

**As Introduced**

**136th General Assembly**

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**H. B. No. 330**

**Representatives Deeter, Fischer**

**Cosponsors: Representatives Johnson, Brennan, Williams, King, Newman**

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To amend sections 5739.02, 5739.03, and 5739.05 of  
the Revised Code to authorize a sales tax  
holiday for four months each year for the sale  
of firearm safety and storage devices.

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

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

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

(A) (1) The tax shall be collected as provided in section  
5739.025 of the Revised Code. The rate of the tax shall be five

and three-fourths per cent. The tax applies and is collectible 20  
when the sale is made, regardless of the time when the price is 21  
paid or delivered. 22

(2) In the case of the lease or rental, with a fixed term 23  
of more than thirty days or an indefinite term with a minimum 24  
period of more than thirty days, of any motor vehicles designed 25  
by the manufacturer to carry a load of not more than one ton, 26  
watercraft, outboard motor, or aircraft, or of any tangible 27  
personal property, other than motor vehicles designed by the 28  
manufacturer to carry a load of more than one ton, to be used by 29  
the lessee or renter primarily for business purposes, the tax 30  
shall be collected by the vendor at the time the lease or rental 31  
is consummated and shall be calculated by the vendor on the 32  
basis of the total amount to be paid by the lessee or renter 33  
under the lease agreement. If the total amount of the 34  
consideration for the lease or rental includes amounts that are 35  
not calculated at the time the lease or rental is executed, the 36  
tax shall be calculated and collected by the vendor at the time 37  
such amounts are billed to the lessee or renter. In the case of 38  
an open-end lease or rental, the tax shall be calculated by the 39  
vendor on the basis of the total amount to be paid during the 40  
initial fixed term of the lease or rental, and for each 41  
subsequent renewal period as it comes due. As used in this 42  
division, "motor vehicle" has the same meaning as in section 43  
4501.01 of the Revised Code, and "watercraft" includes an 44  
outdrive unit attached to the watercraft. 45

A lease with a renewal clause and a termination penalty or 46  
similar provision that applies if the renewal clause is not 47  
exercised is presumed to be a sham transaction. In such a case, 48  
the tax shall be calculated and paid on the basis of the entire 49  
length of the lease period, including any renewal periods, until 50

the termination penalty or similar provision no longer applies. 51  
The taxpayer shall bear the burden, by a preponderance of the 52  
evidence, that the transaction or series of transactions is not 53  
a sham transaction. 54

(3) Except as provided in division (A) (2) of this section, 55  
in the case of a sale, the price of which consists in whole or 56  
in part of the lease or rental of tangible personal property, 57  
the tax shall be measured by the installments of that lease or 58  
rental. 59

(4) In the case of a sale of a physical fitness facility 60  
service or recreation and sports club service, the price of 61  
which consists in whole or in part of a membership for the 62  
receipt of the benefit of the service, the tax applicable to the 63  
sale shall be measured by the installments thereof. 64

(B) The tax does not apply to the following: 65

(1) Sales to the state or any of its political 66  
subdivisions, or to any other state or its political 67  
subdivisions if the laws of that state exempt from taxation 68  
sales made to this state and its political subdivisions 69  
including either of the following: 70

(a) Sales or rentals of tangible personal property by 71  
construction contractors or subcontractors to provide temporary 72  
traffic control or temporary structures, including material and 73  
equipment used to comply with the Ohio manual of uniform traffic 74  
control devices adopted pursuant to section 4511.09 of the 75  
Revised Code, whereby the state or any of its political 76  
subdivisions take title to, or permanent or temporary possession 77  
of, such tangible personal property for use by the state or any 78  
of its political subdivisions, including for use by the general 79

public thereof;	80
(b) Sales of services by construction contractors or subcontractors to provide temporary traffic control or structures, including labor used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions, including the general public thereof, receive the benefit of such services.	81 82 83 84 85 86 87
As used in divisions (B) (1) (a) and (b) of this section, "temporary structures" include temporary roads, bridges, drains, and pavement.	88 89 90
(2) Sales of food for human consumption off the premises where sold;	91 92
(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;	93 94 95
(4) Sales of newspapers and sales or transfers of magazines distributed as controlled circulation publications;	96 97
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	98 99 100 101
(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a	102 103 104 105 106 107 108

refund of motor fuel tax pursuant to division (A) of section 109  
5735.14 of the Revised Code and shall cause the amount deducted 110  
to be paid into the general revenue fund of this state; 111

(b) Sales of motor fuel other than that described in 112  
division (B) (6) (a) of this section and used for powering a 113  
refrigeration unit on a vehicle other than one used primarily to 114  
provide comfort to the operator or occupants of the vehicle. 115

(7) Sales of natural gas by a natural gas company or 116  
municipal gas utility, of water by a water-works company, or of 117  
steam by a heating company, if in each case the thing sold is 118  
delivered to consumers through pipes or conduits, and all sales 119  
of communications services by a telegraph company, all terms as 120  
defined in section 5727.01 of the Revised Code, and sales of 121  
electricity delivered through wires; 122

(8) Casual sales by a person, or auctioneer employed 123  
directly by the person to conduct such sales, except as to such 124  
sales of motor vehicles, watercraft or outboard motors required 125  
to be titled under section 1548.06 of the Revised Code, 126  
watercraft documented with the United States coast guard, 127  
snowmobiles, and all-purpose vehicles as defined in section 128  
4519.01 of the Revised Code; 129

