pledged to the payment of 1625
debt charges on securities, the increase in rate is not subject 1626
to diminution by initiative or referendum or by law for so long 1627
as the securities are outstanding, unless provision is made by 1628
law or by the board of county commissioners for an adequate 1629
substitute for that revenue that is satisfactory to the trustee 1630
if a trust agreement secures payment of the debt charges. The 1631
increase in rate shall be subject to the regulations adopted 1632
under division (A) (1) of this section, except that the 1633
resolution may provide that no portion of the revenue from the 1634
increase in the rate shall be returned to townships or municipal 1635
corporations as would otherwise be required under division (A) 1636
(1) of this section. A resolution adopted under division (A) (7) 1637
of this section is subject to referendum under sections 305.31 1638
to 305.99 of the Revised Code. 1639

(B) (1) The legislative authority of a municipal 1640
corporation or the board of trustees of a township that is not 1641
wholly or partly located in a county that has in effect a 1642

resolution levying an excise tax pursuant to division (A)(1) of
this section may, by ordinance or resolution, levy an excise tax
not to exceed three per cent on transactions by which lodging by
a hotel is or is to be furnished to transient guests. The
legislative authority of the municipal corporation or the board
of trustees of the township shall deposit at least fifty per
cent of the revenue from the tax levied pursuant to this
division into a separate fund, which shall be spent solely to
make contributions to convention and visitors' bureaus operating
within the county in which the municipal corporation or township
is wholly or partly located, and the balance of that revenue
shall be deposited in the general fund. The municipal
corporation or township shall establish all regulations
necessary to provide for the administration and allocation of
the tax. The regulations may prescribe the time for payment of
the tax, and may provide for the imposition of a penalty or
interest, or both, for late payments, provided that the penalty
does not exceed ten per cent of the amount of tax due, and the
rate at which interest accrues does not exceed the rate per
annum prescribed pursuant to section 5703.47 of the Revised
Code. The levy of a tax under this division is in addition to
any tax imposed on the same transaction by a municipal
corporation or a township as authorized by division (A) of
section 5739.08 of the Revised Code.

(2)(a) The legislative authority of the most populous
municipal corporation located wholly or partly in a county in
which the board of county commissioners has levied a tax under
division (A)(4) of this section may amend, on or before
September 30, 2002, that municipal corporation's ordinance or
resolution that levies an excise tax on transactions by which
lodging by a hotel is or is to be furnished to transient guests,

to provide for all of the following: 1674

(i) That the rate of the tax shall be increased by not 1675
more than an additional one per cent on each transaction; 1676

(ii) That all of the revenue from the increase in rate 1677
shall be pledged and contributed to a convention facilities 1678
authority established by the board of county commissioners under 1679
Chapter 351. of the Revised Code on or before May 15, 2002, and 1680
be used to pay costs of constructing, expanding, maintaining, 1681
operating, or promoting a convention center in the county, 1682
including paying bonds, or notes issued in anticipation of 1683
bonds, as provided by that chapter; 1684

(iii) That the increase in rate shall not be subject to 1685
diminution by initiative or referendum or by law while any 1686
bonds, or notes in anticipation of bonds, issued by the 1687
authority under Chapter 351. of the Revised Code to which the 1688
revenue is pledged, remain outstanding in accordance with their 1689
terms, unless provision is made by law, by the board of county 1690
commissioners, or by the legislative authority, for an adequate 1691
substitute therefor that is satisfactory to the trustee if a 1692
trust agreement secures the bonds. 1693

(b) The legislative authority of a municipal corporation 1694
that, pursuant to division (B) (2) (a) of this section, has 1695
amended its ordinance or resolution to increase the rate of the 1696
tax authorized by division (B) (1) of this section may further 1697
amend the ordinance or resolution to provide that the revenue 1698
referred to in division (B) (2) (a) (ii) of this section shall be 1699
pledged and contributed both to a convention facilities 1700
authority to pay the costs of constructing, expanding, 1701
maintaining, or operating one or more convention centers in the 1702
county, including paying bonds, or notes issued in anticipation 1703

of bonds, as provided in Chapter 351. of the Revised Code, and 1704
to a convention and visitors' bureau to pay the costs of 1705
promoting one or more convention centers in the county. 1706

As used in division (B)(2) of this section, "cost" has the 1707
same meaning as in section 351.01 of the Revised Code, and 1708
"convention center" has the same meaning as in section 307.695 1709
of the Revised Code. 1710

(C) For the purposes described in section 307.695 of the 1711
Revised Code and to cover the costs of administering the tax, a 1712
board of county commissioners of a county where a tax imposed 1713
under division (A)(1) of this section is in effect may, by 1714
resolution adopted within ninety days after July 15, 1985, by a 1715
majority of the members of the board, levy an additional excise 1716
tax not to exceed three per cent on transactions by which 1717
lodging by a hotel is or is to be furnished to transient guests. 1718
The tax authorized by this division shall be in addition to any 1719
tax that is levied pursuant to division (A) of this section, but 1720
it shall not apply to transactions subject to a tax levied by a 1721
municipal corporation or township pursuant to the authorization 1722
granted by division (A) of section 5739.08 of the Revised Code. 1723
The board shall establish all regulations necessary to provide 1724
for the administration and allocation of the tax. The 1725
regulations may prescribe the time for payment of the tax, and 1726
may provide for the imposition of a penalty or interest, or 1727
both, for late payments, provided that the penalty does not 1728
exceed ten per cent of the amount of tax due, and the rate at 1729
which interest accrues does not exceed the rate per annum 1730
prescribed pursuant to section 5703.47 of the Revised Code. All 1731
revenues arising from the tax shall be expended in accordance 1732
with section 307.695 of the Revised Code. The board of county 1733
commissioners of an eligible county as defined in section 1734

