

As Reported by the House Ways and Means Committee

135th General Assembly

Regular Session

2023-2024

Sub. S. B. No. 39

Senator Schaffer

**Cosponsors: Senators Antonio, Brenner, Cirino, Craig, DeMora, Dolan, Gavarone,
Hicks-Hudson, Ingram, Johnson, Kunze, Landis, Manning, Reineke, Reynolds,
Romanchuk, Rulli, Sykes, Wilkin**

Representative Lorenz

A BILL

To amend sections 5715.19, 5717.01, 5739.01, 1
5741.01, and 5751.033 and to enact section 2
5741.072 of the Revised Code to modify the sales 3
and use taxation of network delivery services, 4
to modify the law governing property tax 5
complaints, and to modify the situsing of gross 6
receipts, for commercial activity tax purposes, 7
from the sale of certain motor vehicles. 8

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

Section 1. That sections 5715.19, 5717.01, 5739.01, 9
5741.01, and 5751.033 be amended and section 5741.072 of the 10
Revised Code be enacted to read as follows: 11

Sec. 5715.19. (A) As used in this section: 12

"Member" has the same meaning as in section 1706.01 of the 13
Revised Code. 14

"Internet identifier of record" has the same meaning as in 15

section 9.312 of the Revised Code. 16

"Interim" period" means, for each county, the tax year to 17
which section 5715.24 of the Revised Code applies and each 18
subsequent tax year until the tax year in which that section 19
applies again. 20

"Legislative authority" means a board of county 21
commissioners, a board of township trustees of any township with 22
territory in the county, the board of education of any school 23
district with territory in the county, or the legislative 24
authority of a municipal corporation with territory in the 25
county. 26

"Original complaint" means a complaint filed under 27
division (A) of this section. 28

"Counter-complaint" means a complaint filed under division 29
(B) of this section in response to an original complaint. 30

"Third party complainant" means a complainant other than 31
the property owner, the owner's spouse, a tenant authorized to 32
file an original complaint, or any person acting on behalf of a 33
property owner. "Third party complainant" does not include a 34
legislative authority or a mayor of a municipal corporation, but 35
does include the prosecuting attorney or treasurer of a county. 36

(1) Subject to division (A)(2) of this section, a 37
complaint against any of the following determinations for the 38
current tax year shall be filed with the county auditor on or 39
before the thirty-first day of March of the ensuing tax year or 40
the date of closing of the collection for the first half of real 41
and public utility property taxes for the current tax year, 42
whichever is later: 43

(a) Any classification made under section 5713.041 of the 44

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| Revised Code; | 45 |
| (b) Any determination made under section 5713.32 or | 46 |
| 5713.35 of the Revised Code; | 47 |
| (c) Any recoupment charge levied under section 5713.35 of | 48 |
| the Revised Code; | 49 |
| (d) The determination of the total valuation or assessment | 50 |
| of any parcel that appears on the tax list, except parcels | 51 |
| assessed by the tax commissioner pursuant to section 5727.06 of | 52 |
| the Revised Code; | 53 |
| (e) The determination of the total valuation of any parcel | 54 |
| that appears on the agricultural land tax list, except parcels | 55 |
| assessed by the tax commissioner pursuant to section 5727.06 of | 56 |
| the Revised Code; | 57 |
| (f) Any determination made under division (A) of section | 58 |
| 319.302 of the Revised Code. | 59 |
| If such a complaint is filed by mail or certified mail, | 60 |
| the date of the United States postmark placed on the envelope or | 61 |
| sender's receipt by the postal service shall be treated as the | 62 |
| date of filing. A private meter postmark on an envelope is not a | 63 |
| valid postmark for purposes of establishing the filing date. | 64 |
| Subject to division (A) (6) of this section, any person | 65 |
| owning taxable real property in the county or in a taxing | 66 |
| district with territory in the county; such a person's spouse; a | 67 |
| tenant of the property owner, if the property is classified as | 68 |
| to use for tax purposes as commercial or industrial, the lease | 69 |
| requires the tenant to pay the entire amount of taxes charged | 70 |
| against the property, and the lease allows, or the property | 71 |
| owner otherwise authorizes, the tenant to file such a complaint | 72 |
| with respect to the property; an individual who is retained by | 73 |

such a person or tenant and who holds a designation from a 74
professional assessment organization, such as the institute for 75
professionals in taxation, the national council of property 76
taxation, or the international association of assessing 77
officers; a public accountant who holds a permit under section 78
4701.10 of the Revised Code, a general or residential real 79
estate appraiser licensed or certified under Chapter 4763. of 80
the Revised Code, or a real estate broker licensed under Chapter 81
4735. of the Revised Code, who is retained by such a person or 82
tenant; if the person or tenant is a firm, company, association, 83
partnership, limited liability company, or corporation, an 84
officer, a salaried employee, a partner, or a member of that 85
person or tenant; if the person or tenant is a trust, a trustee 86
of the trust; the prosecuting attorney or treasurer of the 87
county; or the legislative authority of a subdivision or the 88
mayor of a municipal corporation may file such a complaint 89
regarding any such determination affecting any real property in 90
the county, except that a person owning taxable real property in 91
another county may file such a complaint only with regard to any 92
such determination affecting real property in the county that is 93
located in the same taxing district as that person's real 94
property is located. The county auditor shall present to the 95
county board of revision all complaints filed with the auditor. 96

(2) No person, legislative authority, or officer shall 97
file a complaint against the valuation or assessment of any 98
parcel that appears on the tax list if it filed a complaint 99
against the valuation or assessment of that parcel for any prior 100
tax year in the same interim period, unless the person, 101
legislative authority, or officer alleges that the valuation or 102
assessment should be changed due to one or more of the following 103
circumstances that occurred after the tax lien date for the tax 104

year for which the prior complaint was filed and that the 105
circumstances were not taken into consideration with respect to 106
the prior complaint: 107

(a) The property was sold in an arm's length transaction, 108
as described in section 5713.03 of the Revised Code; 109

(b) The property lost value due to some casualty; 110

(c) Substantial improvement was added to the property; 111

(d) An increase or decrease of at least fifteen per cent 112
in the property's occupancy has had a substantial economic 113
impact on the property. 114

(3) If a county board of revision, the board of tax 115
appeals, or any court dismisses a complaint filed under this 116
section or section 5715.13 of the Revised Code for the reason 117
that the act of filing the complaint was the unauthorized 118
practice of law or the person filing the complaint was engaged 119
in the unauthorized practice of law, the party affected by a 120
decrease in valuation or the party's agent, or the person owning 121
taxable real property in the county or in a taxing district with 122
territory in the county, may refile the complaint, 123
notwithstanding division (A) (2) of this section. 124

(4) (a) No complaint filed under this section or section 125
5715.13 of the Revised Code shall be dismissed for the reason 126
that the complaint fails to accurately identify the owner of the 127
property that is the subject of the complaint. 128

(b) If a complaint fails to accurately identify the owner 129
of the property that is the subject of the complaint, the board 130
of revision shall exercise due diligence to ensure the correct 131
property owner is notified as required by divisions (B) and (C) 132
of this section. 133

(5) Notwithstanding division (A)(2) of this section, a person, legislative authority, or officer may file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period if the person, legislative authority, or officer withdrew the complaint before the complaint was heard by the board.

(6) The legislative authority of a subdivision, the mayor of a municipal corporation, or a third party complainant shall not file an original complaint with respect to property the subdivision or complainant does not own or lease unless both of the following conditions are met:

(a) If the complaint is based on a determination described in division (A)(1)(d) or (e) of this section, the property was (i) sold in an arm's length transaction, as described in section 5713.03 of the Revised Code, ~~before, but not after, during the~~ two years preceding the tax lien date for the tax year for which the complaint is to be filed, and (ii) the sale price exceeds the true value of the property appearing on the tax list for that tax year by both ten per cent and the amount of the filing threshold determined under division (J) of this section;

(b) If the complaint is filed by a legislative authority or mayor, the legislative authority or, in the case of a mayor, the legislative authority of the municipal corporation, first adopts a resolution authorizing the filing of the original complaint at a public meeting of the legislative authority.

(7) A resolution adopted under division (A)(6)(b) of this section shall include all of the following information:

(a) Identification of the parcel or parcels that are the subject of the original complaint by street address, if available from online records of the county auditor, and by permanent parcel number;

(b) The name of at least one of the record owners of the parcel or parcels;

(c) The basis for the complaint under divisions (A) (1) (a) to (f) of this section relative to each parcel identified in the resolution;

(d) The tax year for which the complaint will be filed, which shall be a year for which a complaint may be timely filed under this section at the time of the resolution's adoption.

A legislative authority shall not adopt a resolution required under division (A) (6) (b) of this section that identifies more than one parcel under division (A) (7) (a) of this section, except that a single resolution may identify more than one parcel under that division if each parcel has the same record owner or the same record owners, as applicable. A legislative authority may adopt multiple resolutions required under division (A) (6) (b) of this section by a single vote, provided that the vote is separate from the question of whether to adopt any resolution that is not adopted under division (A) (6) (b) of this section.

Before adopting a resolution required by division (A) (6) (b) of this section, the legislative authority shall mail a written notice to at least one of the record owners of the parcel or parcels identified in the resolution stating the intent of the legislative authority in adopting the resolution, the proposed date of adoption, and the basis for the complaint

under divisions (A) (1) (a) to (f) of this section relative to 192
each parcel identified in the resolution. The notice shall be 193
sent by certified mail to the last known tax-mailing address of 194
at least one of the record owners and, if different from that 195
tax-mailing address, to the street address of the parcel or 196
parcels identified in the resolution. Alternatively, if the 197
legislative authority has record of an internet identifier of 198
record associated with at least one of the record owners, the 199
legislative authority may send the notice by ordinary mail and 200
by that internet identifier of record. The notice shall be 201
postmarked or, if sent by internet identifier of record, sent at 202
least seven calendar days before the legislative authority 203
adopts the resolution. 204

At any public meeting at which a resolution required by 205
division (A) (6) (b) of this section is to be considered, any of 206
the record owners of the parcel or parcels, or a designated 207
representative of such a record owner, shall be permitted to 208
address the legislative authority on the subject of the 209
resolution before adoption of the resolution, provided that the 210
owner or the owner's representative shall comply with all 211
reasonable requirements and restrictions imposed by the 212
legislative authority concerning public comment at the meeting. 213

A board of revision has jurisdiction to consider a 214
complaint filed pursuant to a resolution adopted under division 215
(A) (6) (b) of this section only if the legislative authority 216
notifies the board of revision of the resolution in the manner 217
prescribed in division (A) (8) of this section and if the owners 218
or their representatives are accorded the opportunity to address 219
the legislative authority as prescribed in this division. The 220
failure to accurately identify the street address or the name of 221
the record owners of the parcel in the resolution does not 222

invalidate the resolution nor is it a cause for dismissal of the 223
complaint. 224

(8) A complaint form prescribed by a board of revision or 225
the tax commissioner for the purpose of this section shall 226
include a box that must be checked, when a legislative authority 227
or mayor files an original complaint, to indicate that a 228
resolution authorizing the complaint was adopted in accordance 229
with divisions (A) (6) (b) and (7) of this section ~~and,~~ that 230
notice was mailed or sent in accordance with division (A) (7) of 231
this section before adoption of the resolution to at least one 232
of the record owners of the property that is the subject of the 233
complaint, and that the owners or their representatives were 234
accorded the opportunity to address the legislative authority as 235
prescribed in division (A) (7) of this section. 236

~~(B)~~ (B) (1) Within thirty days after the last date such 237
complaints may be filed, the auditor shall give notice of each 238
complaint in which the stated amount of overvaluation, 239
undervaluation, discriminatory valuation, illegal valuation, or 240
incorrect determination is at least seventeen thousand five 241
hundred dollars in taxable value to each property owner whose 242
property is the subject of the complaint, if the complaint was 243
not filed by the owner or the owner's spouse. A board of 244
education, subject to this division; a property owner; the 245
owner's spouse; a tenant of the owner, if that tenant would be 246
eligible to file a complaint under division (A) of this section 247
with respect to the property; an individual who is retained by 248
such an owner or tenant and who holds a designation from a 249
professional assessment organization, such as the institute for 250
professionals in taxation, the national council of property 251
taxation, or the international association of assessing 252
officers; a public accountant who holds a permit under section 253

