

As Introduced

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

S. B. No. 235

Senator Roegner

A BILL

To amend sections 5739.01, 5739.02, and 5739.03 of 1
the Revised Code to exempt documentary service 2
charges and income tax electronic filing fees 3
from sales and use taxation. 4

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

Section 1. That sections 5739.01, 5739.02, and 5739.03 of 5
the Revised Code be amended to read as follows: 6

Sec. 5739.01. As used in this chapter: 7

(A) "Person" includes individuals, receivers, assignees, 8
trustees in bankruptcy, estates, firms, partnerships, 9
associations, joint-stock companies, joint ventures, clubs, 10
societies, corporations, the state and its political 11
subdivisions, and combinations of individuals of any form. 12

(B) "Sale" and "selling" include all of the following 13
transactions for a consideration in any manner, whether 14
absolutely or conditionally, whether for a price or rental, in 15
money or by exchange, and by any means whatsoever: 16

(1) All transactions by which title or possession, or 17
both, of tangible personal property, is or is to be transferred, 18

or a license to use or consume tangible personal property is or	19
is to be granted;	20
(2) All transactions by which lodging by a hotel is or is	21
to be furnished to transient guests;	22
(3) All transactions by which:	23
(a) An item of tangible personal property is or is to be	24
repaired, except property, the purchase of which would not be	25
subject to the tax imposed by section 5739.02 of the Revised	26
Code;	27
(b) An item of tangible personal property is or is to be	28
installed, except property, the purchase of which would not be	29
subject to the tax imposed by section 5739.02 of the Revised	30
Code or property that is or is to be incorporated into and will	31
become a part of a production, transmission, transportation, or	32
distribution system for the delivery of a public utility	33
service;	34
(c) The service of washing, cleaning, waxing, polishing,	35
or painting a motor vehicle is or is to be furnished;	36
(d) Laundry and dry cleaning services are or are to be	37
provided;	38
(e) Automatic data processing, computer services, or	39
electronic information services are or are to be provided for	40
use in business when the true object of the transaction is the	41
receipt by the consumer of automatic data processing, computer	42
services, or electronic information services rather than the	43
receipt of personal or professional services to which automatic	44
data processing, computer services, or electronic information	45
services are incidental or supplemental. Notwithstanding any	46
other provision of this chapter, such transactions that occur	47

between members of an affiliated group are not sales. An 48
"affiliated group" means two or more persons related in such a 49
way that one person owns or controls the business operation of 50
another member of the group. In the case of corporations with 51
stock, one corporation owns or controls another if it owns more 52
than fifty per cent of the other corporation's common stock with 53
voting rights. 54

(f) Telecommunications service, including prepaid calling 55
service, prepaid wireless calling service, or ancillary service, 56
is or is to be provided, but not including coin-operated 57
telephone service; 58

(g) Landscaping and lawn care service is or is to be 59
provided; 60

(h) Private investigation and security service is or is to 61
be provided; 62

(i) Information services or tangible personal property is 63
provided or ordered by means of a nine hundred telephone call; 64

(j) Building maintenance and janitorial service is or is 65
to be provided; 66

(k) Exterminating service is or is to be provided; 67

(l) Physical fitness facility service is or is to be 68
provided; 69

(m) Recreation and sports club service is or is to be 70
provided; 71

(n) Satellite broadcasting service is or is to be 72
provided; 73

(o) Personal care service is or is to be provided to an 74

individual. As used in this division, "personal care service" 75
includes skin care, the application of cosmetics, manicuring, 76
pedicuring, hair removal, tattooing, body piercing, tanning, 77
massage, and other similar services. "Personal care service" 78
does not include a service provided by or on the order of a 79
licensed physician or licensed chiropractor, or the cutting, 80
coloring, or styling of an individual's hair. 81

(p) The transportation of persons by motor vehicle or 82
aircraft is or is to be provided, when the transportation is 83
entirely within this state, except for transportation provided 84
by an ambulance service, by a transit bus, as defined in section 85
5735.01 of the Revised Code, and transportation provided by a 86
citizen of the United States holding a certificate of public 87
convenience and necessity issued under 49 U.S.C. 41102; 88

(q) Motor vehicle towing service is or is to be provided. 89
As used in this division, "motor vehicle towing service" means 90
the towing or conveyance of a wrecked, disabled, or illegally 91
parked motor vehicle. 92

(r) Snow removal service is or is to be provided. As used 93
in this division, "snow removal service" means the removal of 94
snow by any mechanized means, but does not include the providing 95
of such service by a person that has less than five thousand 96
dollars in sales of such service during the calendar year. 97

(s) Electronic publishing service is or is to be provided 98
to a consumer for use in business, except that such transactions 99
occurring between members of an affiliated group, as defined in 100
division (B) (3) (e) of this section, are not sales. 101

(4) All transactions by which printed, imprinted, 102
overprinted, lithographic, multilithic, blueprinted, 103

photostatic, or other productions or reproductions of written or 104
graphic matter are or are to be furnished or transferred; 105

(5) The production or fabrication of tangible personal 106
property for a consideration for consumers who furnish either 107
directly or indirectly the materials used in the production of 108
fabrication work; and include the furnishing, preparing, or 109
serving for a consideration of any tangible personal property 110
consumed on the premises of the person furnishing, preparing, or 111
serving such tangible personal property. Except as provided in 112
section 5739.03 of the Revised Code, a construction contract 113
pursuant to which tangible personal property is or is to be 114
incorporated into a structure or improvement on and becoming a 115
part of real property is not a sale of such tangible personal 116
property. The construction contractor is the consumer of such 117
tangible personal property, provided that the sale and 118
installation of carpeting, the sale and installation of 119
agricultural land tile, the sale and erection or installation of 120
portable grain bins, or the provision of landscaping and lawn 121
care service and the transfer of property as part of such 122
service is never a construction contract. 123

As used in division (B) (5) of this section: 124

(a) "Agricultural land tile" means fired clay or concrete 125
tile, or flexible or rigid perforated plastic pipe or tubing, 126
incorporated or to be incorporated into a subsurface drainage 127
system appurtenant to land used or to be used primarily in 128
production by farming, agriculture, horticulture, or 129
floriculture. The term does not include such materials when they 130
are or are to be incorporated into a drainage system appurtenant 131
to a building or structure even if the building or structure is 132
used or to be used in such production. 133

(b) "Portable grain bin" means a structure that is used or	134
to be used by a person engaged in farming or agriculture to	135
shelter the person's grain and that is designed to be	136
disassembled without significant damage to its component parts.	137
(6) All transactions in which all of the shares of stock	138
of a closely held corporation are transferred, or an ownership	139
interest in a pass-through entity, as defined in section 5733.04	140
of the Revised Code, is transferred, if the corporation or pass-	141
through entity is not engaging in business and its entire assets	142
consist of boats, planes, motor vehicles, or other tangible	143
personal property operated primarily for the use and enjoyment	144
of the shareholders or owners;	145
(7) All transactions in which a warranty, maintenance or	146
service contract, or similar agreement by which the vendor of	147
the warranty, contract, or agreement agrees to repair or	148
maintain the tangible personal property of the consumer is or is	149
to be provided;	150
(8) The transfer of copyrighted motion picture films used	151
solely for advertising purposes, except that the transfer of	152
such films for exhibition purposes is not a sale;	153
(9) All transactions by which tangible personal property	154
is or is to be stored, except such property that the consumer of	155
the storage holds for sale in the regular course of business;	156
(10) All transactions in which "guaranteed auto	157
protection" is provided whereby a person promises to pay to the	158
consumer the difference between the amount the consumer receives	159
from motor vehicle insurance and the amount the consumer owes to	160
a person holding title to or a lien on the consumer's motor	161
vehicle in the event the consumer's motor vehicle suffers a	162

total loss under the terms of the motor vehicle insurance policy 163
or is stolen and not recovered, if the protection and its price 164
are included in the purchase or lease agreement; 165

(11) (a) Except as provided in division (B) (11) (b) of this 166
section, all transactions by which health care services are paid 167
for, reimbursed, provided, delivered, arranged for, or otherwise 168
made available by a medicaid health insuring corporation 169
pursuant to the corporation's contract with the state. 170

(b) If the centers for medicare and medicaid services of 171
the United States department of health and human services 172
determines that the taxation of transactions described in 173
division (B) (11) (a) of this section constitutes an impermissible 174
health care-related tax under the "Social Security Act," section 175
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 176
the medicaid director shall notify the tax commissioner of that 177
determination. Beginning with the first day of the month 178
following that notification, the transactions described in 179
division (B) (11) (a) of this section are not sales for the 180
purposes of this chapter or Chapter 5741. of the Revised Code. 181
The tax commissioner shall order that the collection of taxes 182
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 183
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 184
for transactions occurring on or after that date. 185

(12) All transactions by which a specified digital product 186
is provided for permanent use or less than permanent use, 187
regardless of whether continued payment is required. 188

Except as provided in this section, "sale" and "selling" 189
do not include transfers of interest in leased property where 190
the original lessee and the terms of the original lease 191
agreement remain unchanged, or professional, insurance, or 192

personal service transactions that involve the transfer of 193
tangible personal property as an inconsequential element, for 194
which no separate charges are made. 195

(C) "Vendor" means the person providing the service or by 196
whom the transfer effected or license given by a sale is or is 197
to be made or given and, for sales described in division (B) (3) 198
(i) of this section, the telecommunications service vendor that 199
provides the nine hundred telephone service; if two or more 200
persons are engaged in business at the same place of business 201
under a single trade name in which all collections on account of 202
sales by each are made, such persons shall constitute a single 203
vendor. 204

Physicians, dentists, hospitals, and veterinarians who are 205
engaged in selling tangible personal property as received from 206
others, such as eyeglasses, mouthwashes, dentifrices, or similar 207
articles, are vendors. Veterinarians who are engaged in 208
transferring to others for a consideration drugs, the dispensing 209
of which does not require an order of a licensed veterinarian or 210
physician under federal law, are vendors. 211

The operator of any peer-to-peer car sharing program shall 212
be considered to be the vendor. 213

(D) (1) "Consumer" means the person for whom the service is 214
provided, to whom the transfer effected or license given by a 215
sale is or is to be made or given, to whom the service described 216
in division (B) (3) (f) or (i) of this section is charged, or to 217
whom the admission is granted. 218

(2) Physicians, dentists, hospitals, and blood banks 219
operated by nonprofit institutions and persons licensed to 220
practice veterinary medicine, surgery, and dentistry are 221

consumers of all tangible personal property and services 222
purchased by them in connection with the practice of medicine, 223
dentistry, the rendition of hospital or blood bank service, or 224
the practice of veterinary medicine, surgery, and dentistry. In 225
addition to being consumers of drugs administered by them or by 226
their assistants according to their direction, veterinarians 227
also are consumers of drugs that under federal law may be 228
dispensed only by or upon the order of a licensed veterinarian 229
or physician, when transferred by them to others for a 230
consideration to provide treatment to animals as directed by the 231
veterinarian. 232

(3) A person who performs a facility management, or 233
similar service contract for a contractee is a consumer of all 234
tangible personal property and services purchased for use in 235
connection with the performance of such contract, regardless of 236
whether title to any such property vests in the contractee. The 237
purchase of such property and services is not subject to the 238
exception for resale under division (E) of this section. 239