307.695 of the Revised Code may, by resolution adopted by a
majority of the members of the board, amend the resolution
levying a tax under this division to provide that the revenue
from the tax shall be used by the board as described in division
(H) of section 307.695 of the Revised Code. A tax imposed under
this division shall remain in effect at the rate at which it is
imposed for the duration of the period during which any
agreement entered into by the board under section 307.695 of the
Revised Code is in effect, the duration of the period during
which any securities issued by the board under division (I) of
section 307.695 of the Revised Code are outstanding, or the
duration of the period during which the board owns a project as
defined in section 307.695 of the Revised Code, whichever
duration is longest. 1735
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(D) For the purpose of providing contributions under
division (B)(1) of section 307.671 of the Revised Code to enable
the acquisition, construction, and equipping of a port authority
educational and cultural facility in the county and, to the
extent provided for in the cooperative agreement authorized by
that section, for the purpose of paying debt service charges on
bonds, or notes in anticipation of bonds, described in division
(B)(1)(b) of that section, a board of county commissioners, by
resolution adopted within ninety days after December 22, 1992,
by a majority of the members of the board, may levy an
additional excise tax not to exceed one and one-half per cent on
transactions by which lodging by a hotel is or is to be
furnished to transient guests. The excise tax authorized by this
division shall be in addition to any tax that is levied pursuant
to divisions (A), (B), and (C) of this section, to any excise
tax levied pursuant to section 5739.08 of the Revised Code, and
to any excise tax levied pursuant to section 351.021 of the 1749
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Revised Code. The board of county commissioners shall establish 1766
all regulations necessary to provide for the administration and 1767
allocation of the tax that are not inconsistent with this 1768
section or section 307.671 of the Revised Code. The regulations 1769
may prescribe the time for payment of the tax, and may provide 1770
for the imposition of a penalty or interest, or both, for late 1771
payments, provided that the penalty does not exceed ten per cent 1772
of the amount of tax due, and the rate at which interest accrues 1773
does not exceed the rate per annum prescribed pursuant to 1774
section 5703.47 of the Revised Code. All revenues arising from 1775
the tax shall be expended in accordance with section 307.671 of 1776
the Revised Code and division (D) of this section. The levy of a 1777
tax imposed under this division may not commence prior to the 1778
first day of the month next following the execution of the 1779
cooperative agreement authorized by section 307.671 of the 1780
Revised Code by all parties to that agreement. The tax shall 1781
remain in effect at the rate at which it is imposed for the 1782
period of time described in division (C) of section 307.671 of 1783
the Revised Code for which the revenue from the tax has been 1784
pledged by the county to the corporation pursuant to that 1785
section, but, to any extent provided for in the cooperative 1786
agreement, for no lesser period than the period of time required 1787
for payment of the debt service charges on bonds, or notes in 1788
anticipation of bonds, described in division (B) (1) (b) of that 1789
section. 1790

(E) For the purpose of paying the costs of acquiring, 1791
constructing, equipping, and improving a municipal educational 1792
and cultural facility, including debt service charges on bonds 1793
provided for in division (B) of section 307.672 of the Revised 1794
Code, and for any additional purposes determined by the county 1795
in the resolution levying the tax or amendments to the 1796

resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time

determined by the legislative authority of the county. That period of time shall not exceed fifteen years, except that the legislative authority of a county with a population of less than two hundred fifty thousand according to the most recent federal decennial census, by resolution adopted by a majority of its members before the original tax expires, may extend the duration of the tax for an additional period of time. The additional period of time by which a legislative authority extends a tax levied under this division shall not exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the

Revised Code and on port authority revenue bonds provided for in
division (B) of section 307.674 of the Revised Code. All
revenues arising from the amendment and extension of the tax
shall be expended in accordance with section 307.674 of the
Revised Code, this division, and division (E) of this section. 1860
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(G) For purposes of a tax levied by a county, township, or
municipal corporation under this section or section 5739.08 of
the Revised Code, a board of county commissioners, board of
township trustees, or the legislative authority of a municipal
corporation may adopt a resolution or ordinance at any time
specifying that "hotel," as otherwise defined in section 5739.01
of the Revised Code, includes the following: 1865
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(1) Establishments in which fewer than five rooms are used
for the accommodation of guests. 1872
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(2) Establishments at which rooms are used for the
accommodation of guests regardless of whether each room is
accessible through its own keyed entry or several rooms are
accessible through the same keyed entry; and, in determining the
number of rooms, all rooms are included regardless of the number
of structures in which the rooms are situated or the number of
parcels of land on which the structures are located if the
structures are under the same ownership and the structures are
not identified in advertisements of the accommodations as
distinct establishments. For the purposes of division (G)(2) of
this section, two or more structures are under the same
ownership if they are owned by the same person, or if they are
owned by two or more persons the majority of the ownership
interests of which are owned by the same person. 1874
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The resolution or ordinance may apply to a tax imposed
pursuant to this section prior to the adoption of the resolution 1888
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or ordinance if the resolution or ordinance so states, but the
tax shall not apply to transactions by which lodging by such an
establishment is provided to transient guests prior to the
adoption of the resolution or ordinance. 1890
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(H) (1) As used in this division: 1894