4701.10 of the Revised Code, a general or residential real 254
estate appraiser licensed or certified under Chapter 4763. of 255
the Revised Code, or a real estate broker licensed under Chapter 256
4735. of the Revised Code, who is retained by such an owner or 257
tenant; or, if the owner or tenant is a firm, company, 258
association, partnership, limited liability company, 259
corporation, or trust, an officer, a salaried employee, a 260
partner, a member, or trustee of that owner or tenant, may file 261
a counter-complaint in support of or objecting to the amount of 262
alleged overvaluation, undervaluation, discriminatory valuation, 263
illegal valuation, or incorrect determination stated in a 264
previously filed original complaint or objecting to the current 265
valuation. 266

(2) A board of education may file a counter-complaint only 267
if the original complaint (a) was filed by the owner of the 268
property that is the subject of the complaint, a tenant of that 269
property owner, or any person acting on behalf of such owner or 270
tenant, and (b) states an amount of overvaluation, 271
undervaluation, discriminatory valuation, illegal valuation, or 272
incorrect determination of at least seventeen thousand five 273
hundred dollars in taxable value. ~~The~~ 274

A board of education shall file the counter-complaint 275
within thirty days after the original complaint is filed, and 276
any other person shall file the counter-complaint within thirty 277
days after receiving the notice required under this division. 278

(3) Upon the filing of a counter-complaint, the board of 279
education, property owner, or tenant shall be made a party to 280
the action. 281

(C) Each board of revision shall notify any complainant 282
and counter-complainant, and also the property owner, if the 283

property owner's address is known, and the complaint is filed by 284
one other than the property owner, not less than ten days prior 285
to the hearing, either by certified mail or, if the board has 286
record of an internet identifier of record associated with the 287
owner, by ordinary mail and by that internet identifier of 288
record of the time and place the same will be heard. The board 289
of revision shall hear and render its decision on an original 290
complaint within one hundred eighty days after the last day such 291
a complaint may be filed with the board under division (A)(1) of 292
this section or, if a counter-complaint is filed, within one 293
hundred eighty days after such filing. If the original complaint 294
is filed by the legislative authority of a subdivision, the 295
mayor of a municipal corporation with territory in the county, 296
or a third party complainant, and if the board of revision has 297
not rendered its decision on the complaint within one year after 298
the date the complaint was filed, the board is without 299
jurisdiction to hear, and shall dismiss, the complaint. 300

(D) The determination of any such original complaint or 301
counter-complaint shall relate back to the date when the lien 302
for taxes or recoupment charges for the current year attached or 303
the date as of which liability for such year was determined. 304
Liability for taxes and recoupment charges for such year and 305
each succeeding year until the complaint is finally determined 306
and for any penalty and interest for nonpayment thereof within 307
the time required by law shall be based upon the determination, 308
valuation, or assessment as finally determined. Each complaint 309
shall state the amount of overvaluation, undervaluation, 310
discriminatory valuation, illegal valuation, or incorrect 311
classification or determination upon which the complaint is 312
based. The treasurer shall accept any amount tendered as taxes 313
or recoupment charge upon property concerning which a complaint 314

is then pending, computed upon the claimed valuation as set 315
forth in the complaint. Unless dismissal is required under 316
division (C) of this section, if an original complaint or 317
counter-complaint filed for the current year is not determined 318
by the board within the time prescribed for such determination, 319
the complaint and any proceedings in relation thereto shall be 320
continued by the board as a valid complaint for any ensuing year 321
until that original complaint or counter-complaint is finally 322
determined by the board or upon any appeal from a decision of 323
the board. In such case, the original complaint and counter- 324
complaint shall continue in effect without further filing by the 325
original taxpayer, the original taxpayer's assignee, or any 326
other person or entity authorized to file a complaint under this 327
section. 328

(E) If a taxpayer files a complaint as to the 329
classification, valuation, assessment, or any determination 330
affecting the taxpayer's own property and tenders less than the 331
full amount of taxes or recoupment charges as finally 332
determined, an interest charge shall accrue as follows: 333

(1) If the amount finally determined is less than the 334
amount billed but more than the amount tendered, the taxpayer 335
shall pay interest at the rate per annum prescribed by section 336
5703.47 of the Revised Code, computed from the date that the 337
taxes were due on the difference between the amount finally 338
determined and the amount tendered. This interest charge shall 339
be in lieu of any penalty or interest charge under section 340
323.121 of the Revised Code unless the taxpayer failed to file a 341
complaint and tender an amount as taxes or recoupment charges 342
within the time required by this section, in which case section 343
323.121 of the Revised Code applies. 344

(2) If the amount of taxes finally determined is equal to 345
or greater than the amount billed and more than the amount 346
tendered, the taxpayer shall pay interest at the rate prescribed 347
by section 5703.47 of the Revised Code from the date the taxes 348
were due on the difference between the amount finally determined 349
and the amount tendered, such interest to be in lieu of any 350
interest charge but in addition to any penalty prescribed by 351
section 323.121 of the Revised Code. 352

(F) Upon request of a complainant, the tax commissioner 353
shall determine the common level of assessment of real property 354
in the county for the year stated in the request that is not 355
valued under section 5713.31 of the Revised Code, which common 356
level of assessment shall be expressed as a percentage of true 357
value and the common level of assessment of lands valued under 358
such section, which common level of assessment shall also be 359
expressed as a percentage of the current agricultural use value 360
of such lands. Such determination shall be made on the basis of 361
the most recent available sales ratio studies of the 362
commissioner and such other factual data as the commissioner 363
deems pertinent. 364

(G) A complainant shall provide to the board of revision 365
all information or evidence within the complainant's knowledge 366
or possession that affects the real property that is the subject 367
of the complaint. A complainant who fails to provide such 368
information or evidence is precluded from introducing it on 369
appeal to the board of tax appeals or the court of common pleas, 370
except that the board of tax appeals or court may admit and 371
consider the evidence if the complainant shows good cause for 372
the complainant's failure to provide the information or evidence 373
to the board of revision. 374

(H) In case of the pendency of any proceeding in court 375
based upon an alleged excessive, discriminatory, or illegal 376
valuation or incorrect classification or determination, the 377
taxpayer may tender to the treasurer an amount as taxes upon 378
property computed upon the claimed valuation as set forth in the 379
complaint to the court. The treasurer may accept the tender. If 380
the tender is not accepted, no penalty shall be assessed because 381
of the nonpayment of the full taxes assessed. 382

(I) A legislative authority may not enter into a private 383
payment agreement with respect to any complaint filed or 384
contemplated under this section or section 5715.13 of the 385
Revised Code, and any such agreement is void and unenforceable. 386
As used in this division, "private payment agreement" means any 387
type of agreement in which a property owner, a tenant authorized 388
to file a complaint under division (A) of this section, or any 389
person acting on behalf of a property owner or such a tenant 390
agrees to make one or more payments to a subdivision in exchange 391
for the legislative authority of that subdivision doing any of 392
the following: 393

(1) Refraining from filing a complaint or counter- 394
complaint under this section; 395

(2) Dismissing a complaint or counter-complaint filed by 396
the legislative authority under this section; 397

(3) Resolving a claim under this section by settlement 398
agreement. 399

A "private payment agreement" does not include any 400
agreement to resolve a claim under this section pursuant to 401
which an agreed-upon valuation for the property that is the 402
subject of the claim is approved by the county auditor and 403

reflected on the tax list, provided that agreement does not 404
require any payments described in this division. 405

(J) For the purpose of division ~~(A) (6) (b)~~ (A) (6) (a) of 406
this section, the filing threshold for tax year 2022 equals five 407
hundred thousand dollars. For tax year 2023 and each tax year 408
thereafter, the tax commissioner shall adjust the filing 409
threshold used in that division by completing the following 410
calculations in September of each year: 411

~~(a)~~ (1) Determine the percentage increase in the gross 412
domestic product deflator determined by the bureau of economic 413
analysis of the United States department of commerce from the 414
first day of January of the preceding year to the last day of 415
December of the preceding year; 416

~~(b)~~ (2) Multiply that percentage increase by the filing 417
threshold for the current year; 418

~~(c)~~ (3) Add the resulting product to the filing threshold 419
for the current year; 420

~~(d)~~ (4) Round the resulting sum to the nearest multiple of 421
one thousand dollars. 422

The commissioner shall certify the amount resulting from 423
the adjustment to each county auditor not later than the first 424
day of October each year. The certified amount applies to 425
complaints filed for the tax year in which the amount is 426
certified. The commissioner shall not make the adjustment for 427
any tax year in which the amount resulting from the adjustment 428
would be less than the filing threshold for the current tax 429
year. 430

Sec. 5717.01. (A) An appeal from a decision of a county 431
board of revision may be taken to the board of tax appeals 432

within thirty days after notice of the decision of the county 433
board of revision is mailed as provided in division (A) of 434
section 5715.20 of the Revised Code. Such an appeal may be taken 435
by the county auditor, the tax commissioner, or any board, 436
legislative authority, public official, or taxpayer authorized 437
by section 5715.19 of the Revised Code to file complaints 438
against valuations or assessments with the auditor, ~~except that~~ 439
~~a~~ subject to the following limitations: 440

(1) A subdivision that files an original complaint or 441
counter complaint under that section with respect to property 442
the subdivision does not own or lease may not appeal the 443
decision of the board of revision with respect to that original 444
complaint or counter complaint or the legislative authority or 445
mayor of a subdivision may file such an appeal only if the 446
subdivision owns or leases the property that is the subject of 447
the board of revision's decision. 448

(2) No such appeal may be taken by a third party 449
complainant, as defined in section 5715.19 of the Revised Code. 450
~~Such~~ 451

(B) An appeal under this section shall be taken by the 452
filing of a notice of appeal, in person or by certified mail, 453
express mail, facsimile transmission, electronic transmission, 454
or by authorized delivery service, with the board of tax appeals 455
and with the county board of revision. If notice of appeal is 456
filed by certified mail, express mail, or authorized delivery 457
service as provided in section 5703.056 of the Revised Code, the 458
date of the United States postmark placed on the sender's 459
receipt by the postal service or the date of receipt recorded by 460
the authorized delivery service shall be treated as the date of 461
filing. If notice of appeal is filed by facsimile transmission 462

or electronic transmission, the date and time the notice is 463
received by the board shall be the date and time reflected on a 464
timestamp provided by the board's electronic system, and the 465
appeal shall be considered filed with the board on the date 466
reflected on that timestamp. Any timestamp provided by another 467
computer system or electronic submission device shall not affect 468
the time and date the notice is received by the board. Upon 469
receipt of such notice of appeal such county board of revision 470
shall notify all persons thereof who were parties to the 471
proceeding before such county board of revision by either 472
certified mail or, if the board has record of an internet 473
identifier of record associated with such a person, by ordinary 474
mail and by that internet identifier of record, and shall file 475
proof of such notice or, in the case of ordinary mail, an 476
affidavit attesting that the board sent the notice with the 477
board of tax appeals. The county board of revision shall 478
thereupon certify to the board of tax appeals a transcript of 479
the record of the proceedings of the county board of revision 480
pertaining to the original complaint, and all evidence offered 481
in connection therewith. Such appeal may be heard by the board 482
of tax appeals at its offices in Columbus or in the county where 483
the property is listed for taxation, or the board of tax appeals 484
may cause its examiners to conduct such hearing and to report to 485
it their findings for affirmation or rejection. An appeal may 486
proceed pursuant to section 5703.021 of the Revised Code on the 487
small claims docket if the appeal qualifies under that section. 488

The board of tax appeals may order the appeal to be heard 489
on the record and the evidence certified to it by the county 490
board of revision, or it may order the hearing of additional 491
evidence, and it may make such investigation concerning the 492
appeal as it deems proper. 493