(9) (a) Sales of services or tangible personal property, 130  
other than motor vehicles, mobile homes, and manufactured homes, 131  
by churches, organizations exempt from taxation under section 132  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 133  
organizations operated exclusively for charitable purposes as 134  
defined in division (B) (12) of this section, provided that the 135  
number of days on which such tangible personal property or 136  
services, other than items never subject to the tax, are sold 137  
does not exceed six in any calendar year, except as otherwise 138

provided in division (B) (9) (b) of this section. If the number of 139  
days on which such sales are made exceeds six in any calendar 140  
year, the church or organization shall be considered to be 141  
engaged in business and all subsequent sales by it shall be 142  
subject to the tax. In counting the number of days, all sales by 143  
groups within a church or within an organization shall be 144  
considered to be sales of that church or organization. 145

(b) The limitation on the number of days on which tax- 146  
exempt sales may be made by a church or organization under 147  
division (B) (9) (a) of this section does not apply to sales made 148  
by student clubs and other groups of students of a primary or 149  
secondary school, or a parent-teacher association, booster 150  
group, or similar organization that raises money to support or 151  
fund curricular or extracurricular activities of a primary or 152  
secondary school. 153

(c) Divisions (B) (9) (a) and (b) of this section do not 154  
apply to sales by a noncommercial educational radio or 155  
television broadcasting station. 156

(10) Sales not within the taxing power of this state under 157  
the Constitution or laws of the United States or the 158  
Constitution of this state including either of the following: 159

(a) Sales or rentals of tangible personal property by 160  
construction contractors or subcontractors to provide temporary 161  
traffic control or temporary structures, including material and 162  
equipment used to comply with the Ohio manual of uniform traffic 163  
control devices adopted pursuant to section 4511.09 of the 164  
Revised Code, whereby the United States takes title to, or 165  
permanent or temporary possession of, such tangible personal 166  
property for use by the United States including for use by the 167  
general public thereof; 168

(b) Sales of services by construction contractors or 169  
subcontractors to provide temporary traffic control or 170  
structures, including labor used to comply with the Ohio manual 171  
of uniform traffic control devices adopted pursuant to section 172  
4511.09 of the Revised Code, whereby the United States, 173  
including the general public thereof, receives the benefit of 174  
such services. 175

As used in divisions (B) (10) (a) and (b) of this section, 176  
"temporary structures" include temporary roads, bridges, drains, 177  
and pavement. 178

(11) Except for transactions that are sales under division 179  
(B) (3) (p) of section 5739.01 of the Revised Code, the 180  
transportation of persons or property, unless the transportation 181  
is by a private investigation and security service; 182

(12) Sales of tangible personal property or services to 183  
churches, to organizations exempt from taxation under section 184  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 185  
nonprofit organizations operated exclusively for charitable 186  
purposes in this state, no part of the net income of which 187  
inures to the benefit of any private shareholder or individual, 188  
and no substantial part of the activities of which consists of 189  
carrying on propaganda or otherwise attempting to influence 190  
legislation; sales to offices administering one or more homes 191  
for the aged or one or more hospital facilities exempt under 192  
section 140.08 of the Revised Code; and sales to organizations 193  
described in division (D) of section 5709.12 of the Revised 194  
Code. 195

"Charitable purposes" means the relief of poverty; the 196  
improvement of health through the alleviation of illness, 197  
disease, or injury; the operation of an organization exclusively 198

for the provision of professional, laundry, printing, and 199  
purchasing services to hospitals or charitable institutions; the 200  
operation of a home for the aged, as defined in section 5701.13 201  
of the Revised Code; the operation of a radio or television 202  
broadcasting station that is licensed by the federal 203  
communications commission as a noncommercial educational radio 204  
or television station; the operation of a nonprofit animal 205  
adoption service or a county humane society; the promotion of 206  
education by an institution of learning that maintains a faculty 207  
of qualified instructors, teaches regular continuous courses of 208  
study, and confers a recognized diploma upon completion of a 209  
specific curriculum; the operation of a parent-teacher 210  
association, booster group, or similar organization primarily 211  
engaged in the promotion and support of the curricular or 212  
extracurricular activities of a primary or secondary school; the 213  
operation of a community or area center in which presentations 214  
in music, dramatics, the arts, and related fields are made in 215  
order to foster public interest and education therein; the 216  
production of performances in music, dramatics, and the arts; or 217  
the promotion of education by an organization engaged in 218  
carrying on research in, or the dissemination of, scientific and 219  
technological knowledge and information primarily for the 220  
public. 221

Nothing in this division shall be deemed to exempt sales 222  
to any organization for use in the operation or carrying on of a 223  
trade or business, or sales to a home for the aged for use in 224  
the operation of independent living facilities as defined in 225  
division (A) of section 5709.12 of the Revised Code. 226