(4) (a) In the case of a person who purchases printed 240
matter for the purpose of distributing it or having it 241
distributed to the public or to a designated segment of the 242
public, free of charge, that person is the consumer of that 243
printed matter, and the purchase of that printed matter for that 244
purpose is a sale. 245

(b) In the case of a person who produces, rather than 246
purchases, printed matter for the purpose of distributing it or 247
having it distributed to the public or to a designated segment 248
of the public, free of charge, that person is the consumer of 249
all tangible personal property and services purchased for use or 250
consumption in the production of that printed matter. That 251

person is not entitled to claim exemption under division (B) (42)	252
(f) of section 5739.02 of the Revised Code for any material	253
incorporated into the printed matter or any equipment, supplies,	254
or services primarily used to produce the printed matter.	255
(c) The distribution of printed matter to the public or to	256
a designated segment of the public, free of charge, is not a	257
sale to the members of the public to whom the printed matter is	258
distributed or to any persons who purchase space in the printed	259
matter for advertising or other purposes.	260
(5) A person who makes sales of any of the services listed	261
in division (B) (3) of this section is the consumer of any	262
tangible personal property used in performing the service. The	263
purchase of that property is not subject to the resale exception	264
under division (E) of this section.	265
(6) A person who engages in highway transportation for	266
hire is the consumer of all packaging materials purchased by	267
that person and used in performing the service, except for	268
packaging materials sold by such person in a transaction	269
separate from the service.	270
(7) In the case of a transaction for health care services	271
under division (B) (11) of this section, a medicaid health	272
insuring corporation is the consumer of such services. The	273
purchase of such services by a medicaid health insuring	274
corporation is not subject to the exception for resale under	275
division (E) of this section or to the exemptions provided under	276
divisions (B) (12), (18), (19), and (22) of section 5739.02 of	277
the Revised Code.	278
(E) "Retail sale" and "sales at retail" include all sales,	279
except those in which the purpose of the consumer is to resell	280

the thing transferred or benefit of the service provided, by a 281
person engaging in business, in the form in which the same is, 282
or is to be, received by the person. 283

(F) "Business" includes any activity engaged in by any 284
person with the object of gain, benefit, or advantage, either 285
direct or indirect. "Business" does not include the activity of 286
a person in managing and investing the person's own funds. 287

(G) "Engaging in business" means commencing, conducting, 288
or continuing in business, and liquidating a business when the 289
liquidator thereof holds itself out to the public as conducting 290
such business. Making a casual sale is not engaging in business. 291

(H) (1) (a) "Price," except as provided in divisions (H) (2), 292
(3), and (4) of this section, means the total amount of 293
consideration, including cash, credit, property, and services, 294
for which tangible personal property or services are sold, 295
leased, or rented, valued in money, whether received in money or 296
otherwise, without any deduction for any of the following: 297

(i) The vendor's cost of the property sold; 298

(ii) The cost of materials used, labor or service costs, 299
interest, losses, all costs of transportation to the vendor, all 300
taxes imposed on the vendor, including the tax imposed under 301
Chapter 5751. of the Revised Code, and any other expense of the 302
vendor; 303

(iii) Charges by the vendor for any services necessary to 304
complete the sale; 305

(iv) Delivery charges. As used in this division, "delivery 306
charges" means charges by the vendor for preparation and 307
delivery to a location designated by the consumer of tangible 308
personal property or a service, including transportation, 309

shipping, postage, handling, crating, and packing.	310
(v) Installation charges;	311
(vi) Credit for any trade-in.	312
(b) "Price" includes consideration received by the vendor	313
from a third party, if the vendor actually receives the	314
consideration from a party other than the consumer, and the	315
consideration is directly related to a price reduction or	316
discount on the sale; the vendor has an obligation to pass the	317
price reduction or discount through to the consumer; the amount	318
of the consideration attributable to the sale is fixed and	319
determinable by the vendor at the time of the sale of the item	320
to the consumer; and one of the following criteria is met:	321
(i) The consumer presents a coupon, certificate, or other	322
document to the vendor to claim a price reduction or discount	323
where the coupon, certificate, or document is authorized,	324
distributed, or granted by a third party with the understanding	325
that the third party will reimburse any vendor to whom the	326
coupon, certificate, or document is presented;	327
(ii) The consumer identifies the consumer's self to the	328
seller as a member of a group or organization entitled to a	329
price reduction or discount. A preferred customer card that is	330
available to any patron does not constitute membership in such a	331
group or organization.	332
(iii) The price reduction or discount is identified as a	333
third party price reduction or discount on the invoice received	334
by the consumer, or on a coupon, certificate, or other document	335
presented by the consumer.	336
(c) "Price" does not include any of the following:	337

(i) Discounts, including cash, term, or coupons that are 338
not reimbursed by a third party that are allowed by a vendor and 339
taken by a consumer on a sale; 340

(ii) Interest, financing, and carrying charges from credit 341
extended on the sale of tangible personal property or services, 342
if the amount is separately stated on the invoice, bill of sale, 343
or similar document given to the purchaser; 344

(iii) Any taxes legally imposed directly on the consumer 345
that are separately stated on the invoice, bill of sale, or 346
similar document given to the consumer. For the purpose of this 347
division, the tax imposed under Chapter 5751. of the Revised 348
Code is not a tax directly on the consumer, even if the tax or a 349
portion thereof is separately stated. 350

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 351
this section, any discount allowed by an automobile manufacturer 352
to its employee, or to the employee of a supplier, on the 353
purchase of a new motor vehicle from a new motor vehicle dealer 354
in this state. 355

(v) The dollar value of a gift card that is not sold by a 356
vendor or purchased by a consumer and that is redeemed by the 357
consumer in purchasing tangible personal property or services if 358
the vendor is not reimbursed and does not receive compensation 359
from a third party to cover all or part of the gift card value. 360
For the purposes of this division, a gift card is not sold by a 361
vendor or purchased by a consumer if it is distributed pursuant 362
to an awards, loyalty, or promotional program. Past and present 363
purchases of tangible personal property or services by the 364
consumer shall not be treated as consideration exchanged for a 365
gift card. 366

(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.

(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 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.

(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.

(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.	397
(J) "Place of business" means any location at which a person engages in business.	398 399
(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.	400 401 402 403 404 405
(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.	406 407 408 409 410 411 412 413 414 415 416
(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 section 5739.091 of the Revised Code.	417 418 419 420 421 422 423
(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty	424 425

consecutive days. 426

(O) "Making retail sales" means the effecting of 427
transactions wherein one party is obligated to pay the price and 428
the other party is obligated to provide a service or to transfer 429
title to or possession of the item sold. "Making retail sales" 430
does not include the preliminary acts of promoting or soliciting 431
the retail sales, other than the distribution of printed matter 432
which displays or describes and prices the item offered for 433
sale, nor does it include delivery of a predetermined quantity 434
of tangible personal property or transportation of property or 435
personnel to or from a place where a service is performed. 436

(P) "Used directly in the rendition of a public utility 437
service" means that property that is to be incorporated into and 438
will become a part of the consumer's production, transmission, 439
transportation, or distribution system and that retains its 440
classification as tangible personal property after such 441
incorporation; fuel or power used in the production, 442
transmission, transportation, or distribution system; and 443
tangible personal property used in the repair and maintenance of 444
the production, transmission, transportation, or distribution 445
system, including only such motor vehicles as are specially 446
designed and equipped for such use. Tangible personal property 447
and services used primarily in providing highway transportation 448
for hire are not used directly in the rendition of a public 449
utility service. In this definition, "public utility" includes a 450
citizen of the United States holding, and required to hold, a 451
certificate of public convenience and necessity issued under 49 452
U.S.C. 41102. 453

(Q) "Refining" means removing or separating a desirable 454
product from raw or contaminated materials by distillation or 455

physical, mechanical, or chemical processes. 456

(R) "Assembly" and "assembling" mean attaching or fitting 457
together parts to form a product, but do not include packaging a 458
product. 459

(S) "Manufacturing operation" means a process in which 460
materials are changed, converted, or transformed into a 461
different state or form from which they previously existed and 462
includes refining materials, assembling parts, and preparing raw 463
materials and parts by mixing, measuring, blending, or otherwise 464
committing such materials or parts to the manufacturing process. 465
"Manufacturing operation" does not include packaging. 466

(T) "Fiscal officer" means, with respect to a regional 467
transit authority, the secretary-treasurer thereof, and with 468
respect to a county that is a transit authority, the fiscal 469
officer of the county transit board if one is appointed pursuant 470
to section 306.03 of the Revised Code or the county auditor if 471
the board of county commissioners operates the county transit 472
system. 473

(U) "Transit authority" means a regional transit authority 474
created pursuant to section 306.31 of the Revised Code or a 475
county in which a county transit system is created pursuant to 476
section 306.01 of the Revised Code. For the purposes of this 477
chapter, a transit authority must extend to at least the entire 478
area of a single county. A transit authority that includes 479
territory in more than one county must include all the area of 480
the most populous county that is a part of such transit 481
authority. County population shall be measured by the most 482
recent census taken by the United States census bureau. 483

(V) "Legislative authority" means, with respect to a 484

regional transit authority, the board of trustees thereof, and 485
with respect to a county that is a transit authority, the board 486
of county commissioners. 487

(W) "Territory of the transit authority" means all of the 488
area included within the territorial boundaries of a transit 489
authority as they from time to time exist. Such territorial 490
boundaries must at all times include all the area of a single 491
county or all the area of the most populous county that is a 492
part of such transit authority. County population shall be 493
measured by the most recent census taken by the United States 494
census bureau. 495

(X) "Providing a service" means providing or furnishing 496
anything described in division (B) (3) of this section for 497
consideration. 498

(Y) (1) (a) "Automatic data processing" means processing of 499
others' data, including keypunching or similar data entry 500
services together with verification thereof, or providing access 501
to computer equipment for the purpose of processing data. 502

(b) "Computer services" means providing services 503
consisting of specifying computer hardware configurations and 504
evaluating technical processing characteristics, computer 505
programming, and training of computer programmers and operators, 506
provided in conjunction with and to support the sale, lease, or 507
operation of taxable computer equipment or systems. 508

(c) "Electronic information services" means providing 509
access to computer equipment by means of telecommunications 510
equipment for the purpose of either of the following: 511

(i) Examining or acquiring data stored in or accessible to 512
the computer equipment; 513

(ii) Placing data into the computer equipment to be 514
retrieved by designated recipients with access to the computer 515
equipment. 516

"Electronic information services" does not include 517
electronic publishing. 518

(d) "Automatic data processing, computer services, or 519
electronic information services" shall not include personal or 520
professional services. 521

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 522
section, "personal and professional services" means all services 523
other than automatic data processing, computer services, or 524
electronic information services, including but not limited to: 525

(a) Accounting and legal services such as advice on tax 526
matters, asset management, budgetary matters, quality control, 527
information security, and auditing and any other situation where 528
the service provider receives data or information and studies, 529
alters, analyzes, interprets, or adjusts such material; 530

(b) Analyzing business policies and procedures; 531

(c) Identifying management information needs; 532

(d) Feasibility studies, including economic and technical 533
analysis of existing or potential computer hardware or software 534
needs and alternatives; 535

(e) Designing policies, procedures, and custom software 536
for collecting business information, and determining how data 537
should be summarized, sequenced, formatted, processed, 538
controlled, and reported so that it will be meaningful to 539
management; 540