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| As used in this section, "internet identifier of record" | 494 |
| has the same meaning as in section 9.312 of the Revised Code. | 495 |
| Sec. 5739.01. As used in this chapter: | 496 |
| (A) "Person" includes individuals, receivers, assignees, | 497 |
| trustees in bankruptcy, estates, firms, partnerships, | 498 |
| associations, joint-stock companies, joint ventures, clubs, | 499 |
| societies, corporations, the state and its political | 500 |
| subdivisions, and combinations of individuals of any form. | 501 |
| (B) "Sale" and "selling" include all of the following | 502 |
| transactions for a consideration in any manner, whether | 503 |
| absolutely or conditionally, whether for a price or rental, in | 504 |
| money or by exchange, and by any means whatsoever: | 505 |
| (1) All transactions by which title or possession, or | 506 |
| both, of tangible personal property, is or is to be transferred, | 507 |
| or a license to use or consume tangible personal property is or | 508 |
| is to be granted; | 509 |
| (2) All transactions by which lodging by a hotel is or is | 510 |
| to be furnished to transient guests; | 511 |
| (3) All transactions by which: | 512 |
| (a) An item of tangible personal property is or is to be | 513 |
| repaired, except property, the purchase of which would not be | 514 |
| subject to the tax imposed by section 5739.02 of the Revised | 515 |
| Code; | 516 |
| (b) An item of tangible personal property is or is to be | 517 |
| installed, except property, the purchase of which would not be | 518 |
| subject to the tax imposed by section 5739.02 of the Revised | 519 |
| Code or property that is or is to be incorporated into and will | 520 |
| become a part of a production, transmission, transportation, or | 521 |

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| distribution system for the delivery of a public utility | 522 |
| service; | 523 |
| (c) The service of washing, cleaning, waxing, polishing, | 524 |
| or painting a motor vehicle is or is to be furnished; | 525 |
| (d) Laundry and dry cleaning services are or are to be | 526 |
| provided; | 527 |
| (e) Automatic data processing, computer services, or | 528 |
| electronic information services are or are to be provided for | 529 |
| use in business when the true object of the transaction is the | 530 |
| receipt by the consumer of automatic data processing, computer | 531 |
| services, or electronic information services rather than the | 532 |
| receipt of personal or professional services to which automatic | 533 |
| data processing, computer services, or electronic information | 534 |
| services are incidental or supplemental. Notwithstanding any | 535 |
| other provision of this chapter, such transactions that occur | 536 |
| between members of an affiliated group are not sales. An | 537 |
| "affiliated group" means two or more persons related in such a | 538 |
| way that one person owns or controls the business operation of | 539 |
| another member of the group. In the case of corporations with | 540 |
| stock, one corporation owns or controls another if it owns more | 541 |
| than fifty per cent of the other corporation's common stock with | 542 |
| voting rights. | 543 |
| (f) Telecommunications service, including prepaid calling | 544 |
| service, prepaid wireless calling service, or ancillary service, | 545 |
| is or is to be provided, but not including coin-operated | 546 |
| telephone service; | 547 |
| (g) Landscaping and lawn care service is or is to be | 548 |
| provided; | 549 |
| (h) Private investigation and security service is or is to | 550 |

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| be provided; | 551 |
| (i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call; | 552 553 |
| (j) Building maintenance and janitorial service is or is to be provided; | 554 555 |
| (k) Exterminating service is or is to be provided; | 556 |
| (l) Physical fitness facility service is or is to be provided; | 557 558 |
| (m) Recreation and sports club service is or is to be provided; | 559 560 |
| (n) Satellite broadcasting service is or is to be provided; | 561 562 |
| (o) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair. | 563 564 565 566 567 568 569 570 |
| (p) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102; | 571 572 573 574 575 576 577 |
| (q) Motor vehicle towing service is or is to be provided. | 578 |

As used in this division, "motor vehicle towing service" means 579
the towing or conveyance of a wrecked, disabled, or illegally 580
parked motor vehicle. 581

(r) Snow removal service is or is to be provided. As used 582
in this division, "snow removal service" means the removal of 583
snow by any mechanized means, but does not include the providing 584
of such service by a person that has less than five thousand 585
dollars in sales of such service during the calendar year. 586

(s) Electronic publishing service is or is to be provided 587
to a consumer for use in business, except that such transactions 588
occurring between members of an affiliated group, as defined in 589
division (B) (3) (e) of this section, are not sales. 590

(4) All transactions by which printed, imprinted, 591
overprinted, lithographic, multilithic, blueprinted, 592
photostatic, or other productions or reproductions of written or 593
graphic matter are or are to be furnished or transferred; 594

(5) The production or fabrication of tangible personal 595
property for a consideration for consumers who furnish either 596
directly or indirectly the materials used in the production of 597
fabrication work; and include the furnishing, preparing, or 598
serving for a consideration of any tangible personal property 599
consumed on the premises of the person furnishing, preparing, or 600
serving such tangible personal property. Except as provided in 601
section 5739.03 of the Revised Code, a construction contract 602
pursuant to which tangible personal property is or is to be 603
incorporated into a structure or improvement on and becoming a 604
part of real property is not a sale of such tangible personal 605
property. The construction contractor is the consumer of such 606
tangible personal property, provided that the sale and 607
installation of carpeting, the sale and installation of 608

agricultural land tile, the sale and erection or installation of 609
portable grain bins, or the provision of landscaping and lawn 610
care service and the transfer of property as part of such 611
service is never a construction contract. 612

As used in division (B) (5) of this section: 613

(a) "Agricultural land tile" means fired clay or concrete 614
tile, or flexible or rigid perforated plastic pipe or tubing, 615
incorporated or to be incorporated into a subsurface drainage 616
system appurtenant to land used or to be used primarily in 617
production by farming, agriculture, horticulture, or 618
floriculture. The term does not include such materials when they 619
are or are to be incorporated into a drainage system appurtenant 620
to a building or structure even if the building or structure is 621
used or to be used in such production. 622

(b) "Portable grain bin" means a structure that is used or 623
to be used by a person engaged in farming or agriculture to 624
shelter the person's grain and that is designed to be 625
disassembled without significant damage to its component parts. 626

(6) All transactions in which all of the shares of stock 627
of a closely held corporation are transferred, or an ownership 628
interest in a pass-through entity, as defined in section 5733.04 629
of the Revised Code, is transferred, if the corporation or pass- 630
through entity is not engaging in business and its entire assets 631
consist of boats, planes, motor vehicles, or other tangible 632
personal property operated primarily for the use and enjoyment 633
of the shareholders or owners; 634

(7) All transactions in which a warranty, maintenance or 635
service contract, or similar agreement by which the vendor of 636
the warranty, contract, or agreement agrees to repair or 637

maintain the tangible personal property of the consumer is or is 638
to be provided; 639

(8) The transfer of copyrighted motion picture films used 640
solely for advertising purposes, except that the transfer of 641
such films for exhibition purposes is not a sale; 642

(9) All transactions by which tangible personal property 643
is or is to be stored, except such property that the consumer of 644
the storage holds for sale in the regular course of business; 645

(10) All transactions in which "guaranteed auto 646
protection" is provided whereby a person promises to pay to the 647
consumer the difference between the amount the consumer receives 648
from motor vehicle insurance and the amount the consumer owes to 649
a person holding title to or a lien on the consumer's motor 650
vehicle in the event the consumer's motor vehicle suffers a 651
total loss under the terms of the motor vehicle insurance policy 652
or is stolen and not recovered, if the protection and its price 653
are included in the purchase or lease agreement; 654

(11) (a) Except as provided in division (B) (11) (b) of this 655
section, all transactions by which health care services are paid 656
for, reimbursed, provided, delivered, arranged for, or otherwise 657
made available by a medicaid health insuring corporation 658
pursuant to the corporation's contract with the state. 659

(b) If the centers for medicare and medicaid services of 660
the United States department of health and human services 661
determines that the taxation of transactions described in 662
division (B) (11) (a) of this section constitutes an impermissible 663
health care-related tax under the "Social Security Act," section 664
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 665
the medicaid director shall notify the tax commissioner of that 666

determination. Beginning with the first day of the month 667
following that notification, the transactions described in 668
division (B) (11) (a) of this section are not sales for the 669
purposes of this chapter or Chapter 5741. of the Revised Code. 670
The tax commissioner shall order that the collection of taxes 671
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 672
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 673
for transactions occurring on or after that date. 674

(12) All transactions by which a specified digital product 675
is provided for permanent use or less than permanent use, 676
regardless of whether continued payment is required. 677

(13) All transactions by a delivery network company for 678
the company's delivery network services, provided the company 679
has a waiver issued under section 5741.072 of the Revised Code. 680

Except as provided in this section, "sale" and "selling" 681
do not include transfers of interest in leased property where 682
the original lessee and the terms of the original lease 683
agreement remain unchanged, or professional, insurance, or 684
personal service transactions that involve the transfer of 685
tangible personal property as an inconsequential element, for 686
which no separate charges are made. 687

(C) "Vendor" means the person providing the service or by 688
whom the transfer effected or license given by a sale is or is 689
to be made or given and, for sales described in division (B) (3) 690
(i) of this section, the telecommunications service vendor that 691
provides the nine hundred telephone service; if two or more 692
persons are engaged in business at the same place of business 693
under a single trade name in which all collections on account of 694
sales by each are made, such persons shall constitute a single 695
vendor. 696

Physicians, dentists, hospitals, and veterinarians who are 697
engaged in selling tangible personal property as received from 698
others, such as eyeglasses, mouthwashes, dentifrices, or similar 699
articles, are vendors. Veterinarians who are engaged in 700
transferring to others for a consideration drugs, the dispensing 701
of which does not require an order of a licensed veterinarian or 702
physician under federal law, are vendors. 703

The operator of any peer-to-peer car sharing program shall 704
be considered to be the vendor. 705

(D) (1) "Consumer" means the person for whom the service is 706
provided, to whom the transfer effected or license given by a 707
sale is or is to be made or given, to whom the service described 708
in division (B) (3) (f) or (i) of this section is charged, or to 709
whom the admission is granted. 710

(2) Physicians, dentists, hospitals, and blood banks 711
operated by nonprofit institutions and persons licensed to 712
practice veterinary medicine, surgery, and dentistry are 713
consumers of all tangible personal property and services 714
purchased by them in connection with the practice of medicine, 715
dentistry, the rendition of hospital or blood bank service, or 716
the practice of veterinary medicine, surgery, and dentistry. In 717
addition to being consumers of drugs administered by them or by 718
their assistants according to their direction, veterinarians 719
also are consumers of drugs that under federal law may be 720
dispensed only by or upon the order of a licensed veterinarian 721
or physician, when transferred by them to others for a 722
consideration to provide treatment to animals as directed by the 723
veterinarian. 724

(3) A person who performs a facility management, or 725
similar service contract for a contractee is a consumer of all 726

tangible personal property and services purchased for use in 727
connection with the performance of such contract, regardless of 728
whether title to any such property vests in the contractee. The 729
purchase of such property and services is not subject to the 730
exception for resale under division (E) of this section. 731

(4) (a) In the case of a person who purchases printed 732
matter for the purpose of distributing it or having it 733
distributed to the public or to a designated segment of the 734
public, free of charge, that person is the consumer of that 735
printed matter, and the purchase of that printed matter for that 736
purpose is a sale. 737

(b) In the case of a person who produces, rather than 738
purchases, printed matter for the purpose of distributing it or 739
having it distributed to the public or to a designated segment 740
of the public, free of charge, that person is the consumer of 741
all tangible personal property and services purchased for use or 742
consumption in the production of that printed matter. That 743
person is not entitled to claim exemption under division (B) (42) 744
(f) of section 5739.02 of the Revised Code for any material 745
incorporated into the printed matter or any equipment, supplies, 746
or services primarily used to produce the printed matter. 747

(c) The distribution of printed matter to the public or to 748
a designated segment of the public, free of charge, is not a 749
sale to the members of the public to whom the printed matter is 750
distributed or to any persons who purchase space in the printed 751
matter for advertising or other purposes. 752

(5) A person who makes sales of any of the services listed 753
in division (B) (3) of this section is the consumer of any 754
tangible personal property used in performing the service. The 755
purchase of that property is not subject to the resale exception 756

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| under division (E) of this section. | 757 |
| (6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service. | 758 759 760 761 762 |
| (7) In the case of a transaction for health care services under division (B) (11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E) of this section or to the exemptions provided under divisions (B) (12), (18), (19), and (22) of section 5739.02 of the Revised Code. | 763 764 765 766 767 768 769 770 |
| (E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person. | 771 772 773 774 775 |
| (F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds. | 776 777 778 779 |
| (G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business. | 780 781 782 783 |
| (H) (1) (a) "Price," except as provided in divisions (H) (2), (3), and (4) of this section, means the total amount of | 784 785 |