(13) Building and construction materials and services sold 227  
to construction contractors for incorporation into a structure 228  
or improvement to real property under a construction contract 229



with this state or a political subdivision of this state, or 230  
with the United States government or any of its agencies; 231  
building and construction materials and services sold to 232  
construction contractors for incorporation into a structure or 233  
improvement to real property that are accepted for ownership by 234  
this state or any of its political subdivisions, or by the 235  
United States government or any of its agencies at the time of 236  
completion of the structures or improvements; building and 237  
construction materials sold to construction contractors for 238  
incorporation into a horticulture structure or livestock 239  
structure for a person engaged in the business of horticulture 240  
or producing livestock; building materials and services sold to 241  
a construction contractor for incorporation into a house of 242  
public worship or religious education, or a building used 243  
exclusively for charitable purposes under a construction 244  
contract with an organization whose purpose is as described in 245  
division (B) (12) of this section; building materials and 246  
services sold to a construction contractor for incorporation 247  
into a building under a construction contract with an 248  
organization exempt from taxation under section 501(c) (3) of the 249  
Internal Revenue Code of 1986 when the building is to be used 250  
exclusively for the organization's exempt purposes; tangible 251  
personal property sold for incorporation into the construction 252  
of a sports facility under section 307.696 of the Revised Code; 253  
building and construction materials and services sold to a 254  
construction contractor for incorporation into real property 255  
outside this state if such materials and services, when sold to 256  
a construction contractor in the state in which the real 257  
property is located for incorporation into real property in that 258  
state, would be exempt from a tax on sales levied by that state; 259  
building and construction materials for incorporation into a 260  
transportation facility pursuant to a public-private agreement 261

entered into under sections 5501.70 to 5501.83 of the Revised Code; until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center; and building and construction materials sold for incorporation into a structure or improvement to real property that is used primarily as, or primarily in support of, a manufacturing facility or research and development facility and that is to be owned by a megaproject operator upon completion and located at the site of a megaproject that satisfies the criteria described in division (A) (11) (a) (ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated.

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

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

including any machinery, equipment, and supplies used to make 293  
labels or packages, to prepare packages or products for 294  
labeling, or to label packages or products, by or on the order 295  
of the person doing the packaging, or sold at retail. "Packages" 296  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 297  
bindings, wrappings, and other similar devices and containers, 298  
but does not include motor vehicles or bulk tanks, trailers, or 299  
similar devices attached to motor vehicles. "Packaging" means 300  
placing in a package. Division (B) (15) of this section does not 301  
apply to persons engaged in highway transportation for hire. 302

(16) Sales of food to persons using supplemental nutrition 303  
assistance program benefits to purchase the food. As used in 304  
this division, "food" has the same meaning as in 7 U.S.C. 2012 305  
and federal regulations adopted pursuant to the Food and 306  
Nutrition Act of 2008. 307

(17) Sales to persons engaged in farming, agriculture, 308  
horticulture, or floriculture, of tangible personal property for 309  
use or consumption primarily in the production by farming, 310  
agriculture, horticulture, or floriculture of other tangible 311  
personal property for use or consumption primarily in the 312  
production of tangible personal property for sale by farming, 313  
agriculture, horticulture, or floriculture; or material and 314  
parts for incorporation into any such tangible personal property 315  
for use or consumption in production; and of tangible personal 316  
property for such use or consumption in the conditioning or 317  
holding of products produced by and for such use, consumption, 318  
or sale by persons engaged in farming, agriculture, 319  
horticulture, or floriculture, except where such property is 320  
incorporated into real property; 321

(18) Sales of drugs for a human being that may be 322

dispensed only pursuant to a prescription; insulin as recognized	323
in the official United States pharmacopoeia; urine and blood	324
testing materials when used by diabetics or persons with	325
hypoglycemia to test for glucose or acetone; hypodermic syringes	326
and needles when used by diabetics for insulin injections;	327
epoetin alfa when purchased for use in the treatment of persons	328
with medical disease; hospital beds when purchased by hospitals,	329
nursing homes, or other medical facilities; and medical oxygen	330
and medical oxygen-dispensing equipment when purchased by	331
hospitals, nursing homes, or other medical facilities;	332
(19) Sales of prosthetic devices, durable medical	333
equipment for home use, or mobility enhancing equipment, when	334
made pursuant to a prescription and when such devices or	335
equipment are for use by a human being.	336
(20) Sales of emergency and fire protection vehicles and	337
equipment to nonprofit organizations for use solely in providing	338
fire protection and emergency services, including trauma care	339
and emergency medical services, for political subdivisions of	340
the state;	341
(21) Sales of tangible personal property manufactured in	342
this state, if sold by the manufacturer in this state to a	343
retailer for use in the retail business of the retailer outside	344
of this state and if possession is taken from the manufacturer	345
by the purchaser within this state for the sole purpose of	346
immediately removing the same from this state in a vehicle owned	347
by the purchaser;	348
(22) Sales of services provided by the state or any of its	349
political subdivisions, agencies, instrumentalities,	350
institutions, or authorities, or by governmental entities of the	351
state or any of its political subdivisions, agencies,	352