(f) Developing policies and procedures that document how 541

business events and transactions are to be authorized, executed, and controlled;	542 543
(g) Testing of business procedures;	544
(h) Training personnel in business procedure applications;	545
(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 limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	546 547 548 549 550 551 552
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	553 554
(k) Providing digital advertising services;	555
<u>(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any such individual income tax to such an entity. For the purpose of this division, "individual income tax" does not include federal, state, or local taxes withheld by an employer from an employee's compensation.</u>	556 557 558 559 560 561 562 563
The services listed in divisions (Y) (2) (a) to (k) <u>(l)</u> of this section are not automatic data processing or computer services.	564 565 566
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	567 568 569

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

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

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

(AA) (1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes 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, 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:

(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	600
the processed data or information;	601
(b) Installation or maintenance of wiring or equipment on	602
a customer's premises;	603
(c) Tangible personal property;	604
(d) Advertising, including directory advertising;	605
(e) Billing and collection services provided to third	606
parties;	607
(f) Internet access service;	608
(g) Radio and television audio and video programming	609
services, regardless of the medium, including the furnishing of	610
transmission, conveyance, and routing of such services by the	611
programming service provider. Radio and television audio and	612
video programming services include, but are not limited to,	613
cable service, as defined in 47 U.S.C. 522(6), and audio and	614
video programming services delivered by commercial mobile radio	615
service providers, as defined in 47 C.F.R. 20.3;	616
(h) Ancillary service;	617
(i) Digital products delivered electronically, including	618
software, music, video, reading materials, or ring tones.	619
(2) "Ancillary service" means a service that is associated	620
with or incidental to the provision of telecommunications	621
service, including conference bridging service, detailed	622
telecommunications billing service, directory assistance,	623
vertical service, and voice mail service. As used in this	624
division:	625
(a) "Conference bridging service" means an ancillary	626

service that links two or more participants of an audio or video conference call, including providing a telephone number. 627
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"Conference bridging service" does not include 629
telecommunications services used to reach the conference bridge. 630

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 631
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 634
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(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. 636
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(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. 641
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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. 646
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(4) "Prepaid calling service" means the right to access 656
exclusively telecommunications services, which must be paid for 657
in advance and which enables the origination of calls using an 658
access number or authorization code, whether manually or 659
electronically dialed, and that is sold in predetermined units 660
or dollars of which the number declines with use in a known 661
amount. 662

(5) "Prepaid wireless calling service" means a 663
telecommunications service that provides the right to utilize 664
mobile telecommunications service as well as other non- 665
telecommunications services, including the download of digital 666
products delivered electronically, and content and ancillary 667
services, that must be paid for in advance and that is sold in 668
predetermined units or dollars of which the number declines with 669
use in a known amount. 670

(6) "Value-added non-voice data service" means a 671
telecommunications service in which computer processing 672
applications are used to act on the form, content, code, or 673
protocol of the information or data primarily for a purpose 674
other than transmission, conveyance, or routing. 675

(7) "Coin-operated telephone service" means a 676
telecommunications service paid for by inserting money into a 677
telephone accepting direct deposits of money to operate. 678

(8) "Customer" has the same meaning as in section 5739.034 679
of the Revised Code. 680

(BB) "Laundry and dry cleaning services" means removing 681
soil or dirt from towels, linens, articles of clothing, or other 682
fabric items that belong to others and supplying towels, linens, 683
articles of clothing, or other fabric items. "Laundry and dry 684

cleaning services" does not include the provision of self- 685
service facilities for use by consumers to remove soil or dirt 686
from towels, linens, articles of clothing, or other fabric 687
items. 688

(CC) "Magazines distributed as controlled circulation 689
publications" means magazines containing at least twenty-four 690
pages, at least twenty-five per cent editorial content, issued 691
at regular intervals four or more times a year, and circulated 692
without charge to the recipient, provided that such magazines 693
are not owned or controlled by individuals or business concerns 694
which conduct such publications as an auxiliary to, and 695
essentially for the advancement of the main business or calling 696
of, those who own or control them. 697

(DD) "Landscaping and lawn care service" means the 698
services of planting, seeding, sodding, removing, cutting, 699
trimming, pruning, mulching, aerating, applying chemicals, 700
watering, fertilizing, and providing similar services to 701
establish, promote, or control the growth of trees, shrubs, 702
flowers, grass, ground cover, and other flora, or otherwise 703
maintaining a lawn or landscape grown or maintained by the owner 704
for ornamentation or other nonagricultural purpose. However, 705
"landscaping and lawn care service" does not include the 706
providing of such services by a person who has less than five 707
thousand dollars in sales of such services during the calendar 708
year. 709

(EE) "Private investigation and security service" means 710
the performance of any activity for which the provider of such 711
service is required to be licensed pursuant to Chapter 4749. of 712
the Revised Code, or would be required to be so licensed in 713
performing such services in this state, and also includes the 714

services of conducting polygraph examinations and of monitoring 715
or overseeing the activities on or in, or the condition of, the 716
consumer's home, business, or other facility by means of 717
electronic or similar monitoring devices. "Private investigation 718
and security service" does not include special duty services 719
provided by off-duty police officers, deputy sheriffs, and other 720
peace officers regularly employed by the state or a political 721
subdivision. 722

(FF) "Information services" means providing conversation, 723
giving consultation or advice, playing or making a voice or 724
other recording, making or keeping a record of the number of 725
callers, and any other service provided to a consumer by means 726
of a nine hundred telephone call, except when the nine hundred 727
telephone call is the means by which the consumer makes a 728
contribution to a recognized charity. 729

(GG) "Research and development" means designing, creating, 730
or formulating new or enhanced products, equipment, or 731
manufacturing processes, and also means conducting scientific or 732
technological inquiry and experimentation in the physical 733
sciences with the goal of increasing scientific knowledge which 734
may reveal the bases for new or enhanced products, equipment, or 735
manufacturing processes. 736

(HH) "Qualified research and development equipment" means 737
capitalized tangible personal property, and leased personal 738
property that would be capitalized if purchased, used by a 739
person primarily to perform research and development. Tangible 740
personal property primarily used in testing, as defined in 741
division (A)(4) of section 5739.011 of the Revised Code, or used 742
for recording or storing test results, is not qualified research 743
and development equipment unless such property is primarily used 744

by the consumer in testing the product, equipment, or 745
manufacturing process being created, designed, or formulated by 746
the consumer in the research and development activity or in 747
recording or storing such test results. 748

(II) "Building maintenance and janitorial service" means 749
cleaning the interior or exterior of a building and any tangible 750
personal property located therein or thereon, including any 751
services incidental to such cleaning for which no separate 752
charge is made. However, "building maintenance and janitorial 753
service" does not include the providing of such service by a 754
person who has less than five thousand dollars in sales of such 755
service during the calendar year. As used in this division, 756
"cleaning" does not include sanitation services necessary for an 757
establishment described in 21 U.S.C. 608 to comply with rules 758
and regulations adopted pursuant to that section. 759

(JJ) "Exterminating service" means eradicating or 760
attempting to eradicate vermin infestations from a building or 761
structure, or the area surrounding a building or structure, and 762
includes activities to inspect, detect, or prevent vermin 763
infestation of a building or structure. 764

(KK) "Physical fitness facility service" means all 765
transactions by which a membership is granted, maintained, or 766
renewed, including initiation fees, membership dues, renewal 767
fees, monthly minimum fees, and other similar fees and dues, by 768
a physical fitness facility such as an athletic club, health 769
spa, or gymnasium, which entitles the member to use the facility 770
for physical exercise. 771

(LL) "Recreation and sports club service" means all 772
transactions by which a membership is granted, maintained, or 773
renewed, including initiation fees, membership dues, renewal 774

fees, monthly minimum fees, and other similar fees and dues, by 775
a recreation and sports club, which entitles the member to use 776
the facilities of the organization. "Recreation and sports club" 777
means an organization that has ownership of, or controls or 778
leases on a continuing, long-term basis, the facilities used by 779
its members and includes an aviation club, gun or shooting club, 780
yacht club, card club, swimming club, tennis club, golf club, 781
country club, riding club, amateur sports club, or similar 782
organization. 783

(MM) "Livestock" means farm animals commonly raised for 784
food, food production, or other agricultural purposes, 785
including, but not limited to, cattle, sheep, goats, swine, 786
poultry, and captive deer. "Livestock" does not include 787
invertebrates, amphibians, reptiles, domestic pets, animals for 788
use in laboratories or for exhibition, or other animals not 789
commonly raised for food or food production. 790

(NN) "Livestock structure" means a building or structure 791
used exclusively for the housing, raising, feeding, or 792
sheltering of livestock, and includes feed storage or handling 793
structures and structures for livestock waste handling. 794

(OO) "Horticulture" means the growing, cultivation, and 795
production of flowers, fruits, herbs, vegetables, sod, 796
mushrooms, and nursery stock. As used in this division, "nursery 797
stock" has the same meaning as in section 927.51 of the Revised 798
Code. 799

(PP) "Horticulture structure" means a building or 800
structure used exclusively for the commercial growing, raising, 801
or overwintering of horticultural products, and includes the 802
area used for stocking, storing, and packing horticultural 803
products when done in conjunction with the production of those 804

products. 805

(QQ) "Newspaper" means an unbound publication bearing a 806
title or name that is regularly published, at least as 807
frequently as biweekly, and distributed from a fixed place of 808
business to the public in a specific geographic area, and that 809
contains a substantial amount of news matter of international, 810
national, or local events of interest to the general public. 811

(RR) (1) "Feminine hygiene products" means tampons, panty 812
liners, menstrual cups, sanitary napkins, and other similar 813
tangible personal property designed for feminine hygiene in 814
connection with the human menstrual cycle, but does not include 815
grooming and hygiene products. 816

(2) "Grooming and hygiene products" means soaps and 817
cleaning solutions, shampoo, toothpaste, mouthwash, 818
antiperspirants, and sun tan lotions and screens, regardless of 819
whether any of these products are over-the-counter drugs. 820

(3) "Over-the-counter drugs" means a drug that contains a 821
label that identifies the product as a drug as required by 21 822
C.F.R. 201.66, which label includes a drug facts panel or a 823
statement of the active ingredients with a list of those 824
ingredients contained in the compound, substance, or 825
preparation. 826

(SS) (1) "Lease" or "rental" means any transfer of the 827
possession or control of tangible personal property for a fixed 828
or indefinite term, for consideration. "Lease" or "rental" 829
includes future options to purchase or extend, and agreements 830
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 831
trailers where the amount of consideration may be increased or 832
decreased by reference to the amount realized upon the sale or 833

disposition of the property. "Lease" or "rental" does not
include:

(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;

(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;

(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.

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

(3) "Lease" and "rental" have the same meaning as in
division (SS) (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.