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| consideration, including cash, credit, property, and services, | 786 |
| for which tangible personal property or services are sold, | 787 |
| leased, or rented, valued in money, whether received in money or | 788 |
| otherwise, without any deduction for any of the following: | 789 |
| (i) The vendor's cost of the property sold; | 790 |
| (ii) The cost of materials used, labor or service costs, | 791 |
| interest, losses, all costs of transportation to the vendor, all | 792 |
| taxes imposed on the vendor, including the tax imposed under | 793 |
| Chapter 5751. of the Revised Code, and any other expense of the | 794 |
| vendor; | 795 |
| (iii) Charges by the vendor for any services necessary to | 796 |
| complete the sale; | 797 |
| (iv) Delivery charges. As used in this division, "delivery | 798 |
| charges" means charges by the vendor for preparation and | 799 |
| delivery to a location designated by the consumer of tangible | 800 |
| personal property or a service, including transportation, | 801 |
| shipping, postage, handling, crating, and packing. | 802 |
| (v) Installation charges; | 803 |
| (vi) Credit for any trade-in. | 804 |
| (b) "Price" includes consideration received by the vendor | 805 |
| from a third party, if the vendor actually receives the | 806 |
| consideration from a party other than the consumer, and the | 807 |
| consideration is directly related to a price reduction or | 808 |
| discount on the sale; the vendor has an obligation to pass the | 809 |
| price reduction or discount through to the consumer; the amount | 810 |
| of the consideration attributable to the sale is fixed and | 811 |
| determinable by the vendor at the time of the sale of the item | 812 |
| to the consumer; and one of the following criteria is met: | 813 |

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

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

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

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

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

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

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

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 843
this section, any discount allowed by an automobile manufacturer 844
to its employee, or to the employee of a supplier, on the 845
purchase of a new motor vehicle from a new motor vehicle dealer 846
in this state. 847

(v) The dollar value of a gift card that is not sold by a 848
vendor or purchased by a consumer and that is redeemed by the 849
consumer in purchasing tangible personal property or services if 850
the vendor is not reimbursed and does not receive compensation 851
from a third party to cover all or part of the gift card value. 852
For the purposes of this division, a gift card is not sold by a 853
vendor or purchased by a consumer if it is distributed pursuant 854
to an awards, loyalty, or promotional program. Past and present 855
purchases of tangible personal property or services by the 856
consumer shall not be treated as consideration exchanged for a 857
gift card. 858

(2) In the case of a sale of any new motor vehicle by a 859
new motor vehicle dealer, as defined in section 4517.01 of the 860
Revised Code, in which another motor vehicle is accepted by the 861
dealer as part of the consideration received, "price" has the 862
same meaning as in division (H) (1) of this section, reduced by 863
the credit afforded the consumer by the dealer for the motor 864
vehicle received in trade. 865

(3) In the case of a sale of any watercraft or outboard 866
motor by a watercraft dealer licensed in accordance with section 867
1547.543 of the Revised Code, in which another watercraft, 868
watercraft and trailer, or outboard motor is accepted by the 869
dealer as part of the consideration received, "price" has the 870
same meaning as in division (H) (1) of this section, reduced by 871
the credit afforded the consumer by the dealer for the 872

watercraft, watercraft and trailer, or outboard motor received 873
in trade. As used in this division, "watercraft" includes an 874
outdrive unit attached to the watercraft. 875

(4) In the case of transactions for health care services 876
under division (B)(11) of this section, "price" means the amount 877
of managed care premiums received each month by a medicaid 878
health insuring corporation. 879

(I) "Receipts" means the total amount of the prices of the 880
sales of vendors, provided that the dollar value of gift cards 881
distributed pursuant to an awards, loyalty, or promotional 882
program, and cash discounts allowed and taken on sales at the 883
time they are consummated are not included, minus any amount 884
deducted as a bad debt pursuant to section 5739.121 of the 885
Revised Code. "Receipts" does not include the sale price of 886
property returned or services rejected by consumers when the 887
full sale price and tax are refunded either in cash or by 888
credit. 889

(J) "Place of business" means any location at which a 890
person engages in business. 891

(K) "Premises" includes any real property or portion 892
thereof upon which any person engages in selling tangible 893
personal property at retail or making retail sales and also 894
includes any real property or portion thereof designated for, or 895
devoted to, use in conjunction with the business engaged in by 896
such person. 897

(L) "Casual sale" means a sale of an item of tangible 898
personal property that was obtained by the person making the 899
sale, through purchase or otherwise, for the person's own use 900
and was previously subject to any state's taxing jurisdiction on 901

its sale or use, and includes such items acquired for the 902
seller's use that are sold by an auctioneer employed directly by 903
the person for such purpose, provided the location of such sales 904
is not the auctioneer's permanent place of business. As used in 905
this division, "permanent place of business" includes any 906
location where such auctioneer has conducted more than two 907
auctions during the year. 908

(M) "Hotel" means every establishment kept, used, 909
maintained, advertised, or held out to the public to be a place 910
where sleeping accommodations are offered to guests, in which 911
five or more rooms are used for the accommodation of such 912
guests, whether the rooms are in one or several structures, 913
except as otherwise provided in section 5739.091 of the Revised 914
Code. 915

(N) "Transient guests" means persons occupying a room or 916
rooms for sleeping accommodations for less than thirty 917
consecutive days. 918

(O) "Making retail sales" means the effecting of 919
transactions wherein one party is obligated to pay the price and 920
the other party is obligated to provide a service or to transfer 921
title to or possession of the item sold. "Making retail sales" 922
does not include the preliminary acts of promoting or soliciting 923
the retail sales, other than the distribution of printed matter 924
which displays or describes and prices the item offered for 925
sale, nor does it include delivery of a predetermined quantity 926
of tangible personal property or transportation of property or 927
personnel to or from a place where a service is performed. 928

(P) "Used directly in the rendition of a public utility 929
service" means that property that is to be incorporated into and 930
will become a part of the consumer's production, transmission, 931

transportation, or distribution system and that retains its 932
classification as tangible personal property after such 933
incorporation; fuel or power used in the production, 934
transmission, transportation, or distribution system; and 935
tangible personal property used in the repair and maintenance of 936
the production, transmission, transportation, or distribution 937
system, including only such motor vehicles as are specially 938
designed and equipped for such use. Tangible personal property 939
and services used primarily in providing highway transportation 940
for hire are not used directly in the rendition of a public 941
utility service. In this definition, "public utility" includes a 942
citizen of the United States holding, and required to hold, a 943
certificate of public convenience and necessity issued under 49 944
U.S.C. 41102. 945

(Q) "Refining" means removing or separating a desirable 946
product from raw or contaminated materials by distillation or 947
physical, mechanical, or chemical processes. 948

(R) "Assembly" and "assembling" mean attaching or fitting 949
together parts to form a product, but do not include packaging a 950
product. 951

(S) "Manufacturing operation" means a process in which 952
materials are changed, converted, or transformed into a 953
different state or form from which they previously existed and 954
includes refining materials, assembling parts, and preparing raw 955
materials and parts by mixing, measuring, blending, or otherwise 956
committing such materials or parts to the manufacturing process. 957
"Manufacturing operation" does not include packaging. 958

(T) "Fiscal officer" means, with respect to a regional 959
transit authority, the secretary-treasurer thereof, and with 960
respect to a county that is a transit authority, the fiscal 961

officer of the county transit board if one is appointed pursuant 962
to section 306.03 of the Revised Code or the county auditor if 963
the board of county commissioners operates the county transit 964
system. 965

(U) "Transit authority" means a regional transit authority 966
created pursuant to section 306.31 of the Revised Code or a 967
county in which a county transit system is created pursuant to 968
section 306.01 of the Revised Code. For the purposes of this 969
chapter, a transit authority must extend to at least the entire 970
area of a single county. A transit authority that includes 971
territory in more than one county must include all the area of 972
the most populous county that is a part of such transit 973
authority. County population shall be measured by the most 974
recent census taken by the United States census bureau. 975

(V) "Legislative authority" means, with respect to a 976
regional transit authority, the board of trustees thereof, and 977
with respect to a county that is a transit authority, the board 978
of county commissioners. 979

(W) "Territory of the transit authority" means all of the 980
area included within the territorial boundaries of a transit 981
authority as they from time to time exist. Such territorial 982
boundaries must at all times include all the area of a single 983
county or all the area of the most populous county that is a 984
part of such transit authority. County population shall be 985
measured by the most recent census taken by the United States 986
census bureau. 987

(X) "Providing a service" means providing or furnishing 988
anything described in division (B) (3) of this section for 989
consideration. 990

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| (Y) (1) (a) "Automatic data processing" means processing of | 991 |
| others' data, including keypunching or similar data entry | 992 |
| services together with verification thereof, or providing access | 993 |
| to computer equipment for the purpose of processing data. | 994 |
| (b) "Computer services" means providing services | 995 |
| consisting of specifying computer hardware configurations and | 996 |
| evaluating technical processing characteristics, computer | 997 |
| programming, and training of computer programmers and operators, | 998 |
| provided in conjunction with and to support the sale, lease, or | 999 |
| operation of taxable computer equipment or systems. | 1000 |
| (c) "Electronic information services" means providing | 1001 |
| access to computer equipment by means of telecommunications | 1002 |
| equipment for the purpose of either of the following: | 1003 |
| (i) Examining or acquiring data stored in or accessible to | 1004 |
| the computer equipment; | 1005 |
| (ii) Placing data into the computer equipment to be | 1006 |
| retrieved by designated recipients with access to the computer | 1007 |
| equipment. | 1008 |
| "Electronic information services" does not include | 1009 |
| electronic publishing. | 1010 |
| (d) "Automatic data processing, computer services, or | 1011 |
| electronic information services" shall not include personal or | 1012 |
| professional services. | 1013 |
| (2) As used in divisions (B) (3) (e) and (Y) (1) of this | 1014 |
| section, "personal and professional services" means all services | 1015 |
| other than automatic data processing, computer services, or | 1016 |
| electronic information services, including but not limited to: | 1017 |
| (a) Accounting and legal services such as advice on tax | 1018 |

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| matters, asset management, budgetary matters, quality control, | 1019 |
| information security, and auditing and any other situation where | 1020 |
| the service provider receives data or information and studies, | 1021 |
| alters, analyzes, interprets, or adjusts such material; | 1022 |
| (b) Analyzing business policies and procedures; | 1023 |
| (c) Identifying management information needs; | 1024 |
| (d) Feasibility studies, including economic and technical | 1025 |
| analysis of existing or potential computer hardware or software | 1026 |
| needs and alternatives; | 1027 |
| (e) Designing policies, procedures, and custom software | 1028 |
| for collecting business information, and determining how data | 1029 |
| should be summarized, sequenced, formatted, processed, | 1030 |
| controlled, and reported so that it will be meaningful to | 1031 |
| management; | 1032 |
| (f) Developing policies and procedures that document how | 1033 |
| business events and transactions are to be authorized, executed, | 1034 |
| and controlled; | 1035 |
| (g) Testing of business procedures; | 1036 |
| (h) Training personnel in business procedure applications; | 1037 |
| (i) Providing credit information to users of such | 1038 |
| information by a consumer reporting agency, as defined in the | 1039 |
| "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 | 1040 |
| U.S.C. 1681a(f), or as hereafter amended, including but not | 1041 |
| limited to gathering, organizing, analyzing, recording, and | 1042 |
| furnishing such information by any oral, written, graphic, or | 1043 |
| electronic medium; | 1044 |
| (j) Providing debt collection services by any oral, | 1045 |
| written, graphic, or electronic means; | 1046 |

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| (k) Providing digital advertising services; | 1047 |
| (l) Providing services to electronically file any federal, | 1048 |
| state, or local individual income tax return, report, or other | 1049 |
| related document or schedule with a federal, state, or local | 1050 |
| government entity or to electronically remit a payment of any | 1051 |
| such individual income tax to such an entity. For the purpose of | 1052 |
| this division, "individual income tax" does not include federal, | 1053 |
| state, or local taxes withheld by an employer from an employee's | 1054 |
| compensation. | 1055 |
| The services listed in divisions (Y) (2) (a) to (l) of this | 1056 |
| section are not automatic data processing or computer services. | 1057 |
| (Z) "Highway transportation for hire" means the | 1058 |
| transportation of personal property belonging to others for | 1059 |
| consideration by any of the following: | 1060 |
| (1) The holder of a permit or certificate issued by this | 1061 |
| state or the United States authorizing the holder to engage in | 1062 |
| transportation of personal property belonging to others for | 1063 |
| consideration over or on highways, roadways, streets, or any | 1064 |
| similar public thoroughfare; | 1065 |
| (2) A person who engages in the transportation of personal | 1066 |
| property belonging to others for consideration over or on | 1067 |
| highways, roadways, streets, or any similar public thoroughfare | 1068 |
| but who could not have engaged in such transportation on | 1069 |
| December 11, 1985, unless the person was the holder of a permit | 1070 |
| or certificate of the types described in division (Z) (1) of this | 1071 |
| section; | 1072 |
| (3) A person who leases a motor vehicle to and operates it | 1073 |
| for a person described by division (Z) (1) or (2) of this | 1074 |
| section. | 1075 |