instrumentalities, institutions, or authorities;	353
(23) Sales of motor vehicles to nonresidents of this state	354
under the circumstances described in division (B) of section	355
5739.029 of the Revised Code;	356
(24) Sales to persons engaged in the preparation of eggs	357
for sale of tangible personal property used or consumed directly	358
in such preparation, including such tangible personal property	359
used for cleaning, sanitizing, preserving, grading, sorting, and	360
classifying by size; packages, including material and parts for	361
packages, and machinery, equipment, and material for use in	362
packaging eggs for sale; and handling and transportation	363
equipment and parts therefor, except motor vehicles licensed to	364
operate on public highways, used in intraplant or interplant	365
transfers or shipment of eggs in the process of preparation for	366
sale, when the plant or plants within or between which such	367
transfers or shipments occur are operated by the same person.	368
"Packages" includes containers, cases, baskets, flats, fillers,	369
filler flats, cartons, closure materials, labels, and labeling	370
materials, and "packaging" means placing therein.	371
(25) (a) Sales of water to a consumer for residential use;	372
(b) Sales of water by a nonprofit corporation engaged	373
exclusively in the treatment, distribution, and sale of water to	374
consumers, if such water is delivered to consumers through pipes	375
or tubing.	376
(26) Fees charged for inspection or reinspection of motor	377
vehicles under section 3704.14 of the Revised Code;	378
(27) Sales to persons licensed to conduct a food service	379
operation pursuant to section 3717.43 of the Revised Code, of	380
tangible personal property primarily used directly for the	381

following:	382
(a) To prepare food for human consumption for sale;	383
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	384 385 386 387
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	388 389
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	390 391
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	392 393 394 395
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	396 397 398
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	399 400 401
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	402 403 404 405 406 407
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and	408 409

issued a charter by the congress of the United States or is 410  
recognized by the United States veterans administration, for use 411  
by the headquarters; 412

(34) Sales to a telecommunications service vendor, mobile 413  
telecommunications service vendor, or satellite broadcasting 414  
service vendor of tangible personal property and services used 415  
directly and primarily in transmitting, receiving, switching, or 416  
recording any interactive, one- or two-way electromagnetic 417  
communications, including voice, image, data, and information, 418  
through the use of any medium, including, but not limited to, 419  
poles, wires, cables, switching equipment, computers, and record 420  
storage devices and media, and component parts for the tangible 421  
personal property. The exemption provided in this division shall 422  
be in lieu of all other exemptions under division (B) (42) (a) or 423  
(n) of this section to which the vendor may otherwise be 424  
entitled, based upon the use of the thing purchased in providing 425  
the telecommunications, mobile telecommunications, or satellite 426  
broadcasting service. 427

(35) (a) Sales where the purpose of the consumer is to use 428  
or consume the things transferred in making retail sales and 429  
consisting of newspaper inserts, catalogues, coupons, flyers, 430  
gift certificates, or other advertising material that prices and 431  
describes tangible personal property offered for retail sale. 432

(b) Sales to direct marketing vendors of preliminary 433  
materials such as photographs, artwork, and typesetting that 434  
will be used in printing advertising material; and of printed 435  
matter that offers free merchandise or chances to win sweepstake 436  
prizes and that is mailed to potential customers with 437  
advertising material described in division (B) (35) (a) of this 438  
section; 439

(c) Sales of equipment such as telephones, computers, 440  
facsimile machines, and similar tangible personal property 441  
primarily used to accept orders for direct marketing retail 442  
sales. 443

(d) Sales of automatic food vending machines that preserve 444  
food with a shelf life of forty-five days or less by 445  
refrigeration and dispense it to the consumer. 446

For purposes of division (B) (35) of this section, "direct 447  
marketing" means the method of selling where consumers order 448  
tangible personal property by United States mail, delivery 449  
service, or telecommunication and the vendor delivers or ships 450  
the tangible personal property sold to the consumer from a 451  
warehouse, catalogue distribution center, or similar fulfillment 452  
facility by means of the United States mail, delivery service, 453  
or common carrier. 454

(36) Sales to a person engaged in the business of 455  
horticulture or producing livestock of materials to be 456  
incorporated into a horticulture structure or livestock 457  
structure; 458

(37) Sales of personal computers, computer monitors, 459  
computer keyboards, modems, and other peripheral computer 460  
equipment to an individual who is licensed or certified to teach 461  
in an elementary or a secondary school in this state for use by 462  
that individual in preparation for teaching elementary or 463  
secondary school students; 464

(38) Sales of tangible personal property that is not 465  
required to be registered or licensed under the laws of this 466  
state to a citizen of a foreign nation that is not a citizen of 467  
the United States, provided the property is delivered to a 468



person in this state that is not a related member of the 469  
purchaser, is physically present in this state for the sole 470  
purpose of temporary storage and package consolidation, and is 471  
subsequently delivered to the purchaser at a delivery address in 472  
a foreign nation. As used in division (B)(38) of this section, 473  
"related member" has the same meaning as in section 5733.042 of 474  
the Revised Code, and "temporary storage" means the storage of 475  
tangible personal property for a period of not more than sixty 476  
days. 477

(39) Sales of used manufactured homes and used mobile 478  
homes, as defined in section 5739.0210 of the Revised Code, made 479  
on or after January 1, 2000; 480