(a) "Convention facilities authority" has the same meaning
as in section 351.01 of the Revised Code. 1895
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(b) "Convention center" has the same meaning as in section
307.695 of the Revised Code. 1897
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(2) Notwithstanding any contrary provision of division (D)
of this section, the legislative authority of a county with a
population of one million or more according to the most recent
federal decennial census that has levied a tax under division
(D) of this section may, by resolution adopted by a majority of
the members of the legislative authority, provide for the
extension of such levy and may provide that the proceeds of that
tax, to the extent that they are no longer needed for their
original purpose as defined by a cooperative agreement entered
into under section 307.671 of the Revised Code, shall be
deposited into the county general revenue fund. The resolution
shall provide for the extension of the tax at a rate not to
exceed the rate specified in division (D) of this section for a
period of time determined by the legislative authority of the
county, but not to exceed an additional forty years. 1899
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(3) The legislative authority of a county with a
population of one million or more that has levied a tax under
division (A) (1) of this section may, by resolution adopted by a
majority of the members of the legislative authority, increase
the rate of the tax levied by such county under division (A) (1) 1914
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of this section to a rate not to exceed five per cent on 1919
transactions by which lodging by a hotel is or is to be 1920
furnished to transient guests. Notwithstanding any contrary 1921
provision of division (A) (1) of this section, the resolution may 1922
provide that all collections resulting from the rate levied in 1923
excess of three per cent, after deducting the real and actual 1924
costs of administering the tax, shall be deposited in the county 1925
general fund. 1926

(4) The legislative authority of a county with a 1927
population of one million or more that has levied a tax under 1928
division (A) (1) of this section may, by resolution adopted on or 1929
before August 30, 2004, by a majority of the members of the 1930
legislative authority, provide that all or a portion of the 1931
proceeds of the tax levied under division (A) (1) of this 1932
section, after deducting the real and actual costs of 1933
administering the tax and the amounts required to be returned to 1934
townships and municipal corporations with respect to the first 1935
three per cent levied under division (A) (1) of this section, 1936
shall be deposited in the county general fund, provided that 1937
such proceeds shall be used to satisfy any pledges made in 1938
connection with an agreement entered into under section 307.695 1939
of the Revised Code. 1940

(5) No amount collected from a tax levied, extended, or 1941
required to be deposited in the county general fund under 1942
division (H) of this section shall be contributed to a 1943
convention facilities authority, corporation, or other entity 1944
created after July 1, 2003, for the principal purpose of 1945
constructing, improving, expanding, equipping, financing, or 1946
operating a convention center unless the mayor of the municipal 1947
corporation in which the convention center is to be operated by 1948
that convention facilities authority, corporation, or other 1949

entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (H)(5) of this section. 1950
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(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements. 1959
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(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (H)(6)(a) of 1978
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this section shall be considered to be the approval of the
majority of the mayors of the other municipal corporations for
purposes of that division. 1981
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(7) Each year, the auditor of state shall conduct an audit
of the uses of any amounts collected from taxes levied,
extended, or deposited under division (H) of this section and
shall prepare a report of the auditor of state's findings. The
auditor of state shall submit the report to the legislative
authority of the county that has levied, extended, or deposited
the tax, the speaker of the house of representatives, the
president of the senate, and the leaders of the minority parties
of the house of representatives and the senate. 1984
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(I)(1) As used in this division: 1993

(a) "Convention facilities authority" has the same meaning
as in section 351.01 of the Revised Code. 1994
1995

(b) "Convention center" has the same meaning as in section
307.695 of the Revised Code. 1996
1997

(2) Notwithstanding any contrary provision of division (D)
of this section, the legislative authority of a county with a
population of one million two hundred thousand or more according
to the most recent federal decennial census or the most recent
annual population estimate published or released by the United
States census bureau at the time the resolution is adopted
placing the levy on the ballot, that has levied a tax under
division (D) of this section may, by resolution adopted by a
majority of the members of the legislative authority, provide
for the extension of such levy and may provide that the proceeds
of that tax, to the extent that the proceeds are no longer
needed for their original purpose as defined by a cooperative 1998
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agreement entered into under section 307.671 of the Revised Code
and after deducting the real and actual costs of administering
the tax, shall be used for paying the direct and indirect costs
of constructing, improving, expanding, equipping, financing, or
operating a convention center. The resolution shall provide for
the extension of the tax at a rate not to exceed the rate
specified in division (D) of this section for a period of time
determined by the legislative authority of the county, but not
to exceed an additional forty years.

(3) The legislative authority of a county with a
population of one million two hundred thousand or more that has
levied a tax under division (A)(1) of this section may, by
resolution adopted by a majority of the members of the
legislative authority, increase the rate of the tax levied by
such county under division (A)(1) of this section to a rate not
to exceed five per cent on transactions by which lodging by a
hotel is or is to be furnished to transient guests.