"Highway transportation for hire" does not include 1076
delivery network services. 1077

(AA) (1) "Telecommunications service" means the electronic 1078
transmission, conveyance, or routing of voice, data, audio, 1079
video, or any other information or signals to a point, or 1080
between or among points. "Telecommunications service" includes 1081
such transmission, conveyance, or routing in which computer 1082
processing applications are used to act on the form, code, or 1083
protocol of the content for purposes of transmission, 1084
conveyance, or routing without regard to whether the service is 1085
referred to as voice-over internet protocol service or is 1086
classified by the federal communications commission as enhanced 1087
or value-added. "Telecommunications service" does not include 1088
any of the following: 1089

(a) Data processing and information services that allow 1090
data to be generated, acquired, stored, processed, or retrieved 1091
and delivered by an electronic transmission to a consumer where 1092
the consumer's primary purpose for the underlying transaction is 1093
the processed data or information; 1094

(b) Installation or maintenance of wiring or equipment on 1095
a customer's premises; 1096

(c) Tangible personal property; 1097

(d) Advertising, including directory advertising; 1098

(e) Billing and collection services provided to third 1099
parties; 1100

(f) Internet access service; 1101

(g) Radio and television audio and video programming 1102
services, regardless of the medium, including the furnishing of 1103

transmission, conveyance, and routing of such services by the 1104
programming service provider. Radio and television audio and 1105
video programming services include, but are not limited to, 1106
cable service, as defined in 47 U.S.C. 522(6), and audio and 1107
video programming services delivered by commercial mobile radio 1108
service providers, as defined in 47 C.F.R. 20.3; 1109

(h) Ancillary service; 1110

(i) Digital products delivered electronically, including 1111
software, music, video, reading materials, or ring tones. 1112

(2) "Ancillary service" means a service that is associated 1113
with or incidental to the provision of telecommunications 1114
service, including conference bridging service, detailed 1115
telecommunications billing service, directory assistance, 1116
vertical service, and voice mail service. As used in this 1117
division: 1118

(a) "Conference bridging service" means an ancillary 1119
service that links two or more participants of an audio or video 1120
conference call, including providing a telephone number. 1121
"Conference bridging service" does not include 1122
telecommunications services used to reach the conference bridge. 1123

(b) "Detailed telecommunications billing service" means an 1124
ancillary service of separately stating information pertaining 1125
to individual calls on a customer's billing statement. 1126

(c) "Directory assistance" means an ancillary service of 1127
providing telephone number or address information. 1128

(d) "Vertical service" means an ancillary service that is 1129
offered in connection with one or more telecommunications 1130
services, which offers advanced calling features that allow 1131
customers to identify callers and manage multiple calls and call 1132

connections, including conference bridging service. 1133

(e) "Voice mail service" means an ancillary service that 1134
enables the customer to store, send, or receive recorded 1135
messages. "Voice mail service" does not include any vertical 1136
services that the customer may be required to have in order to 1137
utilize the voice mail service. 1138

(3) "900 service" means an inbound toll telecommunications 1139
service purchased by a subscriber that allows the subscriber's 1140
customers to call in to the subscriber's prerecorded 1141
announcement or live service, and which is typically marketed 1142
under the name "900 service" and any subsequent numbers 1143
designated by the federal communications commission. "900 1144
service" does not include the charge for collection services 1145
provided by the seller of the telecommunications service to the 1146
subscriber, or services or products sold by the subscriber to 1147
the subscriber's customer. 1148

(4) "Prepaid calling service" means the right to access 1149
exclusively telecommunications services, which must be paid for 1150
in advance and which enables the origination of calls using an 1151
access number or authorization code, whether manually or 1152
electronically dialed, and that is sold in predetermined units 1153
or dollars of which the number declines with use in a known 1154
amount. 1155

(5) "Prepaid wireless calling service" means a 1156
telecommunications service that provides the right to utilize 1157
mobile telecommunications service as well as other non- 1158
telecommunications services, including the download of digital 1159
products delivered electronically, and content and ancillary 1160
services, that must be paid for in advance and that is sold in 1161
predetermined units or dollars of which the number declines with 1162

use in a known amount. 1163

(6) "Value-added non-voice data service" means a 1164
telecommunications service in which computer processing 1165
applications are used to act on the form, content, code, or 1166
protocol of the information or data primarily for a purpose 1167
other than transmission, conveyance, or routing. 1168

(7) "Coin-operated telephone service" means a 1169
telecommunications service paid for by inserting money into a 1170
telephone accepting direct deposits of money to operate. 1171

(8) "Customer" has the same meaning as in section 5739.034 1172
of the Revised Code. 1173

(BB) "Laundry and dry cleaning services" means removing 1174
soil or dirt from towels, linens, articles of clothing, or other 1175
fabric items that belong to others and supplying towels, linens, 1176
articles of clothing, or other fabric items. "Laundry and dry 1177
cleaning services" does not include the provision of self- 1178
service facilities for use by consumers to remove soil or dirt 1179
from towels, linens, articles of clothing, or other fabric 1180
items. 1181

(CC) "Magazines distributed as controlled circulation 1182
publications" means magazines containing at least twenty-four 1183
pages, at least twenty-five per cent editorial content, issued 1184
at regular intervals four or more times a year, and circulated 1185
without charge to the recipient, provided that such magazines 1186
are not owned or controlled by individuals or business concerns 1187
which conduct such publications as an auxiliary to, and 1188
essentially for the advancement of the main business or calling 1189
of, those who own or control them. 1190

(DD) "Landscaping and lawn care service" means the 1191

services of planting, seeding, sodding, removing, cutting, 1192
trimming, pruning, mulching, aerating, applying chemicals, 1193
watering, fertilizing, and providing similar services to 1194
establish, promote, or control the growth of trees, shrubs, 1195
flowers, grass, ground cover, and other flora, or otherwise 1196
maintaining a lawn or landscape grown or maintained by the owner 1197
for ornamentation or other nonagricultural purpose. However, 1198
"landscaping and lawn care service" does not include the 1199
providing of such services by a person who has less than five 1200
thousand dollars in sales of such services during the calendar 1201
year. 1202

(EE) "Private investigation and security service" means 1203
the performance of any activity for which the provider of such 1204
service is required to be licensed pursuant to Chapter 4749. of 1205
the Revised Code, or would be required to be so licensed in 1206
performing such services in this state, and also includes the 1207
services of conducting polygraph examinations and of monitoring 1208
or overseeing the activities on or in, or the condition of, the 1209
consumer's home, business, or other facility by means of 1210
electronic or similar monitoring devices. "Private investigation 1211
and security service" does not include special duty services 1212
provided by off-duty police officers, deputy sheriffs, and other 1213
peace officers regularly employed by the state or a political 1214
subdivision. 1215

(FF) "Information services" means providing conversation, 1216
giving consultation or advice, playing or making a voice or 1217
other recording, making or keeping a record of the number of 1218
callers, and any other service provided to a consumer by means 1219
of a nine hundred telephone call, except when the nine hundred 1220
telephone call is the means by which the consumer makes a 1221
contribution to a recognized charity. 1222

(GG) "Research and development" means designing, creating, 1223
or formulating new or enhanced products, equipment, or 1224
manufacturing processes, and also means conducting scientific or 1225
technological inquiry and experimentation in the physical 1226
sciences with the goal of increasing scientific knowledge which 1227
may reveal the bases for new or enhanced products, equipment, or 1228
manufacturing processes. 1229

(HH) "Qualified research and development equipment" means 1230
either of the following: 1231

(1) Capitalized tangible personal property, and leased 1232
personal property that would be capitalized if purchased, used 1233
by a person primarily to perform research and development; 1234

(2) Any tangible personal property used by a megaproject 1235
operator primarily to perform research and development at the 1236
site of a megaproject that satisfies the criteria described in 1237
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 1238
during the period that the megaproject operator has an agreement 1239
for such megaproject with the tax credit authority under 1240
division (D) of that section that remains in effect and has not 1241
expired or been terminated. 1242

"Qualified research and development equipment" does not 1243
include tangible personal property primarily used in testing, as 1244
defined in division (A) (4) of section 5739.011 of the Revised 1245
Code, or used for recording or storing test results, unless such 1246
property is primarily used by the consumer in testing the 1247
product, equipment, or manufacturing process being created, 1248
designed, or formulated by the consumer in the research and 1249
development activity or in recording or storing such test 1250
results. 1251

(II) "Building maintenance and janitorial service" means 1252
cleaning the interior or exterior of a building and any tangible 1253
personal property located therein or thereon, including any 1254
services incidental to such cleaning for which no separate 1255
charge is made. However, "building maintenance and janitorial 1256
service" does not include the providing of such service by a 1257
person who has less than five thousand dollars in sales of such 1258
service during the calendar year. As used in this division, 1259
"cleaning" does not include sanitation services necessary for an 1260
establishment described in 21 U.S.C. 608 to comply with rules 1261
and regulations adopted pursuant to that section. 1262

(JJ) "Exterminating service" means eradicating or 1263
attempting to eradicate vermin infestations from a building or 1264
structure, or the area surrounding a building or structure, and 1265
includes activities to inspect, detect, or prevent vermin 1266
infestation of a building or structure. 1267

(KK) "Physical fitness facility service" means all 1268
transactions by which a membership is granted, maintained, or 1269
renewed, including initiation fees, membership dues, renewal 1270
fees, monthly minimum fees, and other similar fees and dues, by 1271
a physical fitness facility such as an athletic club, health 1272
spa, or gymnasium, which entitles the member to use the facility 1273
for physical exercise. 1274

(LL) "Recreation and sports club service" means all 1275
transactions by which a membership is granted, maintained, or 1276
renewed, including initiation fees, membership dues, renewal 1277
fees, monthly minimum fees, and other similar fees and dues, by 1278
a recreation and sports club, which entitles the member to use 1279
the facilities of the organization. "Recreation and sports club" 1280
means an organization that has ownership of, or controls or 1281

leases on a continuing, long-term basis, the facilities used by 1282
its members and includes an aviation club, gun or shooting club, 1283
yacht club, card club, swimming club, tennis club, golf club, 1284
country club, riding club, amateur sports club, or similar 1285
organization. 1286

(MM) "Livestock" means farm animals commonly raised for 1287
food, food production, or other agricultural purposes, 1288
including, but not limited to, cattle, sheep, goats, swine, 1289
poultry, and captive deer. "Livestock" does not include 1290
invertebrates, amphibians, reptiles, domestic pets, animals for 1291
use in laboratories or for exhibition, or other animals not 1292
commonly raised for food or food production. 1293

(NN) "Livestock structure" means a building or structure 1294
used exclusively for the housing, raising, feeding, or 1295
sheltering of livestock, and includes feed storage or handling 1296
structures and structures for livestock waste handling. 1297

(OO) "Horticulture" means the growing, cultivation, and 1298
production of flowers, fruits, herbs, vegetables, sod, 1299
mushrooms, and nursery stock. As used in this division, "nursery 1300
stock" has the same meaning as in section 927.51 of the Revised 1301
Code. 1302

(PP) "Horticulture structure" means a building or 1303
structure used exclusively for the commercial growing, raising, 1304
or overwintering of horticultural products, and includes the 1305
area used for stocking, storing, and packing horticultural 1306
products when done in conjunction with the production of those 1307
products. 1308

(QQ) "Newspaper" means an unbound publication bearing a 1309
title or name that is regularly published, at least as 1310

frequently as biweekly, and distributed from a fixed place of 1311
business to the public in a specific geographic area, and that 1312
contains a substantial amount of news matter of international, 1313
national, or local events of interest to the general public. 1314

(RR) (1) "Feminine hygiene products" means tampons, panty 1315
liners, menstrual cups, sanitary napkins, and other similar 1316
tangible personal property designed for feminine hygiene in 1317
connection with the human menstrual cycle, but does not include 1318
grooming and hygiene products. 1319