(40) Sales of tangible personal property and services to a 481  
provider of electricity used or consumed directly and primarily 482  
in generating, transmitting, or distributing electricity for use 483  
by others, including property that is or is to be incorporated 484  
into and will become a part of the consumer's production, 485  
transmission, or distribution system and that retains its 486  
classification as tangible personal property after 487  
incorporation; fuel or power used in the production, 488  
transmission, or distribution of electricity; energy conversion 489  
equipment as defined in section 5727.01 of the Revised Code; and 490  
tangible personal property and services used in the repair and 491  
maintenance of the production, transmission, or distribution 492  
system, including only those motor vehicles as are specially 493  
designed and equipped for such use. The exemption provided in 494  
this division shall be in lieu of all other exemptions in 495  
division (B)(42)(a) or (n) of this section to which a provider 496  
of electricity may otherwise be entitled based on the use of the 497  
tangible personal property or service purchased in generating, 498  
transmitting, or distributing electricity. 499

(41) Sales to a person providing services under division	500
(B) (3) (p) of section 5739.01 of the Revised Code of tangible	501
personal property and services used directly and primarily in	502
providing taxable services under that section.	503
(42) Sales where the purpose of the purchaser is to do any	504
of the following:	505
(a) To incorporate the thing transferred as a material or	506
a part into tangible personal property to be produced for sale	507
by manufacturing, assembling, processing, or refining; or to use	508
or consume the thing transferred directly in producing tangible	509
personal property for sale by mining, including, without	510
limitation, the extraction from the earth of all substances that	511
are classed geologically as minerals, or directly in the	512
rendition of a public utility service, except that the sales tax	513
levied by this section shall be collected upon all meals,	514
drinks, and food for human consumption sold when transporting	515
persons. This paragraph does not exempt from "retail sale" or	516
"sales at retail" the sale of tangible personal property that is	517
to be incorporated into a structure or improvement to real	518
property.	519
(b) To hold the thing transferred as security for the	520
performance of an obligation of the vendor;	521
(c) To resell, hold, use, or consume the thing transferred	522
as evidence of a contract of insurance;	523
(d) To use or consume the thing directly in commercial	524
fishing;	525
(e) To incorporate the thing transferred as a material or	526
a part into, or to use or consume the thing transferred directly	527
in the production of, magazines distributed as controlled	528

circulation publications;	529
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	530 531 532 533 534
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	535 536 537
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	538 539 540 541 542 543
(i) To use the thing transferred as qualified research and development equipment;	544 545
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in	546 547 548 549 550 551 552 553 554 555 556 557

division (B) (35) of this section.	558
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;	559 560 561 562 563 564 565
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	566 567
(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	568 569 570 571 572
(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.	573 574 575 576 577 578 579 580 581
(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing;	582 583 584
(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if	585 586

the thing transferred is a rented motor vehicle and the 587  
purchaser is reimbursed for the cost of the rented motor vehicle 588  
by a manufacturer, warrantor, or provider of a maintenance, 589  
service, or other similar contract or agreement, with respect to 590  
the motor vehicle that is being repaired or serviced; 591

(q) To use or consume the thing transferred directly in 592  
production of crude oil and natural gas for sale. Persons 593  
engaged in rendering production services for others are deemed 594  
engaged in production. 595

As used in division (B) (42) (q) of this section, 596  
"production" means operations and tangible personal property 597  
directly used to expose and evaluate an underground reservoir 598  
that may contain hydrocarbon resources, prepare the wellbore for 599  
production, and lift and control all substances yielded by the 600  
reservoir to the surface of the earth. 601

(i) For the purposes of division (B) (42) (q) of this 602  
section, the "thing transferred" includes, but is not limited 603  
to, any of the following: 604

(I) Services provided in the construction of permanent 605  
access roads, services provided in the construction of the well 606  
site, and services provided in the construction of temporary 607  
impoundments; 608

(II) Equipment and rigging used for the specific purpose 609  
of creating with integrity a wellbore pathway to underground 610  
reservoirs; 611

(III) Drilling and workover services used to work within a 612  
subsurface wellbore, and tangible personal property directly 613  
used in providing such services; 614

(IV) Casing, tubulars, and float and centralizing 615

equipment;	616
(V) Trailers to which production equipment is attached;	617
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	618 619 620
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	621 622 623
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	624 625 626 627
(IX) Pressure pumping equipment;	628
(X) Artificial lift systems equipment;	629
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	630 631 632
(XII) Tangible personal property directly used to control production equipment.	633 634
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	635 636 637
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	638 639 640
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well	641 642

stimulation as defined in section 1509.01 of the Revised Code;	643
(III) Tangible personal property used primarily in	644
preparing, installing, or reclaiming foundations for drilling or	645
pumping equipment or well stimulation material tanks;	646
(IV) Tangible personal property used primarily in	647
transporting, delivering, or removing equipment to or from the	648
well site or storing such equipment before its use at the well	649
site;	650
(V) Tangible personal property used primarily in gathering	651
operations occurring off the well site, including gathering	652
pipelines transporting hydrocarbon gas or liquids away from a	653
crude oil or natural gas production facility;	654
(VI) Tangible personal property that is to be incorporated	655
into a structure or improvement to real property;	656
(VII) Well site fencing, lighting, or security systems;	657
(VIII) Communication devices or services;	658
(IX) Office supplies;	659
(X) Trailers used as offices or lodging;	660
(XI) Motor vehicles of any kind;	661
(XII) Tangible personal property used primarily for the	662
storage of drilling byproducts and fuel not used for production;	663
(XIII) Tangible personal property used primarily as a	664
safety device;	665
(XIV) Data collection or monitoring devices;	666
(XV) Access ladders, stairs, or platforms attached to	667
storage tanks.	668