Notwithstanding any contrary provision of division (A)(1) of
this section, the resolution shall provide that all collections
resulting from the rate levied in excess of three per cent,
after deducting the real and actual costs of administering the
tax, shall be used for paying the direct and indirect costs of
constructing, improving, expanding, equipping, financing, or
operating a convention center.

(4) The legislative authority of a county with a
population of one million two hundred thousand or more that has
levied a tax under division (A)(1) of this section may, by
resolution adopted on or before July 1, 2008, by a majority of
the members of the legislative authority, provide that all or a
portion of the proceeds of the tax levied under division (A)(1)
of this section, after deducting the real and actual costs of

administering the tax and the amounts required to be returned to
townships and municipal corporations with respect to the first
three per cent levied under division (A) (1) of this section,
shall be used to satisfy any pledges made in connection with an
agreement entered into under section 307.695 of the Revised Code
or shall otherwise be used for paying the direct and indirect
costs of constructing, improving, expanding, equipping,
financing, or operating a convention center.

(5) Any amount collected from a tax levied or extended
under division (I) of this section may be contributed to a
convention facilities authority created before July 1, 2005, but
no amount collected from a tax levied or extended under division
(I) of this section may be contributed to a convention
facilities authority, corporation, or other entity created after
July 1, 2005, unless the mayor of the municipal corporation in
which the convention center is to be operated by that convention
facilities authority, corporation, or other entity has consented
to the creation of that convention facilities authority,
corporation, or entity.

(J) (1) Except as provided in division (J) (2) of this
section, money collected by a county and distributed under this
section to a convention and visitors' bureau in existence as of
June 30, 2013, the effective date of H.B. 59 of the 130th
general assembly, except for any such money pledged, as of that
effective date, to the payment of debt service charges on bonds,
notes, securities, or lease agreements, shall be used solely for
tourism sales, marketing and promotion, and their associated
costs, including, but not limited to, operational and
administrative costs of the bureau, sales and marketing, and
maintenance of the physical bureau structure.

(2) A convention and visitors' bureau that has entered
into an agreement under section 307.678 of the Revised Code may
use revenue it receives from a tax levied under division (A)(1)
of this section as described in division (D) of section 307.678
of the Revised Code. 2071
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(K) The board of county commissioners of a county with a
population between one hundred three thousand and one hundred
seven thousand according to the most recent federal decennial
census, by resolution adopted by a majority of the members of
the board within six months after September 15, 2014, the
effective date of H.B. 483 of the 130th general assembly, may
levy a tax not to exceed three per cent on transactions by which
a hotel is or is to be furnished to transient guests. The
purpose of the tax shall be to pay the costs of expanding,
maintaining, or operating a soldiers' memorial and the costs of
administering the tax. All revenue arising from the tax shall be
credited to one or more special funds in the county treasury and
shall be spent solely for the purposes of paying those costs.
The board of county commissioners shall adopt all rules
necessary to provide for the administration of the tax subject
to the same limitations on imposing penalty or interest under
division (A)(1) of this section. 2076
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As used in this division "soldiers' memorial" means a
memorial constructed and funded under Chapter 345. of the
Revised Code. 2093
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(L) The requirements under section 5739.081 of the Revised
Code that apply to a tax levied by a municipal corporation
pursuant to section 5739.08 of the Revised Code and to hotel
intermediaries responsible for collecting and remitting that tax
also apply with respect to a tax levied by a county or township 2096
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| <u>under this section.</u> | 2101 |
| Sec. 5739.12. (A) (1) Each person who has or is required to have a vendor's license, on or before the twenty-third day of each month, shall make and file a return for the preceding month in the form prescribed by the tax commissioner, and shall pay the tax shown on the return to be due. The return shall be filed electronically using the Ohio business gateway, as defined in section 718.01 of the Revised Code, the Ohio telefile system, or any other electronic means prescribed by the commissioner. | 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129 2130 2131 |
| Payment of the tax shown on the return to be due shall be made electronically in a manner approved by the commissioner. The commissioner may require a vendor that operates from multiple locations or has multiple vendor's licenses to report all tax liabilities on one consolidated return. The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period. The commissioner may remit all or any part of amounts or penalties that may become due under this chapter and may adopt rules relating thereto. Such return shall be filed electronically as directed by the tax commissioner, and payment of the amount of tax shown to be due thereon, after deduction of any discount provided for under this section, shall be made electronically in a manner approved by the tax | |

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| commissioner. | 2132 |
| (2) Any person required to file returns and make payments electronically under division (A) (1) of this section may apply to the tax commissioner on a form prescribed by the commissioner to be excused from that requirement. For good cause shown, the commissioner may excuse the person from that requirement and may permit the person to file the returns and make the payments required by this section by nonelectronic means. | 2133 2134 2135 2136 2137 2138 2139 |
| (B) (1) If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, the vendor shall be entitled to a discount of three-fourths of one per cent of the amount shown to be due on the return. | 2140 2141 2142 2143 2144 |
| (2) A vendor that has selected a certified service provider as its agent shall not be entitled to the discount if the certified service provider receives a monetary allowance pursuant to section 5739.06 of the Revised Code for performing the vendor's sales and use tax functions in this state. Amounts paid to the clerk of courts pursuant to section 4505.06 of the Revised Code shall be subject to the applicable discount. The discount shall be in consideration for prompt payment to the clerk of courts and for other services performed by the vendor in the collection of the tax. | 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 |
| (C) (1) Upon application to the tax commissioner, a vendor who is required to file monthly returns may be relieved of the requirement to report and pay the actual tax due, provided that the vendor agrees to remit to the commissioner payment of not less than an amount determined by the commissioner to be the average monthly tax liability of the vendor, based upon a review of the returns or other information pertaining to such vendor | 2155 2156 2157 2158 2159 2160 2161 |