(TT) "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, 863
detailed billing service, directory assistance, service 864
initiation, voice mail service, and vertical services, such as 865
caller ID and three-way calling. 866

(UU) "Certified service provider" has the same meaning as 867
in section 5740.01 of the Revised Code. 868

(VV) "Satellite broadcasting service" means the 869
distribution or broadcasting of programming or services by 870
satellite directly to the subscriber's receiving equipment 871
without the use of ground receiving or distribution equipment, 872
except the subscriber's receiving equipment or equipment used in 873
the uplink process to the satellite, and includes all service 874
and rental charges, premium channels or other special services, 875
installation and repair service charges, and any other charges 876
having any connection with the provision of the satellite 877
broadcasting service. 878

(WW) "Tangible personal property" means personal property 879
that can be seen, weighed, measured, felt, or touched, or that 880
is in any other manner perceptible to the senses. For purposes 881
of this chapter and Chapter 5741. of the Revised Code, "tangible 882
personal property" includes motor vehicles, electricity, water, 883
gas, steam, and prewritten computer software. 884

(XX) "Municipal gas utility" means a municipal corporation 885
that owns or operates a system for the distribution of natural 886
gas. 887

(YY) "Computer" means an electronic device that accepts 888
information in digital or similar form and manipulates it for a 889
result based on a sequence of instructions. 890

(ZZ) "Computer software" means a set of coded instructions 891

designed to cause a computer or automatic data processing 892
equipment to perform a task. 893

(AAA) "Delivered electronically" means delivery of 894
computer software from the seller to the purchaser by means 895
other than tangible storage media. 896

(BBB) "Prewritten computer software" means computer 897
software, including prewritten upgrades, that is not designed 898
and developed by the author or other creator to the 899
specifications of a specific purchaser. The combining of two or 900
more prewritten computer software programs or prewritten 901
portions thereof does not cause the combination to be other than 902
prewritten computer software. "Prewritten computer software" 903
includes software designed and developed by the author or other 904
creator to the specifications of a specific purchaser when it is 905
sold to a person other than the purchaser. If a person modifies 906
or enhances computer software of which the person is not the 907
author or creator, the person shall be deemed to be the author 908
or creator only of such person's modifications or enhancements. 909
Prewritten computer software or a prewritten portion thereof 910
that is modified or enhanced to any degree, where such 911
modification or enhancement is designed and developed to the 912
specifications of a specific purchaser, remains prewritten 913
computer software; provided, however, that where there is a 914
reasonable, separately stated charge or an invoice or other 915
statement of the price given to the purchaser for the 916
modification or enhancement, the modification or enhancement 917
shall not constitute prewritten computer software. 918

(CCC) (1) "Food" means substances, whether in liquid, 919
concentrated, solid, frozen, dried, or dehydrated form, that are 920
sold for ingestion or chewing by humans and are consumed for 921

their taste or nutritional value. "Food" does not include 922
alcoholic beverages, dietary supplements, soft drinks, or 923
tobacco. 924

(2) As used in division (CCC) (1) of this section: 925

(a) "Alcoholic beverages" means beverages that are 926
suitable for human consumption and contain one-half of one per 927
cent or more of alcohol by volume. 928

(b) "Dietary supplements" means any product, other than 929
tobacco, that is intended to supplement the diet and that is 930
intended for ingestion in tablet, capsule, powder, softgel, 931
gelcap, or liquid form, or, if not intended for ingestion in 932
such a form, is not represented as conventional food for use as 933
a sole item of a meal or of the diet; that is required to be 934
labeled as a dietary supplement, identifiable by the "supplement 935
facts" box found on the label, as required by 21 C.F.R. 101.36; 936
and that contains one or more of the following dietary 937
ingredients: 938

(i) A vitamin; 939

(ii) A mineral; 940

(iii) An herb or other botanical; 941

(iv) An amino acid; 942

(v) A dietary substance for use by humans to supplement 943
the diet by increasing the total dietary intake; 944

(vi) A concentrate, metabolite, constituent, extract, or 945
combination of any ingredient described in divisions (CCC) (2) (b) 946
(i) to (v) of this section. 947

(c) "Soft drinks" means nonalcoholic beverages that 948

contain natural or artificial sweeteners. "Soft drinks" does not 949
include beverages that contain milk or milk products, soy, rice, 950
or similar milk substitutes, or that contains greater than fifty 951
per cent vegetable or fruit juice by volume. 952

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 953
tobacco, or any other item that contains tobacco. 954

(DDD) "Drug" means a compound, substance, or preparation, 955
and any component of a compound, substance, or preparation, 956
other than food, dietary supplements, or alcoholic beverages 957
that is recognized in the official United States pharmacopoeia, 958
official homeopathic pharmacopoeia of the United States, or 959
official national formulary, and supplements to them; is 960
intended for use in the diagnosis, cure, mitigation, treatment, 961
or prevention of disease; or is intended to affect the structure 962
or any function of the body. 963

(EEE) "Prescription" means an order, formula, or recipe 964
issued in any form of oral, written, electronic, or other means 965
of transmission by a duly licensed practitioner authorized by 966
the laws of this state to issue a prescription. 967

(FFF) "Durable medical equipment" means equipment, 968
including repair and replacement parts for such equipment, that 969
can withstand repeated use, is primarily and customarily used to 970
serve a medical purpose, generally is not useful to a person in 971
the absence of illness or injury, and is not worn in or on the 972
body. "Durable medical equipment" does not include mobility 973
enhancing equipment. 974

(GGG) "Mobility enhancing equipment" means equipment, 975
including repair and replacement parts for such equipment, that 976
is primarily and customarily used to provide or increase the 977

ability to move from one place to another and is appropriate for 978
use either in a home or a motor vehicle, that is not generally 979
used by persons with normal mobility, and that does not include 980
any motor vehicle or equipment on a motor vehicle normally 981
provided by a motor vehicle manufacturer. "Mobility enhancing 982
equipment" does not include durable medical equipment. 983

(HHH) "Prosthetic device" means a replacement, corrective, 984
or supportive device, including repair and replacement parts for 985
the device, worn on or in the human body to artificially replace 986
a missing portion of the body, prevent or correct physical 987
deformity or malfunction, or support a weak or deformed portion 988
of the body. As used in this division, before July 1, 2019, 989
"prosthetic device" does not include corrective eyeglasses, 990
contact lenses, or dental prosthesis. On or after July 1, 2019, 991
"prosthetic device" does not include dental prosthesis but does 992
include corrective eyeglasses or contact lenses. 993

(III) (1) "Fractional aircraft ownership program" means a 994
program in which persons within an affiliated group sell and 995
manage fractional ownership program aircraft, provided that at 996
least one hundred airworthy aircraft are operated in the program 997
and the program meets all of the following criteria: 998

(a) Management services are provided by at least one 999
program manager within an affiliated group on behalf of the 1000
fractional owners. 1001

(b) Each program aircraft is owned or possessed by at 1002
least one fractional owner. 1003

(c) Each fractional owner owns or possesses at least a 1004
one-sixteenth interest in at least one fixed-wing program 1005
aircraft. 1006

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners. 1007
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(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 1009
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(2) As used in division (III)(1) of this section: 1012

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 1013
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(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 (III)(1)(e) of this section. 1015
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(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 aircraft interchange arrangement and agreement under divisions (III)(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. 1019
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(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 (III)(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 1026
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fractional owner; the satisfaction of record-keeping 1036
requirements; and the development and use of an operations 1037
manual and a maintenance manual for the fractional aircraft 1038
ownership program. 1039

(e) "Program manager" means the person that offers 1040
management services to fractional owners pursuant to a 1041
management services agreement under division (III)(1)(e) of this 1042
section. 1043

(JJJ) "Electronic publishing" means providing access to 1044
one or more of the following primarily for business customers, 1045
including the federal government or a state government or a 1046
political subdivision thereof, to conduct research: news; 1047
business, financial, legal, consumer, or credit materials; 1048
editorials, columns, reader commentary, or features; photos or 1049
images; archival or research material; legal notices, identity 1050
verification, or public records; scientific, educational, 1051
instructional, technical, professional, trade, or other literary 1052
materials; or other similar information which has been gathered 1053
and made available by the provider to the consumer in an 1054
electronic format. Providing electronic publishing includes the 1055
functions necessary for the acquisition, formatting, editing, 1056
storage, and dissemination of data or information that is the 1057
subject of a sale. 1058

(KKK) "Medicaid health insuring corporation" means a 1059
health insuring corporation that holds a certificate of 1060
authority under Chapter 1751. of the Revised Code and is under 1061
contract with the department of medicaid pursuant to section 1062
5167.10 of the Revised Code. 1063

(LLL) "Managed care premium" means any premium, 1064
capitation, or other payment a medicaid health insuring 1065

corporation receives for providing or arranging for the 1066
provision of health care services to its members or enrollees 1067
residing in this state. 1068

(MMM) "Captive deer" means deer and other cervidae that 1069
have been legally acquired, or their offspring, that are 1070
privately owned for agricultural or farming purposes. 1071

(NNN) "Gift card" means a document, card, certificate, or 1072
other record, whether tangible or intangible, that may be 1073
redeemed by a consumer for a dollar value when making a purchase 1074
of tangible personal property or services. 1075

(OOO) "Specified digital product" means an electronically 1076
transferred digital audiovisual work, digital audio work, or 1077
digital book. 1078

As used in division (OOO) of this section: 1079

(1) "Digital audiovisual work" means a series of related 1080
images that, when shown in succession, impart an impression of 1081
motion, together with accompanying sounds, if any. 1082

(2) "Digital audio work" means a work that results from 1083
the fixation of a series of musical, spoken, or other sounds, 1084
including digitized sound files that are downloaded onto a 1085
device and that may be used to alert the customer with respect 1086
to a communication. 1087

(3) "Digital book" means a work that is generally 1088
recognized in the ordinary and usual sense as a book. 1089

(4) "Electronically transferred" means obtained by the 1090
purchaser by means other than tangible storage media. 1091

(PPP) "Digital advertising services" means providing 1092
access, by means of telecommunications equipment, to computer 1093

equipment that is used to enter, upload, download, review, 1094
manipulate, store, add, or delete data for the purpose of 1095
electronically displaying, delivering, placing, or transferring 1096
promotional advertisements to potential customers about products 1097
or services or about industry or business brands. 1098

(QQQ) "Peer-to-peer car sharing program" has the same 1099
meaning as in section 4516.01 of the Revised Code. 1100

Sec. 5739.02. For the purpose of providing revenue with 1101
which to meet the needs of the state, for the use of the general 1102
revenue fund of the state, for the purpose of securing a 1103
thorough and efficient system of common schools throughout the 1104
state, for the purpose of affording revenues, in addition to 1105
those from general property taxes, permitted under 1106
constitutional limitations, and from other sources, for the 1107
support of local governmental functions, and for the purpose of 1108
reimbursing the state for the expense of administering this 1109
chapter, an excise tax is hereby levied on each retail sale made 1110
in this state. 1111

(A) (1) The tax shall be collected as provided in section 1112
5739.025 of the Revised Code. The rate of the tax shall be five 1113
and three-fourths per cent. The tax applies and is collectible 1114
when the sale is made, regardless of the time when the price is 1115
paid or delivered. 1116

(2) In the case of the lease or rental, with a fixed term 1117
of more than thirty days or an indefinite term with a minimum 1118
period of more than thirty days, of any motor vehicles designed 1119
by the manufacturer to carry a load of not more than one ton, 1120
watercraft, outboard motor, or aircraft, or of any tangible 1121
personal property, other than motor vehicles designed by the 1122
manufacturer to carry a load of more than one ton, to be used by 1123

the lessee or renter primarily for business purposes, the tax 1124
shall be collected by the vendor at the time the lease or rental 1125
is consummated and shall be calculated by the vendor on the 1126
basis of the total amount to be paid by the lessee or renter 1127
under the lease agreement. If the total amount of the 1128
consideration for the lease or rental includes amounts that are 1129
not calculated at the time the lease or rental is executed, the 1130
tax shall be calculated and collected by the vendor at the time 1131
such amounts are billed to the lessee or renter. In the case of 1132
an open-end lease or rental, the tax shall be calculated by the 1133
vendor on the basis of the total amount to be paid during the 1134
initial fixed term of the lease or rental, and for each 1135
subsequent renewal period as it comes due. As used in this 1136
division, "motor vehicle" has the same meaning as in section 1137
4501.01 of the Revised Code, and "watercraft" includes an 1138
outdrive unit attached to the watercraft. 1139