The enumeration of tangible personal property in division 669  
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 670  
and any tangible personal property not so enumerated shall not 671  
necessarily be construed to be a "thing transferred" for the 672  
purposes of division (B) (42) (q) of this section. 673

The commissioner shall adopt and promulgate rules under 674  
sections 119.01 to 119.13 of the Revised Code that the 675  
commissioner deems necessary to administer division (B) (42) (q) 676  
of this section. 677

As used in division (B) (42) of this section, "thing" 678  
includes all transactions included in divisions (B) (3) (a), (b), 679  
and (e) of section 5739.01 of the Revised Code. 680

(43) Sales conducted through a coin operated device that 681  
activates vacuum equipment or equipment that dispenses water, 682  
whether or not in combination with soap or other cleaning agents 683  
or wax, to the consumer for the consumer's use on the premises 684  
in washing, cleaning, or waxing a motor vehicle, provided no 685  
other personal property or personal service is provided as part 686  
of the transaction. 687

(44) Sales of replacement and modification parts for 688  
engines, airframes, instruments, and interiors in, and paint 689  
for, aircraft used primarily in a fractional aircraft ownership 690  
program, and sales of services for the repair, modification, and 691  
maintenance of such aircraft, and machinery, equipment, and 692  
supplies primarily used to provide those services. 693

(45) Sales of telecommunications service that is used 694  
directly and primarily to perform the functions of a call 695  
center. As used in this division, "call center" means any 696  
physical location where telephone calls are placed or received 697



in high volume for the purpose of making sales, marketing, 698  
customer service, technical support, or other specialized 699  
business activity, and that employs at least fifty individuals 700  
that engage in call center activities on a full-time basis, or 701  
sufficient individuals to fill fifty full-time equivalent 702  
positions. 703

(46) Sales by a telecommunications service vendor of 900 704  
service to a subscriber. This division does not apply to 705  
information services. 706

(47) Sales of value-added non-voice data service. This 707  
division does not apply to any similar service that is not 708  
otherwise a telecommunications service. 709

(48) Sales of feminine hygiene products. 710

(49) Sales of materials, parts, equipment, or engines used 711  
in the repair or maintenance of aircraft or avionics systems of 712  
such aircraft, and sales of repair, remodeling, replacement, or 713  
maintenance services in this state performed on aircraft or on 714  
an aircraft's avionics, engine, or component materials or parts. 715  
As used in division (B) (49) of this section, "aircraft" means 716  
aircraft of more than six thousand pounds maximum certified 717  
takeoff weight or used exclusively in general aviation. 718

(50) Sales of full flight simulators that are used for 719  
pilot or flight-crew training, sales of repair or replacement 720  
parts or components, and sales of repair or maintenance services 721  
for such full flight simulators. "Full flight simulator" means a 722  
replica of a specific type, or make, model, and series of 723  
aircraft cockpit. It includes the assemblage of equipment and 724  
computer programs necessary to represent aircraft operations in 725  
ground and flight conditions, a visual system providing an out- 726

of-the-cockpit view, and a system that provides cues at least 727  
equivalent to those of a three-degree-of-freedom motion system, 728  
and has the full range of capabilities of the systems installed 729  
in the device as described in appendices A and B of part 60 of 730  
chapter 1 of title 14 of the Code of Federal Regulations. 731

(51) Any transfer or lease of tangible personal property 732  
between the state and JobsOhio in accordance with section 733  
4313.02 of the Revised Code. 734

(52) (a) Sales to a qualifying corporation. 735

(b) As used in division (B) (52) of this section: 736

(i) "Qualifying corporation" means a nonprofit corporation 737  
organized in this state that leases from an eligible county 738  
land, buildings, structures, fixtures, and improvements to the 739  
land that are part of or used in a public recreational facility 740  
used by a major league professional athletic team or a class A 741  
to class AAA minor league affiliate of a major league 742  
professional athletic team for a significant portion of the 743  
team's home schedule, provided the following apply: 744

(I) The facility is leased from the eligible county 745  
pursuant to a lease that requires substantially all of the 746  
revenue from the operation of the business or activity conducted 747  
by the nonprofit corporation at the facility in excess of 748  
operating costs, capital expenditures, and reserves to be paid 749  
to the eligible county at least once per calendar year. 750

(II) Upon dissolution and liquidation of the nonprofit 751  
corporation, all of its net assets are distributable to the 752  
board of commissioners of the eligible county from which the 753  
corporation leases the facility. 754

(ii) "Eligible county" has the same meaning as in section 755

307.695 of the Revised Code.	756
(53) Sales to or by a cable service provider, video	757
service provider, or radio or television broadcast station	758
regulated by the federal government of cable service or	759
programming, video service or programming, audio service or	760
programming, or electronically transferred digital audiovisual	761
or audio work. As used in division (B) (53) of this section,	762
"cable service" and "cable service provider" have the same	763
meanings as in section 1332.01 of the Revised Code, and "video	764
service," "video service provider," and "video programming" have	765
the same meanings as in section 1332.21 of the Revised Code.	766
(54) Sales of a digital audio work electronically	767
transferred for delivery through use of a machine, such as a	768
juke box, that does all of the following:	769
(a) Accepts direct payments to operate;	770
(b) Automatically plays a selected digital audio work for	771
a single play upon receipt of a payment described in division	772
(B) (54) (a) of this section;	773
(c) Operates exclusively for the purpose of playing	774
digital audio works in a commercial establishment.	775
(55) (a) Sales of the following occurring on the first	776
Friday of August and the following Saturday and Sunday of any	777
year, except in 2024 or any subsequent year in which a sales tax	778
holiday is held pursuant to section 5739.41 of the Revised Code:	779
(i) An item of clothing, the price of which is seventy-	780
five dollars or less;	781
(ii) An item of school supplies, the price of which is	782
twenty dollars or less;	783