for a period of not less than six months nor more than two years 2162
immediately preceding the filing of the application. Vendors who 2163
agree to the above conditions shall make and file an annual or 2164
semiannual reconciliation return, as prescribed by the 2165
commissioner. The reconciliation return shall be filed 2166
electronically as directed by the tax commissioner, and payment 2167
of the amount of tax shown to be due thereon, after deduction of 2168
any discount provided in this section, shall be made 2169
electronically in a manner approved by the commissioner. Failure 2170
of a vendor to comply with any of the above conditions may 2171
result in immediate reinstatement of the requirement of 2172
reporting and paying the actual tax liability on each monthly 2173
return, and the commissioner may at the commissioner's 2174
discretion deny the vendor the right to report and pay based 2175
upon the average monthly liability for a period not to exceed 2176
two years. The amount ascertained by the commissioner to be the 2177
average monthly tax liability of a vendor may be adjusted, based 2178
upon a review of the returns or other information pertaining to 2179
the vendor for a period of not less than six months nor more 2180
than two years preceding such adjustment. 2181

(2) The commissioner may authorize vendors whose tax 2182
liability is not such as to merit monthly returns, as 2183
ascertained by the commissioner upon the basis of administrative 2184
costs to the state, to make and file returns at less frequent 2185
intervals. When returns are filed at less frequent intervals in 2186
accordance with such authorization, the vendor shall be allowed 2187
the discount provided in this section in consideration for 2188
prompt payment with the return, provided the return is filed and 2189
payment is made of the amount of tax shown to be due thereon, at 2190
the time specified by the commissioner, but a vendor that has 2191
selected a certified service provider as its agent shall not be 2192

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| entitled to the discount. | 2193 |
| (D) Any vendor who fails to file a return or to pay the full amount of the tax shown on the return to be due in the manner prescribed under this section and the rules of the commissioner may, for each such return, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge. | 2194 2195 2196 2197 2198 2199 2200 2201 2202 2203 2204 2205 2206 |
| (E) If the amount required to be collected by a vendor from consumers is in excess of the applicable percentage of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code. | 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 |
| (F) The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. | 2217 2218 2219 2220 |
| (G) Any vendor required to file a return and pay the tax under this section whose total payment for a year equals or | 2221 2222 |

exceeds the amount shown in division (A) of section 5739.122 of 2223
the Revised Code is subject to the accelerated tax payment 2224
requirements in divisions (B) and (C) of that section. For a 2225
vendor that operates from multiple locations or has multiple 2226
vendor's licenses, in determining whether the vendor's total 2227
payment equals or exceeds the amount shown in division (A) of 2228
that section, the vendor's total payment amount shall be the 2229
amount of the vendor's total tax liability for the previous 2230
calendar year for all of the vendor's locations or licenses. 2231

(H) In addition to the other requirements of this section, 2232
a vendor that is a hotel intermediary shall give to the 2233
purchaser an invoice or other statement of the price displaying 2234
the total amount the purchaser paid to the intermediary for the 2235
hotel lodging transaction and the amount of tax the intermediary 2236
collected on such amount. This invoice or statement shall be 2237
delivered to the purchaser before the transient guest completes 2238
the guest's hotel stay. 2239

Sec. 5739.13. (A) If any vendor collects the tax imposed 2240
by or pursuant to section 5739.02, 5739.021, 5739.023, or 2241
5739.026 of the Revised Code, and fails to remit the tax to the 2242
state as prescribed, or on the sale of a motor vehicle, 2243
watercraft, or outboard motor required to be titled, fails to 2244
remit payment to a clerk of a court of common pleas as provided 2245
in section 1548.06 or 4505.06 of the Revised Code, the vendor 2246
shall be personally liable for any tax collected and not 2247
remitted. The tax commissioner may make an assessment against 2248
such vendor based upon any information in the commissioner's 2249
possession. 2250

If any vendor fails to collect the tax or any consumer 2251
fails to pay the tax imposed by or pursuant to section 5739.02, 2252

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| 5739.021, 5739.023, or 5739.026 of the Revised Code, on any transaction subject to the tax, the vendor or consumer shall be personally liable for the amount of the tax applicable to the transaction. The commissioner may make an assessment against either the vendor or consumer, as the facts may require, based upon any information in the commissioner's possession. | 2253 2254 2255 2256 2257 2258 |
| An assessment against a vendor when the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code has not been collected or paid, shall not discharge the purchaser's or consumer's liability to reimburse the vendor for the tax applicable to such transaction. | 2259 2260 2261 2262 2263 |
| An assessment issued against either, pursuant to this section, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any person for the tax due on a particular transaction if the tax on that transaction actually has been paid by another. | 2264 2265 2266 2267 2268 2269 2270 |
| The commissioner may make an assessment against any vendor who fails to file a return or remit the proper amount of tax required by this chapter, or against any consumer who fails to pay the proper amount of tax required by this chapter. When information in the possession of the commissioner indicates that the amount required to be collected or paid under this chapter is greater than the amount remitted by the vendor or paid by the consumer, the commissioner may audit a sample of the vendor's sales or the consumer's purchases for a representative period, to ascertain the per cent of exempt or taxable transactions or the effective tax rate and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach | 2271 2272 2273 2274 2275 2276 2277 2278 2279 2280 2281 2282 |