(2) "Grooming and hygiene products" means soaps and 1320
cleaning solutions, shampoo, toothpaste, mouthwash, 1321
antiperspirants, and sun tan lotions and screens, regardless of 1322
whether any of these products are over-the-counter drugs. 1323

(3) "Over-the-counter drugs" means a drug that contains a 1324
label that identifies the product as a drug as required by 21 1325
C.F.R. 201.66, which label includes a drug facts panel or a 1326
statement of the active ingredients with a list of those 1327
ingredients contained in the compound, substance, or 1328
preparation. 1329

(SS) (1) "Lease" or "rental" means any transfer of the 1330
possession or control of tangible personal property for a fixed 1331
or indefinite term, for consideration. "Lease" or "rental" 1332
includes future options to purchase or extend, and agreements 1333
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1334
trailers where the amount of consideration may be increased or 1335
decreased by reference to the amount realized upon the sale or 1336
disposition of the property. "Lease" or "rental" does not 1337
include: 1338

(a) A transfer of possession or control of tangible 1339

personal property under a security agreement or a deferred 1340
payment plan that requires the transfer of title upon completion 1341
of the required payments; 1342

(b) A transfer of possession or control of tangible 1343
personal property under an agreement that requires the transfer 1344
of title upon completion of required payments and payment of an 1345
option price that does not exceed the greater of one hundred 1346
dollars or one per cent of the total required payments; 1347

(c) Providing tangible personal property along with an 1348
operator for a fixed or indefinite period of time, if the 1349
operator is necessary for the property to perform as designed. 1350
For purposes of this division, the operator must do more than 1351
maintain, inspect, or set up the tangible personal property. 1352

(2) "Lease" and "rental," as defined in division (SS) of 1353
this section, shall not apply to leases or rentals that exist 1354
before June 26, 2003. 1355

(3) "Lease" and "rental" have the same meaning as in 1356
division (SS) (1) of this section regardless of whether a 1357
transaction is characterized as a lease or rental under 1358
generally accepted accounting principles, the Internal Revenue 1359
Code, Title XIII of the Revised Code, or other federal, state, 1360
or local laws. 1361

(TT) "Mobile telecommunications service" has the same 1362
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 1363
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 1364
amended, and, on and after August 1, 2003, includes related fees 1365
and ancillary services, including universal service fees, 1366
detailed billing service, directory assistance, service 1367
initiation, voice mail service, and vertical services, such as 1368

caller ID and three-way calling. 1369

(UU) "Certified service provider" has the same meaning as 1370
in section 5740.01 of the Revised Code. 1371

(VV) "Satellite broadcasting service" means the 1372
distribution or broadcasting of programming or services by 1373
satellite directly to the subscriber's receiving equipment 1374
without the use of ground receiving or distribution equipment, 1375
except the subscriber's receiving equipment or equipment used in 1376
the uplink process to the satellite, and includes all service 1377
and rental charges, premium channels or other special services, 1378
installation and repair service charges, and any other charges 1379
having any connection with the provision of the satellite 1380
broadcasting service. 1381

(WW) "Tangible personal property" means personal property 1382
that can be seen, weighed, measured, felt, or touched, or that 1383
is in any other manner perceptible to the senses. For purposes 1384
of this chapter and Chapter 5741. of the Revised Code, "tangible 1385
personal property" includes motor vehicles, electricity, water, 1386
gas, steam, and prewritten computer software. 1387

(XX) "Municipal gas utility" means a municipal corporation 1388
that owns or operates a system for the distribution of natural 1389
gas. 1390

(YY) "Computer" means an electronic device that accepts 1391
information in digital or similar form and manipulates it for a 1392
result based on a sequence of instructions. 1393

(ZZ) "Computer software" means a set of coded instructions 1394
designed to cause a computer or automatic data processing 1395
equipment to perform a task. 1396

(AAA) "Delivered electronically" means delivery of 1397

computer software from the seller to the purchaser by means 1398
other than tangible storage media. 1399

(BBB) "Prewritten computer software" means computer 1400
software, including prewritten upgrades, that is not designed 1401
and developed by the author or other creator to the 1402
specifications of a specific purchaser. The combining of two or 1403
more prewritten computer software programs or prewritten 1404
portions thereof does not cause the combination to be other than 1405
prewritten computer software. "Prewritten computer software" 1406
includes software designed and developed by the author or other 1407
creator to the specifications of a specific purchaser when it is 1408
sold to a person other than the purchaser. If a person modifies 1409
or enhances computer software of which the person is not the 1410
author or creator, the person shall be deemed to be the author 1411
or creator only of such person's modifications or enhancements. 1412
Prewritten computer software or a prewritten portion thereof 1413
that is modified or enhanced to any degree, where such 1414
modification or enhancement is designed and developed to the 1415
specifications of a specific purchaser, remains prewritten 1416
computer software; provided, however, that where there is a 1417
reasonable, separately stated charge or an invoice or other 1418
statement of the price given to the purchaser for the 1419
modification or enhancement, the modification or enhancement 1420
shall not constitute prewritten computer software. 1421

(CCC) (1) "Food" means substances, whether in liquid, 1422
concentrated, solid, frozen, dried, or dehydrated form, that are 1423
sold for ingestion or chewing by humans and are consumed for 1424
their taste or nutritional value. "Food" does not include 1425
alcoholic beverages, dietary supplements, soft drinks, or 1426
tobacco. 1427

| | |
|---|------|
| (2) As used in division (CCC) (1) of this section: | 1428 |
| (a) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients: | 1429 |
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| (i) A vitamin; | 1439 |
| (ii) A mineral; | 1440 |
| (iii) An herb or other botanical; | 1441 |
| (iv) An amino acid; | 1442 |
| (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; | 1443 |
| | 1444 |
| (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (CCC) (2) (a) (i) to (v) of this section. | 1445 |
| | 1446 |
| | 1447 |
| (b) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume. | 1448 |
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| | 1451 |
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| (DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages | 1453 |
| | 1454 |
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that is recognized in the official United States pharmacopoeia, 1456
official homeopathic pharmacopoeia of the United States, or 1457
official national formulary, and supplements to them; is 1458
intended for use in the diagnosis, cure, mitigation, treatment, 1459
or prevention of disease; or is intended to affect the structure 1460
or any function of the body. 1461

(EEE) "Prescription" means an order, formula, or recipe 1462
issued in any form of oral, written, electronic, or other means 1463
of transmission by a duly licensed practitioner authorized by 1464
the laws of this state to issue a prescription. 1465

(FFF) "Durable medical equipment" means equipment, 1466
including repair and replacement parts for such equipment, that 1467
can withstand repeated use, is primarily and customarily used to 1468
serve a medical purpose, generally is not useful to a person in 1469
the absence of illness or injury, and is not worn in or on the 1470
body. "Durable medical equipment" does not include mobility 1471
enhancing equipment. 1472

(GGG) "Mobility enhancing equipment" means equipment, 1473
including repair and replacement parts for such equipment, that 1474
is primarily and customarily used to provide or increase the 1475
ability to move from one place to another and is appropriate for 1476
use either in a home or a motor vehicle, that is not generally 1477
used by persons with normal mobility, and that does not include 1478
any motor vehicle or equipment on a motor vehicle normally 1479
provided by a motor vehicle manufacturer. "Mobility enhancing 1480
equipment" does not include durable medical equipment. 1481

(HHH) "Prosthetic device" means a replacement, corrective, 1482
or supportive device, including repair and replacement parts for 1483
the device, worn on or in the human body to artificially replace 1484
a missing portion of the body, prevent or correct physical 1485

deformity or malfunction, or support a weak or deformed portion 1486
of the body. As used in this division, before July 1, 2019, 1487
"prosthetic device" does not include corrective eyeglasses, 1488
contact lenses, or dental prosthesis. On or after July 1, 2019, 1489
"prosthetic device" does not include dental prosthesis but does 1490
include corrective eyeglasses or contact lenses. 1491

(III)(1) "Fractional aircraft ownership program" means a 1492
program in which persons within an affiliated group sell and 1493
manage fractional ownership program aircraft, provided that at 1494
least one hundred airworthy aircraft are operated in the program 1495
and the program meets all of the following criteria: 1496

(a) Management services are provided by at least one 1497
program manager within an affiliated group on behalf of the 1498
fractional owners. 1499

(b) Each program aircraft is owned or possessed by at 1500
least one fractional owner. 1501

(c) Each fractional owner owns or possesses at least a 1502
one-sixteenth interest in at least one fixed-wing program 1503
aircraft. 1504

(d) A dry-lease aircraft interchange arrangement is in 1505
effect among all of the fractional owners. 1506

(e) Multi-year program agreements are in effect regarding 1507
the fractional ownership, management services, and dry-lease 1508
aircraft interchange arrangement aspects of the program. 1509

(2) As used in division (III)(1) of this section: 1510

(a) "Affiliated group" has the same meaning as in division 1511
(B)(3)(e) of this section. 1512

(b) "Fractional owner" means a person that owns or 1513

possesses at least a one-sixteenth interest in a program 1514
aircraft and has entered into the agreements described in 1515
division (III) (1) (e) of this section. 1516

(c) "Fractional ownership program aircraft" or "program 1517
aircraft" means a turbojet aircraft that is owned or possessed 1518
by a fractional owner and that has been included in a dry-lease 1519
aircraft interchange arrangement and agreement under divisions 1520
(III) (1) (d) and (e) of this section, or an aircraft a program 1521
manager owns or possesses primarily for use in a fractional 1522
aircraft ownership program. 1523

(d) "Management services" means administrative and 1524
aviation support services furnished under a fractional aircraft 1525
ownership program in accordance with a management services 1526
agreement under division (III) (1) (e) of this section, and 1527
offered by the program manager to the fractional owners, 1528
including, at a minimum, the establishment and implementation of 1529
safety guidelines; the coordination of the scheduling of the 1530
program aircraft and crews; program aircraft maintenance; 1531
program aircraft insurance; crew training for crews employed, 1532
furnished, or contracted by the program manager or the 1533
fractional owner; the satisfaction of record-keeping 1534
requirements; and the development and use of an operations 1535
manual and a maintenance manual for the fractional aircraft 1536
ownership program. 1537

(e) "Program manager" means the person that offers 1538
management services to fractional owners pursuant to a 1539
management services agreement under division (III) (1) (e) of this 1540
section. 1541

(JJJ) "Electronic publishing" means providing access to 1542
one or more of the following primarily for business customers, 1543

including the federal government or a state government or a 1544
political subdivision thereof, to conduct research: news; 1545
business, financial, legal, consumer, or credit materials; 1546
editorials, columns, reader commentary, or features; photos or 1547
images; archival or research material; legal notices, identity 1548
verification, or public records; scientific, educational, 1549
instructional, technical, professional, trade, or other literary 1550
materials; or other similar information which has been gathered 1551
and made available by the provider to the consumer in an 1552
electronic format. Providing electronic publishing includes the 1553
functions necessary for the acquisition, formatting, editing, 1554
storage, and dissemination of data or information that is the 1555
subject of a sale. 1556

(KKK) "Medicaid health insuring corporation" means a 1557
health insuring corporation that holds a certificate of 1558
authority under Chapter 1751. of the Revised Code and is under 1559
contract with the department of medicaid pursuant to section 1560
5167.10 of the Revised Code. 1561

(LLL) "Managed care premium" means any premium, 1562
capitation, or other payment a medicaid health insuring 1563
corporation receives for providing or arranging for the 1564
provision of health care services to its members or enrollees 1565
residing in this state. 1566

(MMM) "Captive deer" means deer and other cervidae that 1567
have been legally acquired, or their offspring, that are 1568
privately owned for agricultural or farming purposes. 1569

(NNN) "Gift card" means a document, card, certificate, or 1570
other record, whether tangible or intangible, that may be 1571
redeemed by a consumer for a dollar value when making a purchase 1572
of tangible personal property or services. 1573

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

As used in division (OOO) of this section:

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

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

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

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

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

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

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

(SSS) (1) "Diaper" means an absorbent garment worn by

humans who are incapable of, or have difficulty, controlling 1602
their bladder or bowel movements. 1603

(2) "Children's diaper" means a diaper marketed to be worn 1604
by children. 1605