(iii) An item of school instructional material, the price of which is twenty dollars or less.	784 785
(b) As used in division (B) (55) of this section:	786
(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.	787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808
(ii) "School supplies" means items commonly used by a student in a course of study. "School supplies" includes only the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue,	809 810 811 812 813

paste, and paste sticks; highlighters; index cards; index card 814  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 815  
loose-leaf ruled notebook paper, copy paper, graph paper, 816  
tracing paper, manila paper, colored paper, poster board, and 817  
construction paper; pencil boxes and other school supply boxes; 818  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 819  
and writing tablets. "School supplies" does not include any item 820  
purchased for use in a trade or business. 821

(iii) "School instructional material" means written 822  
material commonly used by a student in a course of study as a 823  
reference and to learn the subject being taught. "School 824  
instructional material" includes only the following items: 825  
reference books, reference maps and globes, textbooks, and 826  
workbooks. "School instructional material" does not include any 827  
material purchased for use in a trade or business. 828

(56) (a) Sales of adult diapers or incontinence underpads 829  
sold pursuant to a prescription, for the benefit of a medicaid 830  
recipient with a diagnosis of incontinence, and by a medicaid 831  
provider that maintains a valid provider agreement under section 832  
5164.30 of the Revised Code with the department of medicaid, 833  
provided that the medicaid program covers diapers or 834  
incontinence underpads as an incontinence garment. 835

(b) As used in division (B) (56) (a) of this section, 836  
"incontinence underpad" means an absorbent product, not worn on 837  
the body, designed to protect furniture or other tangible 838  
personal property from soiling or damage due to human 839  
incontinence. 840

(57) Sales of investment metal bullion and investment 841  
coins. "Investment metal bullion" means any bullion described in 842  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 843

whether that bullion is in the physical possession of a trustee. 844  
"Investment coin" means any coin composed primarily of gold, 845  
silver, platinum, or palladium. 846

(58) Sales of tangible personal property used primarily 847  
for any of the following purposes by a megaproject operator at 848  
the site of a megaproject that satisfies the criteria described 849  
in division (A) (11) (a) (ii) of section 122.17 of the Revised 850  
Code, provided that the sale occurs during the period that the 851  
megaproject operator has an agreement for such megaproject with 852  
the tax credit authority under division (D) of section 122.17 of 853  
the Revised Code that remains in effect and has not expired or 854  
been terminated: 855

(a) To store, transmit, convey, distribute, recycle, 856  
circulate, or clean water, steam, or other gases used in or 857  
produced as a result of manufacturing activity, including items 858  
that support or aid in the operation of such property; 859

(b) To clean or prepare inventory, at any stage of storage 860  
or production, or equipment used in a manufacturing activity, 861  
including chemicals, solvents, catalysts, soaps, and other items 862  
that support or aid in the operation of property; 863

(c) To regulate, treat, filter, condition, improve, clean, 864  
maintain, or monitor environmental conditions within areas where 865  
manufacturing activities take place; 866

(d) To handle, transport, or convey inventory during 867  
production or manufacturing. 868

(59) Documentary services charges imposed pursuant to 869  
section 4517.261 or 4781.24 of the Revised Code. 870

(60) Sales of children's diapers. 871

(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.	872 873
(62) Sales of a child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.	874 875 876
(63) Sales of cribs intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219 or the commission's safety standard for non-full-size baby cribs under 16 C.F.R. 1220.	877 878 879 880 881
(64) Sales of strollers meant for transporting children from infancy to about thirty-six months of age that meet the United States consumer product safety commission safety standard for carriages and strollers under 16 C.F.R. 1227.2.	882 883 884 885
(65) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.	886 887 888 889
(66) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.	890 891 892
<u>(67) (a) Sales of a firearm safety device or firearm storage device occurring in March, April, November, or December of any year, excluding a firearm safety device already installed on a firearm, which shall be treated as the sale of a firearm and not the firearm safety device.</u>	893 894 895 896 897
<u>(b) As used in division (B) (67) of this section:</u>	898
<u>(i) "Firearm safety device" means a device to be equipped</u>	899

or installed on a firearm designed to prevent unauthorized 900  
access to the firearm or to prevent it from being operated 901  
without first deactivating the device. 902

(ii) "Firearm storage device" means a container or 903  
enclosure designed for the principal purpose of safely storing a 904  
firearm and secured by a combination lock, key lock, or lock 905  
based on biometric information which, once locked is incapable 906  
of being opened without the combination, key, or biometric 907  
information, respectively. 908

(C) For the purpose of the proper administration of this 909  
chapter, and to prevent the evasion of the tax, it is presumed 910  
that all sales made in this state are subject to the tax until 911  
the contrary is established. 912