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| agreement with the vendor or consumer in selecting a representative sample. | 2283 2284 |
| The commissioner may make an assessment, based on any information in the commissioner's possession, against any person who fails to file a return or remit the proper amount of tax required by section 5739.102 of the Revised Code. | 2285 2286 2287 2288 |
| The commissioner may issue an assessment on any transaction for which any tax imposed under this chapter or Chapter 5741. of the Revised Code was due and unpaid on the date the vendor or consumer was informed by an agent of the tax commissioner of an investigation or audit. If the vendor or consumer remits any payment of the tax for the period covered by the assessment after the vendor or consumer was informed of the investigation or audit, the payment shall be credited against the amount of the assessment. | 2289 2290 2291 2292 2293 2294 2295 2296 2297 |
| The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition. | 2298 2299 2300 2301 2302 |
| <u>A vendor that is a hotel is not personally liable for the failure of a hotel intermediary to collect or remit the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code on the sale of lodging by the hotel conducted through the hotel intermediary. The commissioner shall not make an assessment against a hotel based on the failure of a hotel intermediary to collect or remit such tax or to file a return as required by this chapter.</u> | 2303 2304 2305 2306 2307 2308 2309 2310 |
| (B) Unless the party assessed files with the commissioner | 2311 |

within sixty days after service of the notice of assessment, 2312
either personally or by certified mail, a written petition for 2313
reassessment, signed by the party assessed or that party's 2314
authorized agent having knowledge of the facts, the assessment 2315
becomes final and the amount of the assessment is due from the 2316
party assessed and payable to the treasurer of state and 2317
remitted to the tax commissioner. The petition shall indicate 2318
the objections of the party assessed, but additional objections 2319
may be raised in writing if received by the commissioner prior 2320
to the date shown on the final determination. If the petition 2321
has been properly filed, the commissioner shall proceed under 2322
section 5703.60 of the Revised Code. 2323

(C) After an assessment becomes final, if any portion of 2324
the assessment remains unpaid, including accrued interest, a 2325
certified copy of the commissioner's entry making the assessment 2326
final may be filed in the office of the clerk of the court of 2327
common pleas in the county in which the place of business of the 2328
party assessed is located or the county in which the party 2329
assessed resides. If the party assessed maintains no place of 2330
business in this state and is not a resident of this state, the 2331
certified copy of the entry may be filed in the office of the 2332
clerk of the court of common pleas of Franklin county. 2333

Immediately upon the filing of the entry, the clerk shall 2334
enter a judgment for the state against the party assessed in the 2335
amount shown on the entry. The judgment may be filed by the 2336
clerk in a loose-leaf book entitled "special judgments for 2337
state, county, and transit authority retail sales tax" or, if 2338
appropriate, "special judgments for resort area excise tax," and 2339
shall have the same effect as other judgments. Execution shall 2340
issue upon the judgment upon the request of the tax 2341
commissioner, and all laws applicable to sales on execution 2342

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| shall apply to sales made under the judgment except as otherwise provided in this chapter. | 2343 2344 |
| If the assessment is not paid in its entirety within sixty days after the date the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section. | 2345 2346 2347 2348 2349 2350 2351 2352 2353 2354 2355 2356 2357 2358 2359 |
| (D) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by or pursuant to sections 5739.01 to 5739.31 of the Revised Code. | 2360 2361 2362 2363 |
| Sec. 5741.01. As used in this chapter: | 2364 |
| (A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form. | 2365 2366 2367 2368 2369 |
| (B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state. | 2370 2371 |

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| (C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state. | 2372 2373 2374 2375 |
| (D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes. | 2376 2377 2378 2379 2380 2381 2382 2383 2384 2385 2386 |
| (E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" | 2387 2388 2389 2390 2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 |