(3) "Adult diaper" means a diaper other than a children's 1606
diaper. 1607

(TTT) "Sales tax holiday" means three or more dates on 1608
which sales of all eligible tangible personal property are 1609
exempt from the taxes levied under sections 5739.02, 5739.021, 1610
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of 1611
the Revised Code. 1612

(UUU) "Eligible tangible personal property" means any item 1613
of tangible personal property that meets both of the following 1614
requirements: 1615

(1) The price of the item does not exceed five hundred 1616
dollars; 1617

(2) The item is not a watercraft or outboard motor 1618
required to be titled pursuant to Chapter 1548. of the Revised 1619
Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor 1620
product as defined in section 5743.01 of the Revised Code, or an 1621
item that contains marijuana as defined in section 3796.01 of 1622
the Revised Code. 1623

(VVV) "Alcoholic beverages" means beverages that are 1624
suitable for human consumption and contain one-half of one per 1625
cent or more of alcohol by volume. 1626

(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe 1627
tobacco, or any other item that contains tobacco. 1628

(XXX) (1) "Delivery network company" means a person that 1629

operates a business platform, including a web site or mobile application, to facilitate delivery network services. 1630
1631

(2) "Delivery network courier" means an individual connected to a consumer through a delivery network company and who provides delivery network services to that consumer. 1632
1633
1634

(3) "Delivery network services" means both of the following when performed as part of a single transaction: 1635
1636

(a) Pickup of a local product by a delivery network courier from a local merchant that is not under common ownership or control of the delivery network company through which the transaction was initiated, and which may include selection, collection, and purchase of the local product; 1637
1638
1639
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1641

(b) Delivery by the delivery network courier of that local product to a location designated by the consumer that is not more than seventy-five miles from the local merchant's place of business where the pickup described in division (XXX) (3) (a) of this section occurs. 1642
1643
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(4) "Local merchant" means a person engaged in selling local products from a temporary or fixed place of business in this state, including a kitchen, restaurant, grocery store, retail store, or convenience store. 1647
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(5) "Local product" means any tangible personal property, including food, but excluding freight, mail, or a package to which postage is affixed. 1651
1652
1653

Sec. 5741.01. As used in this chapter: 1654

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, 1655
1656
1657

societies, corporations, business trusts, governments, and 1658
combinations of individuals of any form. 1659

(B) "Storage" means and includes any keeping or retention 1660
in this state for use or other consumption in this state. 1661

(C) "Use" means and includes the exercise of any right or 1662
power incidental to the ownership of the thing used. A thing is 1663
also "used" in this state if its consumer gives or otherwise 1664
distributes it, without charge, to recipients in this state. 1665

(D) "Purchase" means acquired or received for a 1666
consideration, whether such acquisition or receipt was effected 1667
by a transfer of title, or of possession, or of both, or a 1668
license to use or consume; whether such transfer was absolute or 1669
conditional, and by whatever means the transfer was effected; 1670
and whether the consideration was money, credit, barter, or 1671
exchange. Purchase includes production, even though the article 1672
produced was used, stored, or consumed by the producer. The 1673
transfer of copyrighted motion picture films for exhibition 1674
purposes is not a purchase, except such films as are used solely 1675
for advertising purposes. 1676

(E) "Seller" means the person from whom a purchase is 1677
made, and includes every person engaged in this state or 1678
elsewhere in the business of selling tangible personal property 1679
or providing a service for storage, use, or other consumption or 1680
benefit in this state; and when, in the opinion of the tax 1681
commissioner, it is necessary for the efficient administration 1682
of this chapter, to regard any salesperson, representative, 1683
peddler, or canvasser as the agent of a dealer, distributor, 1684
supervisor, or employer under whom the person operates, or from 1685
whom the person obtains tangible personal property, sold by the 1686
person for storage, use, or other consumption in this state, 1687

irrespective of whether or not the person is making such sales 1688
on the person's own behalf, or on behalf of such dealer, 1689
distributor, supervisor, or employer, the commissioner may 1690
regard the person as such agent, and may regard such dealer, 1691
distributor, supervisor, or employer as the seller. ~~A~~ 1692

Except as provided in sections 5741.071 and 5747.072 of 1693
the Revised Code, a marketplace facilitator shall be treated as 1694
the "seller" with respect to all sales facilitated by the 1695
marketplace facilitator on behalf of one or more marketplace 1696
sellers on and after the first day of the first month that 1697
begins at least thirty days after the marketplace facilitator 1698
first has substantial nexus with this state. Otherwise, "seller" 1699
does not include any person to the extent the person provides a 1700
communications medium, such as, but not limited to, newspapers, 1701
magazines, radio, television, or cable television, by means of 1702
which sellers solicit purchases of their goods or services. 1703

(F) "Consumer" means any person who has purchased tangible 1704
personal property or has been provided a service for storage, 1705
use, or other consumption or benefit in this state. "Consumer" 1706
does not include a person who receives, without charge, tangible 1707
personal property or a service. 1708

A person who performs a facility management or similar 1709
service contract for a contractee is a consumer of all tangible 1710
personal property and services purchased for use in connection 1711
with the performance of such contract, regardless of whether 1712
title to any such property vests in the contractee. The purchase 1713
of such property and services is not subject to the exception 1714
for resale under division (E) of section 5739.01 of the Revised 1715
Code. 1716

(G) (1) "Price," except as provided in divisions (G) (2) to 1717

(6) of this section, has the same meaning as in division (H) (1) 1718
of section 5739.01 of the Revised Code. 1719

(2) In the case of watercraft, outboard motors, or new 1720
motor vehicles, "price" has the same meaning as in divisions (H) 1721
(2) and (3) of section 5739.01 of the Revised Code. 1722

(3) In the case of a nonresident business consumer that 1723
purchases and uses tangible personal property outside this state 1724
and subsequently temporarily stores, uses, or otherwise consumes 1725
such tangible personal property in the conduct of business in 1726
this state, the consumer or the tax commissioner may determine 1727
the price based on the value of the temporary storage, use, or 1728
other consumption, in lieu of determining the price pursuant to 1729
division (G) (1) of this section. A price determination made by 1730
the consumer is subject to review and redetermination by the 1731
commissioner. 1732

(4) In the case of tangible personal property held in this 1733
state as inventory for sale or lease, and that is temporarily 1734
stored, used, or otherwise consumed in a taxable manner, the 1735
price is the value of the temporary use. A price determination 1736
made by the consumer is subject to review and redetermination by 1737
the commissioner. 1738

(5) In the case of tangible personal property originally 1739
purchased and used by the consumer outside this state, and that 1740
becomes permanently stored, used, or otherwise consumed in this 1741
state more than six months after its acquisition by the 1742
consumer, the consumer or the commissioner may determine the 1743
price based on the current value of such tangible personal 1744
property, in lieu of determining the price pursuant to division 1745
(G) (1) of this section. A price determination made by the 1746
consumer is subject to review and redetermination by the 1747

commissioner. 1748

(6) If a consumer produces tangible personal property for 1749
sale and removes that property from inventory for the consumer's 1750
own use, the price is the produced cost of that tangible 1751
personal property. 1752

(H) "Nexus with this state" means that the seller engages 1753
in continuous and widespread solicitation of purchases from 1754
residents of this state or otherwise purposefully directs its 1755
business activities at residents of this state. 1756

(I) (1) "Substantial nexus with this state" means that the 1757
seller has sufficient contact with this state, in accordance 1758
with Section 8 of Article I of the Constitution of the United 1759
States, to allow the state to require the seller to collect and 1760
remit use tax on sales of tangible personal property or services 1761
made to consumers in this state. 1762

(2) "Substantial nexus with this state" is presumed to 1763
exist when the seller does any of the following: 1764

(a) Uses an office, distribution facility, warehouse, 1765
storage facility, or similar place of business within this 1766
state, whether operated by the seller or any other person, other 1767
than a common carrier acting in its capacity as a common 1768
carrier. 1769

(b) Regularly uses employees, agents, representatives, 1770
solicitors, installers, repairers, salespersons, or other 1771
persons in this state for the purpose of conducting the business 1772
of the seller or either to engage in a business with the same or 1773
a similar industry classification as the seller selling a 1774
similar product or line of products as the seller, or to use 1775
trademarks, service marks, or trade names in this state that are 1776

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| the same or substantially similar to those used by the seller. | 1777 |
| (c) Uses any person, other than a common carrier acting in its capacity as a common carrier, in this state for any of the following purposes: | 1778 |
| (i) Receiving or processing orders of the seller's goods or services; | 1779 |
| (ii) Using that person's employees or facilities in this state to advertise, promote, or facilitate sales by the seller to customers; | 1780 |
| (iii) Delivering, installing, assembling, or performing maintenance services for the seller's customers; | 1781 |
| (iv) Facilitating the seller's delivery of tangible personal property to customers in this state by allowing the seller's customers to pick up property sold by the seller at an office, distribution facility, warehouse, storage facility, or similar place of business. | 1782 |
| (d) Makes regular deliveries of tangible personal property into this state by means other than common carrier. | 1783 |
| (e) Has an affiliated person that has substantial nexus with this state. | 1784 |
| (f) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state. | 1785 |
| (g) Has gross receipts in excess of one hundred thousand dollars in the current or preceding calendar year from the sale of tangible personal property for storage, use, or consumption in this state or from providing services the benefit of which is realized in this state. | 1786 |
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(h) Engages, in the current or preceding calendar year, in 1805
two hundred or more separate transactions selling tangible 1806
personal property for storage, use, or consumption in this state 1807
or providing services the benefit of which is realized in this 1808
state. 1809

(3) A seller presumed to have substantial nexus with this 1810
state under divisions (I) (2) (a) to (f), (g), and (h) of this 1811
section may rebut that presumption by demonstrating that 1812
activities described in any of those divisions that are 1813
conducted by a person in this state on the seller's behalf are 1814
not significantly associated with the seller's ability to 1815
establish or maintain a market in this state for the seller's 1816
sales. 1817

(4) A marketplace facilitator is presumed to have 1818
substantial nexus with this state if either of the following 1819
apply in the current or preceding calendar year: 1820

(a) The aggregate gross receipts derived from sales of 1821
tangible personal property for storage, use, or consumption in 1822
this state or services the benefit of which is realized in this 1823
state, including sales made by the marketplace facilitator on 1824
its own behalf and sales facilitated by the marketplace 1825
facilitator on behalf of one or more marketplace sellers, exceed 1826
one hundred thousand dollars; 1827

(b) The marketplace facilitator engages in on its own 1828
behalf, or facilitates on behalf of one or more marketplace 1829
sellers, two hundred or more separate transactions selling 1830
tangible personal property for storage, use, or consumption in 1831
this state or services the benefit of which is realized in this 1832
state. 1833

(5) A seller that does not have substantial nexus with this state, and any affiliated person of the seller, before selling or leasing tangible personal property or services to a state agency, shall register with the tax commissioner in the same manner as a seller described in division (A)(1) of section 5741.17 of the Revised Code.

(6) As used in division (I) of this section:

(a) "Affiliated person" means any person that is a member of the same controlled group of corporations as the seller or any other person that, notwithstanding the form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations.

(b) "Controlled group of corporations" has the same meaning as in section 1563(a) of the Internal Revenue Code.

(c) "State agency" has the same meaning as in section 1.60 of the Revised Code.