A lease with a renewal clause and a termination penalty or 1140
similar provision that applies if the renewal clause is not 1141
exercised is presumed to be a sham transaction. In such a case, 1142
the tax shall be calculated and paid on the basis of the entire 1143
length of the lease period, including any renewal periods, until 1144
the termination penalty or similar provision no longer applies. 1145
The taxpayer shall bear the burden, by a preponderance of the 1146
evidence, that the transaction or series of transactions is not 1147
a sham transaction. 1148

(3) Except as provided in division (A) (2) of this section, 1149
in the case of a sale, the price of which consists in whole or 1150
in part of the lease or rental of tangible personal property, 1151
the tax shall be measured by the installments of that lease or 1152
rental. 1153

(4) In the case of a sale of a physical fitness facility 1154
service or recreation and sports club service, the price of 1155
which consists in whole or in part of a membership for the 1156
receipt of the benefit of the service, the tax applicable to the 1157
sale shall be measured by the installments thereof. 1158

(B) The tax does not apply to the following: 1159

(1) Sales to the state or any of its political 1160
subdivisions, or to any other state or its political 1161
subdivisions if the laws of that state exempt from taxation 1162
sales made to this state and its political subdivisions; 1163

(2) Sales of food for human consumption off the premises 1164
where sold; 1165

(3) Sales of food sold to students only in a cafeteria, 1166
dormitory, fraternity, or sorority maintained in a private, 1167
public, or parochial school, college, or university; 1168

(4) Sales of newspapers and sales or transfers of 1169
magazines distributed as controlled circulation publications; 1170

(5) The furnishing, preparing, or serving of meals without 1171
charge by an employer to an employee provided the employer 1172
records the meals as part compensation for services performed or 1173
work done; 1174

(6) (a) Sales of motor fuel upon receipt, use, 1175
distribution, or sale of which in this state a tax is imposed by 1176
the law of this state, but this exemption shall not apply to the 1177
sale of motor fuel on which a refund of the tax is allowable 1178
under division (A) of section 5735.14 of the Revised Code; and 1179
the tax commissioner may deduct the amount of tax levied by this 1180
section applicable to the price of motor fuel when granting a 1181
refund of motor fuel tax pursuant to division (A) of section 1182

5735.14 of the Revised Code and shall cause the amount deducted 1183
to be paid into the general revenue fund of this state; 1184

(b) Sales of motor fuel other than that described in 1185
division (B) (6) (a) of this section and used for powering a 1186
refrigeration unit on a vehicle other than one used primarily to 1187
provide comfort to the operator or occupants of the vehicle. 1188

(7) Sales of natural gas by a natural gas company or 1189
municipal gas utility, of water by a water-works company, or of 1190
steam by a heating company, if in each case the thing sold is 1191
delivered to consumers through pipes or conduits, and all sales 1192
of communications services by a telegraph company, all terms as 1193
defined in section 5727.01 of the Revised Code, and sales of 1194
electricity delivered through wires; 1195

(8) Casual sales by a person, or auctioneer employed 1196
directly by the person to conduct such sales, except as to such 1197
sales of motor vehicles, watercraft or outboard motors required 1198
to be titled under section 1548.06 of the Revised Code, 1199
watercraft documented with the United States coast guard, 1200
snowmobiles, and all-purpose vehicles as defined in section 1201
4519.01 of the Revised Code; 1202

(9) (a) Sales of services or tangible personal property, 1203
other than motor vehicles, mobile homes, and manufactured homes, 1204
by churches, organizations exempt from taxation under section 1205
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 1206
organizations operated exclusively for charitable purposes as 1207
defined in division (B) (12) of this section, provided that the 1208
number of days on which such tangible personal property or 1209
services, other than items never subject to the tax, are sold 1210
does not exceed six in any calendar year, except as otherwise 1211
provided in division (B) (9) (b) of this section. If the number of 1212

days on which such sales are made exceeds six in any calendar 1213
year, the church or organization shall be considered to be 1214
engaged in business and all subsequent sales by it shall be 1215
subject to the tax. In counting the number of days, all sales by 1216
groups within a church or within an organization shall be 1217
considered to be sales of that church or organization. 1218

(b) The limitation on the number of days on which tax- 1219
exempt sales may be made by a church or organization under 1220
division (B) (9) (a) of this section does not apply to sales made 1221
by student clubs and other groups of students of a primary or 1222
secondary school, or a parent-teacher association, booster 1223
group, or similar organization that raises money to support or 1224
fund curricular or extracurricular activities of a primary or 1225
secondary school. 1226

(c) Divisions (B) (9) (a) and (b) of this section do not 1227
apply to sales by a noncommercial educational radio or 1228
television broadcasting station. 1229

(10) Sales not within the taxing power of this state under 1230
the Constitution or laws of the United States or the 1231
Constitution of this state; 1232

(11) Except for transactions that are sales under division 1233
(B) (3) (p) of section 5739.01 of the Revised Code, the 1234
transportation of persons or property, unless the transportation 1235
is by a private investigation and security service; 1236

(12) Sales of tangible personal property or services to 1237
churches, to organizations exempt from taxation under section 1238
501(c) (3) of the Internal Revenue Code of 1986, and to any other 1239
nonprofit organizations operated exclusively for charitable 1240
purposes in this state, no part of the net income of which 1241

inures to the benefit of any private shareholder or individual, 1242
and no substantial part of the activities of which consists of 1243
carrying on propaganda or otherwise attempting to influence 1244
legislation; sales to offices administering one or more homes 1245
for the aged or one or more hospital facilities exempt under 1246
section 140.08 of the Revised Code; and sales to organizations 1247
described in division (D) of section 5709.12 of the Revised 1248
Code. 1249

"Charitable purposes" means the relief of poverty; the 1250
improvement of health through the alleviation of illness, 1251
disease, or injury; the operation of an organization exclusively 1252
for the provision of professional, laundry, printing, and 1253
purchasing services to hospitals or charitable institutions; the 1254
operation of a home for the aged, as defined in section 5701.13 1255
of the Revised Code; the operation of a radio or television 1256
broadcasting station that is licensed by the federal 1257
communications commission as a noncommercial educational radio 1258
or television station; the operation of a nonprofit animal 1259
adoption service or a county humane society; the promotion of 1260
education by an institution of learning that maintains a faculty 1261
of qualified instructors, teaches regular continuous courses of 1262
study, and confers a recognized diploma upon completion of a 1263
specific curriculum; the operation of a parent-teacher 1264
association, booster group, or similar organization primarily 1265
engaged in the promotion and support of the curricular or 1266
extracurricular activities of a primary or secondary school; the 1267
operation of a community or area center in which presentations 1268
in music, dramatics, the arts, and related fields are made in 1269
order to foster public interest and education therein; the 1270
production of performances in music, dramatics, and the arts; or 1271
the promotion of education by an organization engaged in 1272

carrying on research in, or the dissemination of, scientific and 1273
technological knowledge and information primarily for the 1274
public. 1275

Nothing in this division shall be deemed to exempt sales 1276
to any organization for use in the operation or carrying on of a 1277
trade or business, or sales to a home for the aged for use in 1278
the operation of independent living facilities as defined in 1279
division (A) of section 5709.12 of the Revised Code. 1280

(13) Building and construction materials and services sold 1281
to construction contractors for incorporation into a structure 1282
or improvement to real property under a construction contract 1283
with this state or a political subdivision of this state, or 1284
with the United States government or any of its agencies; 1285
building and construction materials and services sold to 1286
construction contractors for incorporation into a structure or 1287
improvement to real property that are accepted for ownership by 1288
this state or any of its political subdivisions, or by the 1289
United States government or any of its agencies at the time of 1290
completion of the structures or improvements; building and 1291
construction materials sold to construction contractors for 1292
incorporation into a horticulture structure or livestock 1293
structure for a person engaged in the business of horticulture 1294
or producing livestock; building materials and services sold to 1295
a construction contractor for incorporation into a house of 1296
public worship or religious education, or a building used 1297
exclusively for charitable purposes under a construction 1298
contract with an organization whose purpose is as described in 1299
division (B) (12) of this section; building materials and 1300
services sold to a construction contractor for incorporation 1301
into a building under a construction contract with an 1302
organization exempt from taxation under section 501(c) (3) of the 1303

Internal Revenue Code of 1986 when the building is to be used 1304
exclusively for the organization's exempt purposes; building and 1305
construction materials sold for incorporation into the original 1306
construction of a sports facility under section 307.696 of the 1307
Revised Code; building and construction materials and services 1308
sold to a construction contractor for incorporation into real 1309
property outside this state if such materials and services, when 1310
sold to a construction contractor in the state in which the real 1311
property is located for incorporation into real property in that 1312
state, would be exempt from a tax on sales levied by that state; 1313
building and construction materials for incorporation into a 1314
transportation facility pursuant to a public-private agreement 1315
entered into under sections 5501.70 to 5501.83 of the Revised 1316
Code; and, until one calendar year after the construction of a 1317
convention center that qualifies for property tax exemption 1318
under section 5709.084 of the Revised Code is completed, 1319
building and construction materials and services sold to a 1320
construction contractor for incorporation into the real property 1321
comprising that convention center; 1322

(14) Sales of ships or vessels or rail rolling stock used 1323
or to be used principally in interstate or foreign commerce, and 1324
repairs, alterations, fuel, and lubricants for such ships or 1325
vessels or rail rolling stock; 1326

(15) Sales to persons primarily engaged in any of the 1327
activities mentioned in division (B) (42) (a), (g), or (h) of this 1328
section, to persons engaged in making retail sales, or to 1329
persons who purchase for sale from a manufacturer tangible 1330
personal property that was produced by the manufacturer in 1331
accordance with specific designs provided by the purchaser, of 1332
packages, including material, labels, and parts for packages, 1333
and of machinery, equipment, and material for use primarily in 1334

packaging tangible personal property produced for sale, 1335
including any machinery, equipment, and supplies used to make 1336
labels or packages, to prepare packages or products for 1337
labeling, or to label packages or products, by or on the order 1338
of the person doing the packaging, or sold at retail. "Packages" 1339
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1340
bindings, wrappings, and other similar devices and containers, 1341
but does not include motor vehicles or bulk tanks, trailers, or 1342
similar devices attached to motor vehicles. "Packaging" means 1343
placing in a package. Division (B) (15) of this section does not 1344
apply to persons engaged in highway transportation for hire. 1345

(16) Sales of food to persons using supplemental nutrition 1346
assistance program benefits to purchase the food. As used in 1347
this division, "food" has the same meaning as in 7 U.S.C. 2012 1348
and federal regulations adopted pursuant to the Food and 1349
Nutrition Act of 2008. 1350

(17) Sales to persons engaged in farming, agriculture, 1351
horticulture, or floriculture, of tangible personal property for 1352
use or consumption primarily in the production by farming, 1353
agriculture, horticulture, or floriculture of other tangible 1354
personal property for use or consumption primarily in the 1355
production of tangible personal property for sale by farming, 1356
agriculture, horticulture, or floriculture; or material and 1357
parts for incorporation into any such tangible personal property 1358
for use or consumption in production; and of tangible personal 1359
property for such use or consumption in the conditioning or 1360
holding of products produced by and for such use, consumption, 1361
or sale by persons engaged in farming, agriculture, 1362
horticulture, or floriculture, except where such property is 1363
incorporated into real property; 1364