does not include any person to the extent the person provides a
communications medium, such as, but not limited to, newspapers,
magazines, radio, television, or cable television, by means of
which sellers solicit purchases of their goods or services. 2403
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(F) "Consumer" means any person who has purchased tangible
personal property or has been provided a service for storage,
use, or other consumption or benefit in this state. "Consumer"
does not include a person who receives, without charge, tangible
personal property or a service. 2407
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A person who performs a facility management or similar
service contract for a contractee is a consumer of all tangible
personal property and services purchased for use in connection
with the performance of such contract, regardless of whether
title to any such property vests in the contractee. The purchase
of such property and services is not subject to the exception
for resale under division (E) of section 5739.01 of the Revised
Code. 2412
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(G) (1) "Price," except as provided in divisions (G) (2) to
(6) of this section, has the same meaning as in division (H) (1)
of section 5739.01 of the Revised Code. 2420
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(2) In the case of watercraft, outboard motors, or new
motor vehicles, "price" has the same meaning as in divisions (H)
(2) and (3) of section 5739.01 of the Revised Code. 2423
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(3) In the case of a nonresident business consumer that
purchases and uses tangible personal property outside this state
and subsequently temporarily stores, uses, or otherwise consumes
such tangible personal property in the conduct of business in
this state, the consumer or the tax commissioner may determine
the price based on the value of the temporary storage, use, or 2426
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other consumption, in lieu of determining the price pursuant to
division (G)(1) of this section. A price determination made by
the consumer is subject to review and redetermination by the
commissioner. 2432
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(4) In the case of tangible personal property held in this
state as inventory for sale or lease, and that is temporarily
stored, used, or otherwise consumed in a taxable manner, the
price is the value of the temporary use. A price determination
made by the consumer is subject to review and redetermination by
the commissioner. 2436
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(5) In the case of tangible personal property originally
purchased and used by the consumer outside this state, and that
becomes permanently stored, used, or otherwise consumed in this
state more than six months after its acquisition by the
consumer, the consumer or the commissioner may determine the
price based on the current value of such tangible personal
property, in lieu of determining the price pursuant to division
(G)(1) of this section. A price determination made by the
consumer is subject to review and redetermination by the
commissioner. 2442
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(6) If a consumer produces tangible personal property for
sale and removes that property from inventory for the consumer's
own use, the price is the produced cost of that tangible
personal property. 2452
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(H) "Nexus with this state" means that the seller engages
in continuous and widespread solicitation of purchases from
residents of this state or otherwise purposefully directs its
business activities at residents of this state. 2456
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(I) "Substantial nexus with this state" means that the 2460

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| seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to consumers in this state. "Substantial nexus with this state" exists when the seller does any of the following: | 2461 2462 2463 2464 2465 2466 |
| (1) Maintains a place of business within this state, whether operated by employees or agents of the seller, by a member of an affiliated group, as defined in division (B) (3) (e) of section 5739.01 of the Revised Code, of which the seller is a member, or by a franchisee using a trade name of the seller; | 2467 2468 2469 2470 2471 |
| (2) Regularly has employees, agents, representatives, solicitors, installers, repairmen, salesmen, or other individuals in this state for the purpose of conducting the business of the seller; | 2472 2473 2474 2475 |
| (3) Uses a person in this state for the purpose of receiving or processing orders of the seller's goods or services; | 2476 2477 2478 |
| (4) Makes regular deliveries of tangible personal property into this state by means other than common carrier; | 2479 2480 |
| (5) Has membership in an affiliated group, as described in division (B) (3) (e) of section 5739.01 of the Revised Code, at least one other member of which has substantial nexus with this state; | 2481 2482 2483 2484 |
| (6) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state; | 2485 2486 2487 |
| (7) Except as provided in section 5703.65 of the Revised Code, is registered with the secretary of state to do business | 2488 2489 |

in this state or is registered or licensed by any state agency, 2490
board, or commission to transact business in this state or to 2491
make sales to persons in this state; 2492

(8) Is a hotel intermediary that furnishes lodging in 2493
hotels located in this state to transient guests; 2494

(9) Has any other contact with this state that would allow 2495
this state to require the seller to collect and remit use tax 2496
under Section 8 of Article I of the Constitution of the United 2497
States. 2498

(J) "Fiscal officer" means, with respect to a regional 2499
transit authority, the secretary-treasurer thereof, and with 2500
respect to a county which is a transit authority, the fiscal 2501
officer of the county transit board appointed pursuant to 2502
section 306.03 of the Revised Code or, if the board of county 2503
commissioners operates the county transit system, the county 2504
auditor. 2505

(K) "Territory of the transit authority" means all of the 2506
area included within the territorial boundaries of a transit 2507
authority as they from time to time exist. Such territorial 2508
boundaries must at all times include all the area of a single 2509
county or all the area of the most populous county which is a 2510
part of such transit authority. County population shall be 2511
measured by the most recent census taken by the United States 2512
census bureau. 2513

(L) "Transit authority" means a regional transit authority 2514
created pursuant to section 306.31 of the Revised Code or a 2515
county in which a county transit system is created pursuant to 2516
section 306.01 of the Revised Code. For the purposes of this 2517
chapter, a transit authority must extend to at least the entire 2518

area of a single county. A transit authority which includes 2519
territory in more than one county must include all the area of 2520
the most populous county which is a part of such transit 2521
authority. County population shall be measured by the most 2522
recent census taken by the United States census bureau. 2523

(M) "Providing a service" has the same meaning as in 2524
division (X) of section 5739.01 of the Revised Code. 2525

(N) "Other consumption" includes receiving the benefits of 2526
a service. 2527

(O) "Lease" or "rental" has the same meaning as in 2528
division (UU) of section 5739.01 of the Revised Code. 2529

(P) "Certified service provider" has the same meaning as 2530
in section 5740.01 of the Revised Code. 2531

(Q) "Remote sale" means a sale for which the seller could 2532
not be legally required to pay, collect, or remit a tax imposed 2533
under this chapter or Chapter 5739. of the Revised Code, unless 2534
otherwise provided by the laws of the United States. 2535

(R) "Remote seller" means a seller that makes remote sales 2536
to one or more consumers. 2537