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

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a

part of such transit authority. County population shall be 1863
measured by the most recent census taken by the United States 1864
census bureau. 1865

(L) "Transit authority" means a regional transit authority 1866
created pursuant to section 306.31 of the Revised Code or a 1867
county in which a county transit system is created pursuant to 1868
section 306.01 of the Revised Code. For the purposes of this 1869
chapter, a transit authority must extend to at least the entire 1870
area of a single county. A transit authority which includes 1871
territory in more than one county must include all the area of 1872
the most populous county which is a part of such transit 1873
authority. County population shall be measured by the most 1874
recent census taken by the United States census bureau. 1875

(M) "Providing a service" has the same meaning as in 1876
section 5739.01 of the Revised Code. 1877

(N) "Other consumption" includes receiving the benefits of 1878
a service. 1879

(O) "Lease" or "rental" has the same meaning as in section 1880
5739.01 of the Revised Code. 1881

(P) "Certified service provider" has the same meaning as 1882
in section 5740.01 of the Revised Code. 1883

(Q) "Marketplace facilitator" means a person that owns, 1884
operates, or controls a physical or electronic marketplace 1885
through which retail sales or delivery network services, or 1886
both, are facilitated on behalf of one or more marketplace 1887
sellers, or an affiliate of such a person. "Marketplace 1888
facilitator" does not include a person that provides advertising 1889
services, including tangible personal property or services 1890
listed for sale, if the advertising service platform or forum 1891

does not engage directly or indirectly through one or more 1892
affiliated persons in the activities described in division (T) 1893
(2) of this section. 1894

(R) "Marketplace seller" means a person on behalf of which 1895
a marketplace facilitator facilitates the sale of tangible 1896
personal property for storage, use, or consumption in this state 1897
or services the benefit of which are realized in this state, 1898
regardless of whether or not the person has a substantial nexus 1899
with this state. 1900

(S) "Electronic marketplace" includes digital distribution 1901
services, digital distribution platforms, online portals, 1902
application stores, computer software applications, in-app 1903
purchase mechanisms, or other digital products. 1904

(T) A sale is "facilitated" by a marketplace facilitator 1905
on behalf of a marketplace seller if it satisfies divisions (T) 1906
(1), (2), and (3) of this section: 1907

(1) The marketplace facilitator, directly or indirectly, 1908
does any of the following: 1909

(a) Lists, makes available, or advertises the tangible 1910
personal property or services that are the subject of the sale 1911
in a physical or electronic marketplace owned, operated, or 1912
controlled by the marketplace facilitator; 1913

(b) Transmits or otherwise communicates an offer or 1914
acceptance of the sale between the marketplace seller and the 1915
purchaser in a shop, store, booth, catalog, internet site, or 1916
other similar forum; 1917

(c) Owns, rents, licenses, makes available, or operates 1918
any electronic or physical infrastructure or any property, 1919
process, method, copyright, trademark, or patent that connects 1920

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| the marketplace seller to the purchaser for the purpose of | 1921 |
| making sales; | 1922 |
| (d) Provides the marketplace in which the sale was made or | 1923 |
| otherwise facilitates the sale regardless of ownership or | 1924 |
| control of the tangible personal property or services that are | 1925 |
| the subject of the sale; | 1926 |
| (e) Provides software development or research and | 1927 |
| development services directly related to a physical or | 1928 |
| electronic marketplace that is involved in one or more of the | 1929 |
| activities described in division (T)(1) of this section; | 1930 |
| (f) Provides fulfillment or storage services for the | 1931 |
| marketplace seller that are related to the tangible personal | 1932 |
| property or services that are the subject of the sale; | 1933 |
| (g) Sets the price of the sale on behalf of the | 1934 |
| marketplace seller; | 1935 |
| (h) Provides or offers customer service to the marketplace | 1936 |
| seller or the marketplace seller's customers, or accepts or | 1937 |
| assists with taking orders, returns, or exchanges of the | 1938 |
| tangible personal property or services that are the subject of | 1939 |
| the sale; | 1940 |
| (i) Brands or otherwise identifies the sale as a sale of | 1941 |
| the marketplace facilitator. | 1942 |
| (2) The marketplace facilitator, directly or indirectly, | 1943 |
| does any of the following: | 1944 |
| (a) Collects the price of the tangible personal property | 1945 |
| or services sold to the consumer; | 1946 |
| (b) Provides payment processing services for the sale; | 1947 |

(c) Collects payment in connection with the sale from the consumer through terms and conditions, agreements, or arrangements with a third party, and transmits that payment to the marketplace seller, regardless of whether the person collecting and transmitting such payment receives compensation or other consideration in exchange for the service;

(d) Provides virtual currency that consumers are allowed or required to use to purchase the tangible personal property or services that are the subject of the sale.

(3) The subject of the sale is tangible personal property or services other than lodging by a hotel that is or is to be furnished to transient guests.

(U) "Delivery network company," "delivery network services," and "local merchant" have the same meanings as in section 5739.01 of the Revised Code.

Sec. 5741.072. (A) If all of the following conditions are met, a delivery network company that facilitates delivery network services may request a waiver from the requirement in division (E) of section 5741.01 of the Revised Code that a marketplace facilitator be treated as the seller of goods sold by marketplace sellers through the marketplace facilitator:

(1) The delivery network company is current on all taxes, fees, and charges administered by the department of taxation that are not subject to a bona fide dispute.

(2) The delivery network company has not, within the twelve months preceding the request for waiver, requested that a previously granted waiver be canceled or had a previously granted waiver revoked by the commissioner.

(3) The delivery network company has not violated division

(B) of section 5739.30 of the Revised Code. 1977

A waiver granted under this section does not affect the 1978
delivery network company's status as the seller of its delivery 1979
network services. 1980

(B) A delivery network company that requests a waiver 1981
pursuant to this section shall make the request to the tax 1982
commissioner on a form prescribed by the commissioner. A waiver 1983
that is not affirmatively granted or denied by the commissioner 1984
within thirty days of the date it was filed with the 1985
commissioner is automatically granted. A waiver that is granted 1986
by the commissioner or granted automatically is effective on and 1987
after the first day of the first month that begins at least 1988
thirty days after the commissioner grants the waiver or the 1989
waiver is automatically granted. The waiver is valid until the 1990
first day of the first month that begins at least sixty days 1991
after it is revoked by the commissioner or canceled by the 1992
delivery network company. 1993

(C) (1) When a waiver is granted pursuant to division (B) 1994
of this section, the commissioner shall notify the delivery 1995
network company, which shall then notify each local merchant 1996
operating on the delivery network company's physical or 1997
electronic marketplace that the local merchant shall be 1998
considered a vendor pursuant to division (C) of section 5739.01 1999
of the Revised Code or a seller pursuant to division (E) of 2000
section 5741.01 of the Revised Code, as applicable, with respect 2001
to the local products sold by the seller through the delivery 2002
network company's physical or electronic marketplace. 2003

(2) A delivery network company that has been granted a 2004
waiver under this section may cancel the waiver by sending 2005
notice to the commissioner. The commissioner may revoke a waiver 2006

if the commissioner determines that any of the conditions 2007
described in divisions (A) (1) to (3) of this section are no 2008
longer met by the delivery network company. The commissioner 2009
shall notify the delivery network company upon revoking a 2010
waiver. A delivery network for which a waiver has been canceled 2011
or revoked shall promptly notify each local merchant operating 2012
on the delivery network company's physical or electronic 2013
marketplace that its waiver has been canceled or revoked. 2014

(D) Notwithstanding section 5703.21 of the Revised Code, 2015
the commissioner may divulge information related to the status 2016
of a waiver granted to a delivery network company if requested 2017
by a local merchant operating on the delivery network company's 2018
physical or electronic marketplace. 2019

(E) The commissioner may adopt any rules necessary to 2020
administer this section. 2021

Sec. 5751.033. For the purposes of this chapter, gross 2022
receipts shall be sitused to this state as follows: 2023

(A) Gross rents and royalties from real property located 2024
in this state shall be sitused to this state. 2025

(B) Gross rents and royalties from tangible personal 2026
property shall be sitused to this state to the extent the 2027
tangible personal property is located or used in this state. 2028

(C) Gross receipts from the sale of electricity and 2029
electric transmission and distribution services shall be sitused 2030
to this state in the manner provided under section 5733.059 of 2031
the Revised Code. 2032

(D) Gross receipts from the sale of real property located 2033
in this state shall be sitused to this state. 2034

(E) ~~Gross~~ Except as otherwise provided in division (M) of 2035
this section, gross receipts from the sale of tangible personal 2036
property shall be sitused to this state if the property is 2037
received in this state by the purchaser. In the case of delivery 2038
of tangible personal property by motor carrier or by other means 2039
of transportation, the place at which such property is 2040
ultimately received after all transportation has been completed 2041
shall be considered the place where the purchaser receives the 2042
property. For purposes of this section, the phrase "delivery of 2043
tangible personal property by motor carrier or by other means of 2044
transportation" includes the situation in which a purchaser 2045
accepts the property in this state and then transports the 2046
property directly or by other means to a location outside this 2047
state. Direct delivery in this state, other than for purposes of 2048
transportation, to a person or firm designated by a purchaser 2049
constitutes delivery to the purchaser in this state, and direct 2050
delivery outside this state to a person or firm designated by a 2051
purchaser does not constitute delivery to the purchaser in this 2052
state, regardless of where title passes or other conditions of 2053
sale. 2054

(F) Gross receipts from the sale, exchange, disposition, 2055
or other grant of the right to use trademarks, trade names, 2056
patents, copyrights, and similar intellectual property shall be 2057
sitused to this state to the extent that the receipts are based 2058
on the amount of use of the property in this state. If the 2059
receipts are not based on the amount of use of the property, but 2060
rather on the right to use the property, and the payor has the 2061
right to use the property in this state, then the receipts from 2062
the sale, exchange, disposition, or other grant of the right to 2063
use such property shall be sitused to this state to the extent 2064
the receipts are based on the right to use the property in this 2065

state. 2066

(G) Gross receipts from the sale of transportation 2067
services by a motor carrier shall be sitused to this state in 2068
proportion to the mileage traveled by the carrier during the tax 2069
period on roadways, waterways, airways, and railways in this 2070
state to the mileage traveled by the carrier during the tax 2071
period on roadways, waterways, airways, and railways everywhere. 2072
With prior written approval of the tax commissioner, a motor 2073
carrier may use an alternative situsing procedure for 2074
transportation services. 2075

(H) Gross receipts from dividends, interest, and other 2076
sources of income from financial instruments described in 2077
divisions (F) (4), (5), (6), (7), (8), (9), (10), (11), and (13) 2078
of section 5733.056 of the Revised Code shall be sitused to this 2079
state in accordance with the situsing provisions set forth in 2080
those divisions. When applying the provisions of divisions (F) 2081
(6), (8), and (13) of section 5733.056 of the Revised Code, 2082
"gross receipts" shall be substituted for "net gains" wherever 2083
"net gains" appears in those divisions. Nothing in this division 2084
limits or modifies the exclusions enumerated in divisions (E) 2085
and (F) (2) of section 5751.01 of the Revised Code. The tax 2086
commissioner may promulgate rules to further specify the manner 2087
in which to situs gross receipts subject to this division. 2088

(I) Gross receipts from the sale of all other services, 2089
and all other gross receipts not otherwise sitused under this 2090
section, shall be sitused to this state in the proportion that 2091
the purchaser's benefit in this state with respect to what was 2092
purchased bears to the purchaser's benefit everywhere with 2093
respect to what was purchased. The physical location where the 2094
purchaser ultimately uses or receives the benefit of what was 2095

purchased shall be paramount in determining the proportion of 2096
the benefit in this state to the benefit everywhere. If a 2097
taxpayer's records do not allow the taxpayer to determine that 2098
location, the taxpayer may use an alternative method to situs 2099
gross receipts under this division if the alternative method is 2100
reasonable, is consistently and uniformly applied, and is 2101
supported by the taxpayer's records as the records exist when 2102
the service is provided or within a reasonable period of time 2103
thereafter. 2104

(J) If the situsing provisions of divisions (A) to (H) of 2105
this section do not fairly represent the extent of a person's 2106
activity in this state, the person may request, or the tax 2107
commissioner may require or permit, an alternative method. Such 2108
request by a person must be made within the applicable statute 2109
of limitations set forth in this chapter. 2110

(K) The tax commissioner may adopt rules to provide 2111
additional guidance to the application of this section, and 2112
provide alternative methods of situsing gross receipts that 2113
apply to all persons, or subset of persons, that are engaged in 2114
similar business or trade activities. 2115

(L) As used in this section, "motor carrier" has the same 2116
meaning as in section 4923.01 of the Revised Code. 2117

(M) Gross receipts from the sale or lease of a motor 2118
vehicle, as defined in section 4517.01 of the Revised Code, by a 2119
motor vehicle dealer licensed under Chapter 4517. of the Revised 2120
Code or the law of another state, shall only be sitused to this 2121
state if the motor vehicle is issued a certificate of title 2122
evidencing the owner's or lessee's address in this state. 2123

Section 2. That existing sections 5715.19, 5717.01, 2124

5739.01, 5741.01, and 5751.033 of the Revised Code are hereby 2125
repealed. 2126

Section 3. The amendment by this act of sections 5715.19 2127
and 5717.01 of the Revised Code applies to original complaints, 2128
counter-complaints, or appeals filed on or after the effective 2129
date of this section. 2130

Section 4. The amendment by this act of section 5751.033 2131
of the Revised Code applies to tax periods beginning before, on, 2132
or after the effective date of this section. 2133