(18) Sales of drugs for a human being that may be	1365
dispensed only pursuant to a prescription; insulin as recognized	1366
in the official United States pharmacopoeia; urine and blood	1367
testing materials when used by diabetics or persons with	1368
hypoglycemia to test for glucose or acetone; hypodermic syringes	1369
and needles when used by diabetics for insulin injections;	1370
epoetin alfa when purchased for use in the treatment of persons	1371
with medical disease; hospital beds when purchased by hospitals,	1372
nursing homes, or other medical facilities; and medical oxygen	1373
and medical oxygen-dispensing equipment when purchased by	1374
hospitals, nursing homes, or other medical facilities;	1375
(19) Sales of prosthetic devices, durable medical	1376
equipment for home use, or mobility enhancing equipment, when	1377
made pursuant to a prescription and when such devices or	1378
equipment are for use by a human being.	1379
(20) Sales of emergency and fire protection vehicles and	1380
equipment to nonprofit organizations for use solely in providing	1381
fire protection and emergency services, including trauma care	1382
and emergency medical services, for political subdivisions of	1383
the state;	1384
(21) Sales of tangible personal property manufactured in	1385
this state, if sold by the manufacturer in this state to a	1386
retailer for use in the retail business of the retailer outside	1387
of this state and if possession is taken from the manufacturer	1388
by the purchaser within this state for the sole purpose of	1389
immediately removing the same from this state in a vehicle owned	1390
by the purchaser;	1391
(22) Sales of services provided by the state or any of its	1392
political subdivisions, agencies, instrumentalities,	1393
institutions, or authorities, or by governmental entities of the	1394

state or any of its political subdivisions, agencies,	1395
instrumentalities, institutions, or authorities;	1396
(23) Sales of motor vehicles to nonresidents of this state	1397
under the circumstances described in division (B) of section	1398
5739.029 of the Revised Code;	1399
(24) Sales to persons engaged in the preparation of eggs	1400
for sale of tangible personal property used or consumed directly	1401
in such preparation, including such tangible personal property	1402
used for cleaning, sanitizing, preserving, grading, sorting, and	1403
classifying by size; packages, including material and parts for	1404
packages, and machinery, equipment, and material for use in	1405
packaging eggs for sale; and handling and transportation	1406
equipment and parts therefor, except motor vehicles licensed to	1407
operate on public highways, used in intraplant or interplant	1408
transfers or shipment of eggs in the process of preparation for	1409
sale, when the plant or plants within or between which such	1410
transfers or shipments occur are operated by the same person.	1411
"Packages" includes containers, cases, baskets, flats, fillers,	1412
filler flats, cartons, closure materials, labels, and labeling	1413
materials, and "packaging" means placing therein.	1414
(25) (a) Sales of water to a consumer for residential use;	1415
(b) Sales of water by a nonprofit corporation engaged	1416
exclusively in the treatment, distribution, and sale of water to	1417
consumers, if such water is delivered to consumers through pipes	1418
or tubing.	1419
(26) Fees charged for inspection or reinspection of motor	1420
vehicles under section 3704.14 of the Revised Code;	1421
(27) Sales to persons licensed to conduct a food service	1422
operation pursuant to section 3717.43 of the Revised Code, of	1423

tangible personal property primarily used directly for the	1424
following:	1425
(a) To prepare food for human consumption for sale;	1426
(b) To preserve food that has been or will be prepared for	1427
human consumption for sale by the food service operator, not	1428
including tangible personal property used to display food for	1429
selection by the consumer;	1430
(c) To clean tangible personal property used to prepare or	1431
serve food for human consumption for sale.	1432
(28) Sales of animals by nonprofit animal adoption	1433
services or county humane societies;	1434
(29) Sales of services to a corporation described in	1435
division (A) of section 5709.72 of the Revised Code, and sales	1436
of tangible personal property that qualifies for exemption from	1437
taxation under section 5709.72 of the Revised Code;	1438
(30) Sales and installation of agricultural land tile, as	1439
defined in division (B) (5) (a) of section 5739.01 of the Revised	1440
Code;	1441
(31) Sales and erection or installation of portable grain	1442
bins, as defined in division (B) (5) (b) of section 5739.01 of the	1443
Revised Code;	1444
(32) The sale, lease, repair, and maintenance of, parts	1445
for, or items attached to or incorporated in, motor vehicles	1446
that are primarily used for transporting tangible personal	1447
property belonging to others by a person engaged in highway	1448
transportation for hire, except for packages and packaging used	1449
for the transportation of tangible personal property;	1450
(33) Sales to the state headquarters of any veterans'	1451

organization in this state that is either incorporated and 1452
issued a charter by the congress of the United States or is 1453
recognized by the United States veterans administration, for use 1454
by the headquarters; 1455

(34) Sales to a telecommunications service vendor, mobile 1456
telecommunications service vendor, or satellite broadcasting 1457
service vendor of tangible personal property and services used 1458
directly and primarily in transmitting, receiving, switching, or 1459
recording any interactive, one- or two-way electromagnetic 1460
communications, including voice, image, data, and information, 1461
through the use of any medium, including, but not limited to, 1462
poles, wires, cables, switching equipment, computers, and record 1463
storage devices and media, and component parts for the tangible 1464
personal property. The exemption provided in this division shall 1465
be in lieu of all other exemptions under division (B) (42) (a) or 1466
(n) of this section to which the vendor may otherwise be 1467
entitled, based upon the use of the thing purchased in providing 1468
the telecommunications, mobile telecommunications, or satellite 1469
broadcasting service. 1470

(35) (a) Sales where the purpose of the consumer is to use 1471
or consume the things transferred in making retail sales and 1472
consisting of newspaper inserts, catalogues, coupons, flyers, 1473
gift certificates, or other advertising material that prices and 1474
describes tangible personal property offered for retail sale. 1475

(b) Sales to direct marketing vendors of preliminary 1476
materials such as photographs, artwork, and typesetting that 1477
will be used in printing advertising material; and of printed 1478
matter that offers free merchandise or chances to win sweepstake 1479
prizes and that is mailed to potential customers with 1480
advertising material described in division (B) (35) (a) of this 1481

section;	1482
(c) Sales of equipment such as telephones, computers,	1483
facsimile machines, and similar tangible personal property	1484
primarily used to accept orders for direct marketing retail	1485
sales.	1486
(d) Sales of automatic food vending machines that preserve	1487
food with a shelf life of forty-five days or less by	1488
refrigeration and dispense it to the consumer.	1489
For purposes of division (B) (35) of this section, "direct	1490
marketing" means the method of selling where consumers order	1491
tangible personal property by United States mail, delivery	1492
service, or telecommunication and the vendor delivers or ships	1493
the tangible personal property sold to the consumer from a	1494
warehouse, catalogue distribution center, or similar fulfillment	1495
facility by means of the United States mail, delivery service,	1496
or common carrier.	1497
(36) Sales to a person engaged in the business of	1498
horticulture or producing livestock of materials to be	1499
incorporated into a horticulture structure or livestock	1500
structure;	1501
(37) Sales of personal computers, computer monitors,	1502
computer keyboards, modems, and other peripheral computer	1503
equipment to an individual who is licensed or certified to teach	1504
in an elementary or a secondary school in this state for use by	1505
that individual in preparation for teaching elementary or	1506
secondary school students;	1507
(38) Sales of tangible personal property that is not	1508
required to be registered or licensed under the laws of this	1509
state to a citizen of a foreign nation that is not a citizen of	1510

the United States, provided the property is delivered to a 1511
person in this state that is not a related member of the 1512
purchaser, is physically present in this state for the sole 1513
purpose of temporary storage and package consolidation, and is 1514
subsequently delivered to the purchaser at a delivery address in 1515
a foreign nation. As used in division (B)(38) of this section, 1516
"related member" has the same meaning as in section 5733.042 of 1517
the Revised Code, and "temporary storage" means the storage of 1518
tangible personal property for a period of not more than sixty 1519
days. 1520

(39) Sales of used manufactured homes and used mobile 1521
homes, as defined in section 5739.0210 of the Revised Code, made 1522
on or after January 1, 2000; 1523

(40) Sales of tangible personal property and services to a 1524
provider of electricity used or consumed directly and primarily 1525
in generating, transmitting, or distributing electricity for use 1526
by others, including property that is or is to be incorporated 1527
into and will become a part of the consumer's production, 1528
transmission, or distribution system and that retains its 1529
classification as tangible personal property after 1530
incorporation; fuel or power used in the production, 1531
transmission, or distribution of electricity; energy conversion 1532
equipment as defined in section 5727.01 of the Revised Code; and 1533
tangible personal property and services used in the repair and 1534
maintenance of the production, transmission, or distribution 1535
system, including only those motor vehicles as are specially 1536
designed and equipped for such use. The exemption provided in 1537
this division shall be in lieu of all other exemptions in 1538
division (B)(42)(a) or (n) of this section to which a provider 1539
of electricity may otherwise be entitled based on the use of the 1540
tangible personal property or service purchased in generating, 1541

transmitting, or distributing electricity.	1542
(41) Sales to a person providing services under division	1543
(B) (3) (p) of section 5739.01 of the Revised Code of tangible	1544
personal property and services used directly and primarily in	1545
providing taxable services under that section.	1546
(42) Sales where the purpose of the purchaser is to do any	1547
of the following:	1548
(a) To incorporate the thing transferred as a material or	1549
a part into tangible personal property to be produced for sale	1550
by manufacturing, assembling, processing, or refining; or to use	1551
or consume the thing transferred directly in producing tangible	1552
personal property for sale by mining, including, without	1553
limitation, the extraction from the earth of all substances that	1554
are classed geologically as minerals, or directly in the	1555
rendition of a public utility service, except that the sales tax	1556
levied by this section shall be collected upon all meals,	1557
drinks, and food for human consumption sold when transporting	1558
persons. This paragraph does not exempt from "retail sale" or	1559
"sales at retail" the sale of tangible personal property that is	1560
to be incorporated into a structure or improvement to real	1561
property.	1562
(b) To hold the thing transferred as security for the	1563
performance of an obligation of the vendor;	1564
(c) To resell, hold, use, or consume the thing transferred	1565
as evidence of a contract of insurance;	1566
(d) To use or consume the thing directly in commercial	1567
fishing;	1568
(e) To incorporate the thing transferred as a material or	1569
a part into, or to use or consume the thing transferred directly	1570

in the production of, magazines distributed as controlled 1571
circulation publications; 1572

(f) To use or consume the thing transferred in the 1573
production and preparation in suitable condition for market and 1574
sale of printed, imprinted, overprinted, lithographic, 1575
multilithic, blueprinted, photostatic, or other productions or 1576
reproductions of written or graphic matter; 1577

(g) To use the thing transferred, as described in section 1578
5739.011 of the Revised Code, primarily in a manufacturing 1579
operation to produce tangible personal property for sale; 1580

(h) To use the benefit of a warranty, maintenance or 1581
service contract, or similar agreement, as described in division 1582
(B) (7) of section 5739.01 of the Revised Code, to repair or 1583
maintain tangible personal property, if all of the property that 1584
is the subject of the warranty, contract, or agreement would not 1585
be subject to the tax imposed by this section; 1586