(S) "Remote small seller" means a remote seller that has 2538
gross annual receipts from remote sales in the United States not 2539
exceeding one million dollars for the preceding calendar year. 2540
For the purposes of determining whether a person is a small 2541
remote seller, the sales of all persons related within the 2542
meaning of subsection (b) or (c) of section 267 or section 2543
707(b)(1) of the Internal Revenue Code shall be aggregated, and 2544
persons with one or more ownership relationships shall be 2545
aggregated if those relationships were designed with the 2546
principal purpose to qualify as a remote small seller. 2547

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| <u>(T) "Hotel intermediary," "hotel," and "transient guest"</u> | 2548 |
| <u>have the same meanings as in section 5739.01 of the Revised</u> | 2549 |
| <u>Code.</u> | 2550 |
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| Sec. 5741.12. (A) Each seller required by section 5741.17 | 2551 |
| of the Revised Code to register with the tax commissioner, and | 2552 |
| any seller authorized by the commissioner to collect the tax | 2553 |
| imposed by or pursuant to section 5741.02, 5741.021, 5741.022, | 2554 |
| or 5741.023 of the Revised Code is subject to the same | 2555 |
| requirements and entitled to the same deductions and discount | 2556 |
| for prompt payments as are vendors under section 5739.12 of the | 2557 |
| Revised Code, and the same monetary allowances as are vendors | 2558 |
| under section 5739.06 of the Revised Code. The powers and duties | 2559 |
| of the commissioner with respect to returns and tax remittances | 2560 |
| under this section shall be identical with those prescribed in | 2561 |
| section 5739.12 of the Revised Code. | 2562 |
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| (B) Every person storing, using, or consuming tangible | 2563 |
| personal property or receiving the benefit of a service, the | 2564 |
| storage, use, consumption, or receipt of which is subject to the | 2565 |
| tax imposed by or pursuant to section 5741.02, 5741.021, | 2566 |
| 5741.022, or 5741.023 of the Revised Code, when such tax was not | 2567 |
| paid to a seller, shall, on or before the twenty-third day of | 2568 |
| each month, file with the tax commissioner a return for the | 2569 |
| preceding month in such form as is prescribed by the | 2570 |
| commissioner, showing such information as the commissioner deems | 2571 |
| necessary, and shall pay the tax shown on the return to be due. | 2572 |
| Remittance shall be made payable to the treasurer of state. The | 2573 |
| commissioner may require consumers to file returns and pay the | 2574 |
| tax at other than monthly intervals, if the commissioner | 2575 |
| determines that such filing is necessary for the efficient | 2576 |
| administration of the tax. If the commissioner determines that a | 2577 |
| consumer's tax liability is not such as to merit monthly filing, | 2578 |

the commissioner may authorize the consumer to file returns and 2579
pay tax at less frequent intervals. 2580

Any consumer required to file a return and pay the tax 2581
under this section whose payment for any year equals or exceeds 2582
the amount shown in division (A) of section 5741.121 of the 2583
Revised Code is subject to the accelerated tax payment 2584
requirements in divisions (B) and (C) of that section. 2585

(C) Every person storing, using, or consuming a motor 2586
vehicle, watercraft, or outboard motor, the ownership of which 2587
must be evidenced by certificate of title, shall file the return 2588
required by this section and pay the tax due at or prior to the 2589
time of filing an application for certificate of title. 2590

(D) In addition to the other requirements of this section, 2591
a seller that is a hotel intermediary shall give to the 2592
purchaser an invoice or other statement of the price displaying 2593
the total amount the purchaser paid to the intermediary for the 2594
hotel lodging transaction and the amount of tax the intermediary 2595
collected on such amount. This invoice or statement shall be 2596
delivered to the purchaser before the transient guest completes 2597
the guest's hotel stay. 2598

Sec. 5741.13. If any person required by section 5741.12 of 2599
the Revised Code to make a return to the tax commissioner fails 2600
to make such return at the time required by or under authority 2601
of such section, the commissioner may make an assessment against 2602
such person, based upon any information within the 2603
commissioner's possession. The commissioner shall give to such 2604
person written notice of the assessment as provided in section 2605
5703.37 of the Revised Code. 2606

If information in the possession of the commissioner 2607

indicates that the tax paid by any consumer is less than that
due, the commissioner may audit a representative sample of that
consumer's purchases and may issue an assessment based thereon.
The commissioner shall make a good faith effort to reach
agreement with the consumer on selecting a representative
sample.

If information in the possession of the commissioner
indicates that the amount required to be collected or paid under
this chapter is greater than the amount remitted by the seller,
the commissioner may audit a representative sample of the
seller's sales to determine the per cent of exempt or taxable
transactions or the effective tax rate and may issue an
assessment based on the audit. The commissioner shall make a
good faith effort to reach agreement with the seller in
selecting a representative sample.

The commissioner shall not make an assessment under this
section against a hotel based on the failure of a hotel
intermediary to make a return, collect the tax due, or remit the
tax collected as required by this chapter.

Section 2. That existing sections 351.021, 353.06,
5739.01, 5739.09, 5739.12, 5739.13, 5741.01, 5741.12, and
5741.13 of the Revised Code are hereby repealed.

Section 3. The amendment or enactment by this act of
sections 351.021, 353.06, 5739.01, 5739.081, 5739.09, 5739.12,
5741.01, 5741.12, and 5741.13 of the Revised Code applies on and
after October 1, 2015.