(i) To use the thing transferred as qualified research and 1587
development equipment; 1588

(j) To use or consume the thing transferred primarily in 1589
storing, transporting, mailing, or otherwise handling purchased 1590
sales inventory in a warehouse, distribution center, or similar 1591
facility when the inventory is primarily distributed outside 1592
this state to retail stores of the person who owns or controls 1593
the warehouse, distribution center, or similar facility, to 1594
retail stores of an affiliated group of which that person is a 1595
member, or by means of direct marketing. This division does not 1596
apply to motor vehicles registered for operation on the public 1597
highways. As used in this division, "affiliated group" has the 1598
same meaning as in division (B) (3) (e) of section 5739.01 of the 1599

Revised Code and "direct marketing" has the same meaning as in 1600
division (B) (35) of this section. 1601

(k) To use or consume the thing transferred to fulfill a 1602
contractual obligation incurred by a warrantor pursuant to a 1603
warranty provided as a part of the price of the tangible 1604
personal property sold or by a vendor of a warranty, maintenance 1605
or service contract, or similar agreement the provision of which 1606
is defined as a sale under division (B) (7) of section 5739.01 of 1607
the Revised Code; 1608

(l) To use or consume the thing transferred in the 1609
production of a newspaper for distribution to the public; 1610

(m) To use tangible personal property to perform a service 1611
listed in division (B) (3) of section 5739.01 of the Revised 1612
Code, if the property is or is to be permanently transferred to 1613
the consumer of the service as an integral part of the 1614
performance of the service; 1615

(n) To use or consume the thing transferred primarily in 1616
producing tangible personal property for sale by farming, 1617
agriculture, horticulture, or floriculture. Persons engaged in 1618
rendering farming, agriculture, horticulture, or floriculture 1619
services for others are deemed engaged primarily in farming, 1620
agriculture, horticulture, or floriculture. This paragraph does 1621
not exempt from "retail sale" or "sales at retail" the sale of 1622
tangible personal property that is to be incorporated into a 1623
structure or improvement to real property. 1624

(o) To use or consume the thing transferred in acquiring, 1625
formatting, editing, storing, and disseminating data or 1626
information by electronic publishing; 1627

(p) To provide the thing transferred to the owner or 1628

lessee of a motor vehicle that is being repaired or serviced, if 1629
the thing transferred is a rented motor vehicle and the 1630
purchaser is reimbursed for the cost of the rented motor vehicle 1631
by a manufacturer, warrantor, or provider of a maintenance, 1632
service, or other similar contract or agreement, with respect to 1633
the motor vehicle that is being repaired or serviced; 1634

(q) To use or consume the thing transferred directly in 1635
production of crude oil and natural gas for sale. Persons 1636
engaged in rendering production services for others are deemed 1637
engaged in production. 1638

As used in division (B) (42) (q) of this section, 1639
"production" means operations and tangible personal property 1640
directly used to expose and evaluate an underground reservoir 1641
that may contain hydrocarbon resources, prepare the wellbore for 1642
production, and lift and control all substances yielded by the 1643
reservoir to the surface of the earth. 1644

(i) For the purposes of division (B) (42) (q) of this 1645
section, the "thing transferred" includes, but is not limited 1646
to, any of the following: 1647

(I) Services provided in the construction of permanent 1648
access roads, services provided in the construction of the well 1649
site, and services provided in the construction of temporary 1650
impoundments; 1651

(II) Equipment and rigging used for the specific purpose 1652
of creating with integrity a wellbore pathway to underground 1653
reservoirs; 1654

(III) Drilling and workover services used to work within a 1655
subsurface wellbore, and tangible personal property directly 1656
used in providing such services; 1657

(IV) Casing, tubulars, and float and centralizing equipment;	1658 1659
(V) Trailers to which production equipment is attached;	1660
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	1661 1662 1663
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	1664 1665 1666
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	1667 1668 1669 1670
(IX) Pressure pumping equipment;	1671
(X) Artificial lift systems equipment;	1672
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	1673 1674 1675
(XII) Tangible personal property directly used to control production equipment.	1676 1677
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	1678 1679 1680
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	1681 1682 1683
(II) Tangible personal property used primarily in storing,	1684

holding, or delivering solutions or chemicals used in well	1685
stimulation as defined in section 1509.01 of the Revised Code;	1686
(III) Tangible personal property used primarily in	1687
preparing, installing, or reclaiming foundations for drilling or	1688
pumping equipment or well stimulation material tanks;	1689
(IV) Tangible personal property used primarily in	1690
transporting, delivering, or removing equipment to or from the	1691
well site or storing such equipment before its use at the well	1692
site;	1693
(V) Tangible personal property used primarily in gathering	1694
operations occurring off the well site, including gathering	1695
pipelines transporting hydrocarbon gas or liquids away from a	1696
crude oil or natural gas production facility;	1697
(VI) Tangible personal property that is to be incorporated	1698
into a structure or improvement to real property;	1699
(VII) Well site fencing, lighting, or security systems;	1700
(VIII) Communication devices or services;	1701
(IX) Office supplies;	1702
(X) Trailers used as offices or lodging;	1703
(XI) Motor vehicles of any kind;	1704
(XII) Tangible personal property used primarily for the	1705
storage of drilling byproducts and fuel not used for production;	1706
(XIII) Tangible personal property used primarily as a	1707
safety device;	1708
(XIV) Data collection or monitoring devices;	1709
(XV) Access ladders, stairs, or platforms attached to	1710

storage tanks. 1711

The enumeration of tangible personal property in division 1712
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 1713
and any tangible personal property not so enumerated shall not 1714
necessarily be construed to be a "thing transferred" for the 1715
purposes of division (B) (42) (q) of this section. 1716

The commissioner shall adopt and promulgate rules under 1717
sections 119.01 to 119.13 of the Revised Code that the 1718
commissioner deems necessary to administer division (B) (42) (q) 1719
of this section. 1720

As used in division (B) (42) of this section, "thing" 1721
includes all transactions included in divisions (B) (3) (a), (b), 1722
and (e) of section 5739.01 of the Revised Code. 1723

(43) Sales conducted through a coin operated device that 1724
activates vacuum equipment or equipment that dispenses water, 1725
whether or not in combination with soap or other cleaning agents 1726
or wax, to the consumer for the consumer's use on the premises 1727
in washing, cleaning, or waxing a motor vehicle, provided no 1728
other personal property or personal service is provided as part 1729
of the transaction. 1730

(44) Sales of replacement and modification parts for 1731
engines, airframes, instruments, and interiors in, and paint 1732
for, aircraft used primarily in a fractional aircraft ownership 1733
program, and sales of services for the repair, modification, and 1734
maintenance of such aircraft, and machinery, equipment, and 1735
supplies primarily used to provide those services. 1736

(45) Sales of telecommunications service that is used 1737
directly and primarily to perform the functions of a call 1738
center. As used in this division, "call center" means any 1739

physical location where telephone calls are placed or received 1740
in high volume for the purpose of making sales, marketing, 1741
customer service, technical support, or other specialized 1742
business activity, and that employs at least fifty individuals 1743
that engage in call center activities on a full-time basis, or 1744
sufficient individuals to fill fifty full-time equivalent 1745
positions. 1746

(46) Sales by a telecommunications service vendor of 900 1747
service to a subscriber. This division does not apply to 1748
information services. 1749

(47) Sales of value-added non-voice data service. This 1750
division does not apply to any similar service that is not 1751
otherwise a telecommunications service. 1752

(48) Sales of feminine hygiene products. 1753

(49) Sales of materials, parts, equipment, or engines used 1754
in the repair or maintenance of aircraft or avionics systems of 1755
such aircraft, and sales of repair, remodeling, replacement, or 1756
maintenance services in this state performed on aircraft or on 1757
an aircraft's avionics, engine, or component materials or parts. 1758
As used in division (B) (49) of this section, "aircraft" means 1759
aircraft of more than six thousand pounds maximum certified 1760
takeoff weight or used exclusively in general aviation. 1761

(50) Sales of full flight simulators that are used for 1762
pilot or flight-crew training, sales of repair or replacement 1763
parts or components, and sales of repair or maintenance services 1764
for such full flight simulators. "Full flight simulator" means a 1765
replica of a specific type, or make, model, and series of 1766
aircraft cockpit. It includes the assemblage of equipment and 1767
computer programs necessary to represent aircraft operations in 1768

ground and flight conditions, a visual system providing an out- 1769
of-the-cockpit view, and a system that provides cues at least 1770
equivalent to those of a three-degree-of-freedom motion system, 1771
and has the full range of capabilities of the systems installed 1772
in the device as described in appendices A and B of part 60 of 1773
chapter 1 of title 14 of the Code of Federal Regulations. 1774

(51) Any transfer or lease of tangible personal property 1775
between the state and JobsOhio in accordance with section 1776
4313.02 of the Revised Code. 1777

(52) (a) Sales to a qualifying corporation. 1778

(b) As used in division (B) (52) of this section: 1779

(i) "Qualifying corporation" means a nonprofit corporation 1780
organized in this state that leases from an eligible county 1781
land, buildings, structures, fixtures, and improvements to the 1782
land that are part of or used in a public recreational facility 1783
used by a major league professional athletic team or a class A 1784
to class AAA minor league affiliate of a major league 1785
professional athletic team for a significant portion of the 1786
team's home schedule, provided the following apply: 1787

(I) The facility is leased from the eligible county 1788
pursuant to a lease that requires substantially all of the 1789
revenue from the operation of the business or activity conducted 1790
by the nonprofit corporation at the facility in excess of 1791
operating costs, capital expenditures, and reserves to be paid 1792
to the eligible county at least once per calendar year. 1793

(II) Upon dissolution and liquidation of the nonprofit 1794
corporation, all of its net assets are distributable to the 1795
board of commissioners of the eligible county from which the 1796
corporation leases the facility. 1797

(ii) "Eligible county" has the same meaning as in section 307.695 of the Revised Code.	1798 1799
(53) Sales to or by a cable service provider, video service provider, or radio or television broadcast station regulated by the federal government of cable service or programming, video service or programming, audio service or programming, or electronically transferred digital audiovisual or audio work. As used in division (B) (53) of this section, "cable service" and "cable service provider" have the same meanings as in section 1332.01 of the Revised Code, and "video service," "video service provider," and "video programming" have the same meanings as in section 1332.21 of the Revised Code.	1800 1801 1802 1803 1804 1805 1806 1807 1808 1809
(54) Sales of a digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that does all of the following:	1810 1811 1812
(a) Accepts direct payments to operate;	1813
(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B) (54) (a) of this section;	1814 1815 1816
(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment.	1817 1818
(55) (a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of each year, beginning in 2018:	1819 1820 1821
(i) An item of clothing, the price of which is seventy-five dollars or less;	1822 1823
(ii) An item of school supplies, the price of which is twenty dollars or less;	1824 1825

(iii) An item of school instructional material, the price	1826
of which is twenty dollars or less.	1827
(b) As used in division (B) (55) of this section:	1828
(i) "Clothing" means all human wearing apparel suitable	1829
for general use. "Clothing" includes, but is not limited to,	1830
aprons, household and shop; athletic supporters; baby receiving	1831
blankets; bathing suits and caps; beach capes and coats; belts	1832
and suspenders; boots; coats and jackets; costumes; diapers,	1833
children and adult, including disposable diapers; earmuffs;	1834
footlets; formal wear; garters and garter belts; girdles; gloves	1835
and mittens for general use; hats and caps; hosiery; insoles for	1836
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	1837
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	1838
sneakers; socks and stockings; steel-toed shoes; underwear;	1839
uniforms, athletic and nonathletic; and wedding apparel.	1840
"Clothing" does not include items purchased for use in a trade	1841
or business; clothing accessories or equipment; protective	1842
equipment; sports or recreational equipment; belt buckles sold	1843
separately; costume masks sold separately; patches and emblems	1844
sold separately; sewing equipment and supplies including, but	1845
not limited to, knitting needles, patterns, pins, scissors,	1846
sewing machines, sewing needles, tape measures, and thimbles;	1847
and sewing materials that become part of "clothing" including,	1848
but not limited to, buttons, fabric, lace, thread, yarn, and	1849
zippers.	1850
(ii) "School supplies" means items commonly used by a	1851
student in a course of study. "School supplies" includes only	1852
the following items: binders; book bags; calculators; cellophane	1853
tape; blackboard chalk; compasses; composition books; crayons;	1854
erasers; folders, expandable, pocket, plastic, and manila; glue,	1855

paste, and paste sticks; highlighters; index cards; index card 1856
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1857
loose-leaf ruled notebook paper, copy paper, graph paper, 1858
tracing paper, manila paper, colored paper, poster board, and 1859
construction paper; pencil boxes and other school supply boxes; 1860
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1861
and writing tablets. "School supplies" does not include any item 1862
purchased for use in a trade or business. 1863

(iii) "School instructional material" means written 1864
material commonly used by a student in a course of study as a 1865
reference and to learn the subject being taught. "School 1866
instructional material" includes only the following items: 1867
reference books, reference maps and globes, textbooks, and 1868
workbooks. "School instructional material" does not include any 1869
material purchased for use in a trade or business. 1870

(56) (a) Sales of diapers or incontinence underpads sold 1871
pursuant to a prescription, for the benefit of a medicaid 1872
recipient with a diagnosis of incontinence, and by a medicaid 1873
provider that maintains a valid provider agreement under section 1874
5164.30 of the Revised Code with the department of medicaid, 1875
provided that the medicaid program covers diapers or 1876
incontinence underpads as an incontinence garment. 1877

(b) As used in division (B) (56) (a) of this section: 1878

(i) "Diaper" means an absorbent garment worn by humans who 1879
are incapable of, or have difficulty, controlling their bladder 1880
or bowel movements. 1881

(ii) "Incontinence underpad" means an absorbent product, 1882
not worn on the body, designed to protect furniture or other 1883
tangible personal property from soiling or damage due to human 1884

incontinence. 1885

(57) Sales of investment metal bullion and investment 1886
coins. "Investment metal bullion" means any bullion described in 1887
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 1888
whether that bullion is in the physical possession of a trustee. 1889
"Investment coin" means any coin composed primarily of gold, 1890
silver, platinum, or palladium. 1891

(58) Documentary services charges imposed pursuant to 1892
section 4517.261 or 4781.24 of the Revised Code. 1893

(C) For the purpose of the proper administration of this 1894
chapter, and to prevent the evasion of the tax, it is presumed 1895
that all sales made in this state are subject to the tax until 1896
the contrary is established. 1897

(D) The tax collected by the vendor from the consumer 1898
under this chapter is not part of the price, but is a tax 1899
collection for the benefit of the state, and of counties levying 1900
an additional sales tax pursuant to section 5739.021 or 5739.026 1901
of the Revised Code and of transit authorities levying an 1902
additional sales tax pursuant to section 5739.023 of the Revised 1903
Code. Except for the discount authorized under section 5739.12 1904
of the Revised Code and the effects of any rounding pursuant to 1905
section 5703.055 of the Revised Code, no person other than the 1906
state or such a county or transit authority shall derive any 1907
benefit from the collection or payment of the tax levied by this 1908
section or section 5739.021, 5739.023, or 5739.026 of the 1909
Revised Code. 1910

Sec. 5739.03. (A) Except as provided in section 5739.05 or 1911
section 5739.051 of the Revised Code, the tax imposed by or 1912
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 1913

the Revised Code shall be paid by the consumer to the vendor, 1914
and each vendor shall collect from the consumer, as a trustee 1915
for the state of Ohio, the full and exact amount of the tax 1916
payable on each taxable sale, in the manner and at the times 1917
provided as follows: 1918

(1) If the price is, at or prior to the provision of the 1919
service or the delivery of possession of the thing sold to the 1920
consumer, paid in currency passed from hand to hand by the 1921
consumer or the consumer's agent to the vendor or the vendor's 1922
agent, the vendor or the vendor's agent shall collect the tax 1923
with and at the same time as the price; 1924

(2) If the price is otherwise paid or to be paid, the 1925
vendor or the vendor's agent shall, at or prior to the provision 1926
of the service or the delivery of possession of the thing sold 1927
to the consumer, charge the tax imposed by or pursuant to 1928
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 1929
Code to the account of the consumer, which amount shall be 1930
collected by the vendor from the consumer in addition to the 1931
price. Such sale shall be reported on and the amount of the tax 1932
applicable thereto shall be remitted with the return for the 1933
period in which the sale is made, and the amount of the tax 1934
shall become a legal charge in favor of the vendor and against 1935
the consumer. 1936

(B) (1) (a) If any sale is claimed to be exempt under 1937
division (E) of section 5739.01 of the Revised Code or under 1938
section 5739.02 of the Revised Code, with the exception of 1939
divisions (B) (1) to (11), (28), (48), ~~or (55)~~, or (58) of 1940
section 5739.02 of the Revised Code, the consumer must provide 1941
to the vendor, and the vendor must obtain from the consumer, a 1942
certificate specifying the reason that the sale is not legally 1943

subject to the tax. The certificate shall be in such form, and 1944
shall be provided either in a hard copy form or electronic form, 1945
as the tax commissioner prescribes. 1946

(b) A vendor that obtains a fully completed exemption 1947
certificate from a consumer is relieved of liability for 1948
collecting and remitting tax on any sale covered by that 1949
certificate. If it is determined the exemption was improperly 1950
claimed, the consumer shall be liable for any tax due on that 1951
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 1952
Chapter 5741. of the Revised Code. Relief under this division 1953
from liability does not apply to any of the following: 1954

(i) A vendor that fraudulently fails to collect tax; 1955

(ii) A vendor that solicits consumers to participate in 1956
the unlawful claim of an exemption; 1957

(iii) A vendor that accepts an exemption certificate from 1958
a consumer that claims an exemption based on who purchases or 1959
who sells property or a service, when the subject of the 1960
transaction sought to be covered by the exemption certificate is 1961
actually received by the consumer at a location operated by the 1962
vendor in this state, and this state has posted to its web site 1963
an exemption certificate form that clearly and affirmatively 1964
indicates that the claimed exemption is not available in this 1965
state; 1966

(iv) A vendor that accepts an exemption certificate from a 1967
consumer who claims a multiple points of use exemption under 1968
division (D) of section 5739.033 of the Revised Code, if the 1969
item purchased is tangible personal property, other than 1970
prewritten computer software. 1971

(2) The vendor shall maintain records, including exemption 1972

certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

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

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

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

(6) If a transaction is claimed to be exempt under division (B) (13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the vendor. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it

is subsequently determined that the exemption is not properly 2003
claimed. The certification shall be in such form as the tax 2004
commissioner prescribes. 2005

(C) As used in this division, "contractee" means a person 2006
who seeks to enter or enters into a contract or agreement with a 2007
contractor or vendor for the construction of real property or 2008
for the sale and installation onto real property of tangible 2009
personal property. 2010

Any contractor or vendor may request from any contractee a 2011
certification of what portion of the property to be transferred 2012
under such contract or agreement is to be incorporated into the 2013
realty and what portion will retain its status as tangible 2014
personal property after installation is completed. The 2015
contractor or vendor shall request the certification by 2016
certified mail delivered to the contractee, return receipt 2017
requested. Upon receipt of such request and prior to entering 2018
into the contract or agreement, the contractee shall provide to 2019
the contractor or vendor a certification sufficiently detailed 2020
to enable the contractor or vendor to ascertain the resulting 2021
classification of all materials purchased or fabricated by the 2022
contractor or vendor and transferred to the contractee. This 2023
requirement applies to a contractee regardless of whether the 2024
contractee holds a direct payment permit under section 5739.031 2025
of the Revised Code or provides to the contractor or vendor an 2026
exemption certificate as provided under this section. 2027

For the purposes of the taxes levied by this chapter and 2028
Chapter 5741. of the Revised Code, the contractor or vendor may 2029
in good faith rely on the contractee's certification. 2030
Notwithstanding division (B) of section 5739.01 of the Revised 2031
Code, if the tax commissioner determines that certain property 2032

certified by the contractee as tangible personal property 2033
pursuant to this division is, in fact, real property, the 2034
contractee shall be considered to be the consumer of all 2035
materials so incorporated into that real property and shall be 2036
liable for the applicable tax, and the contractor or vendor 2037
shall be excused from any liability on those materials. 2038

If a contractee fails to provide such certification upon 2039
the request of the contractor or vendor, the contractor or 2040
vendor shall comply with the provisions of this chapter and 2041
Chapter 5741. of the Revised Code without the certification. If 2042
the tax commissioner determines that such compliance has been 2043
performed in good faith and that certain property treated as 2044
tangible personal property by the contractor or vendor is, in 2045
fact, real property, the contractee shall be considered to be 2046
the consumer of all materials so incorporated into that real 2047
property and shall be liable for the applicable tax, and the 2048
construction contractor or vendor shall be excused from any 2049
liability on those materials. 2050

This division does not apply to any contract or agreement 2051
where the tax commissioner determines as a fact that a 2052
certification under this division was made solely on the 2053
decision or advice of the contractor or vendor. 2054

(D) Notwithstanding division (B) of section 5739.01 of the 2055
Revised Code, whenever the total rate of tax imposed under this 2056
chapter is increased after the date after a construction 2057
contract is entered into, the contractee shall reimburse the 2058
construction contractor for any additional tax paid on tangible 2059
property consumed or services received pursuant to the contract. 2060

(E) A vendor who files a petition for reassessment 2061
contesting the assessment of tax on sales for which the vendor 2062

obtained no valid exemption certificates and for which the 2063
vendor failed to establish that the sales were properly not 2064
subject to the tax during the one-hundred-twenty-day period 2065
allowed under division (B) of this section, may present to the 2066
tax commissioner additional evidence to prove that the sales 2067
were properly subject to a claim of exception or exemption. The 2068
vendor shall file such evidence within ninety days of the 2069
receipt by the vendor of the notice of assessment, except that, 2070
upon application and for reasonable cause, the period for 2071
submitting such evidence shall be extended thirty days. 2072

The commissioner shall consider such additional evidence 2073
in reaching the final determination on the assessment and 2074
petition for reassessment. 2075

(F) Whenever a vendor refunds the price, minus any 2076
separately stated delivery charge, of an item of tangible 2077
personal property on which the tax imposed under this chapter 2078
has been paid, the vendor shall also refund the amount of tax 2079
paid, minus the amount of tax attributable to the delivery 2080
charge. 2081

Section 2. That existing sections 5739.01, 5739.02, and 2082
5739.03 of the Revised Code are hereby repealed. 2083

Section 3. The amendment by this act of sections 5739.01 2084
and 5739.02 of the Revised Code applies on and after the first 2085
day of the first month beginning after the effective date of 2086
this section. 2087