(D) The tax collected by the vendor from the consumer 913  
under this chapter is not part of the price, but is a tax 914  
collection for the benefit of the state, and of counties levying 915  
an additional sales tax pursuant to section 5739.021 or 5739.026 916  
of the Revised Code and of transit authorities levying an 917  
additional sales tax pursuant to section 5739.023 of the Revised 918  
Code. Except for the discount authorized under section 5739.12 919  
of the Revised Code and the effects of any rounding pursuant to 920  
section 5703.055 of the Revised Code, no person other than the 921  
state or such a county or transit authority shall derive any 922  
benefit from the collection or payment of the tax levied by this 923  
section or section 5739.021, 5739.023, or 5739.026 of the 924  
Revised Code. 925

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 926  
section 5739.051 of the Revised Code, the tax imposed by or 927  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 928  
the Revised Code shall be paid by the consumer to the vendor, 929



and each vendor shall collect from the consumer, as a trustee 930  
for the state of Ohio, the full and exact amount of the tax 931  
payable on each taxable sale, in the manner and at the times 932  
provided as follows: 933

(1) If the price is, at or prior to the provision of the 934  
service or the delivery of possession of the thing sold to the 935  
consumer, paid in currency passed from hand to hand by the 936  
consumer or the consumer's agent to the vendor or the vendor's 937  
agent, the vendor or the vendor's agent shall collect the tax 938  
with and at the same time as the price; 939

(2) If the price is otherwise paid or to be paid, the 940  
vendor or the vendor's agent shall, at or prior to the provision 941  
of the service or the delivery of possession of the thing sold 942  
to the consumer, charge the tax imposed by or pursuant to 943  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 944  
Code to the account of the consumer, which amount shall be 945  
collected by the vendor from the consumer in addition to the 946  
price. Such sale shall be reported on and the amount of the tax 947  
applicable thereto shall be remitted with the return for the 948  
period in which the sale is made, and the amount of the tax 949  
shall become a legal charge in favor of the vendor and against 950  
the consumer. 951

(B) (1) (a) If any sale is claimed to be exempt under 952  
division (E) of section 5739.01 of the Revised Code or under 953  
section 5739.02 of the Revised Code, with the exception of 954  
divisions (B) (1) to (11), (28), (48), (55), (59), ~~or (66)~~, or 955  
(67) of section 5739.02 of the Revised Code, the consumer must 956  
provide to the vendor, and the vendor must obtain from the 957  
consumer, a certificate specifying the reason that the sale is 958  
not legally subject to the tax. The certificate shall be in such 959

form, and shall be provided either in a hard copy form or 960  
electronic form, as the tax commissioner prescribes. 961

(b) A vendor that obtains a fully completed exemption 962  
certificate from a consumer is relieved of liability for 963  
collecting and remitting tax on any sale covered by that 964  
certificate. If it is determined the exemption was improperly 965  
claimed, the consumer shall be liable for any tax due on that 966  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 967  
Chapter 5741. of the Revised Code. Relief under this division 968  
from liability does not apply to any of the following: 969

(i) A vendor that fraudulently fails to collect tax; 970

(ii) A vendor that solicits consumers to participate in 971  
the unlawful claim of an exemption; 972

(iii) A vendor that accepts an exemption certificate from 973  
a consumer that claims an exemption based on who purchases or 974  
who sells property or a service, when the subject of the 975  
transaction sought to be covered by the exemption certificate is 976  
actually received by the consumer at a location operated by the 977  
vendor in this state, and this state has posted to its web site 978  
an exemption certificate form that clearly and affirmatively 979  
indicates that the claimed exemption is not available in this 980  
state; 981

(iv) A vendor that accepts an exemption certificate from a 982  
consumer who claims a multiple points of use exemption under 983  
division (D) of section 5739.033 of the Revised Code, if the 984  
item purchased is tangible personal property, other than 985  
prewritten computer software. 986

(2) The vendor shall maintain records, including exemption 987  
certificates, of all sales on which a consumer has claimed an 988

exemption, and provide them to the tax commissioner on request.	989
(3) The tax commissioner may establish an identification system whereby the commissioner issues an identification number to a consumer that is exempt from payment of the tax. The consumer must present the number to the vendor, if any sale is claimed to be exempt as provided in this section.	990 991 992 993 994
(4) If no certificate is provided or obtained within ninety days after the date on which such sale is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a vendor, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the sale is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.	995 996 997 998 999 1000 1001 1002 1003
(5) Certificates need not be obtained nor provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.	1004 1005 1006 1007 1008 1009
(6) If a transaction is claimed to be exempt under division (B) (13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the vendor. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly	1010 1011 1012 1013 1014 1015 1016 1017 1018

claimed. The certification shall be in such form as the tax commissioner prescribes.

(7) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the person that leases a sports facility, as defined in section 307.696 of the Revised Code, wholly owned by a county may provide and sign, on behalf of the county, an exemption certificate required under this section for that exemption.

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

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

For the purposes of the taxes levied by this chapter and 1049  
Chapter 5741. of the Revised Code, the contractor or vendor may 1050  
in good faith rely on the contractee's certification. 1051  
Notwithstanding division (B) of section 5739.01 of the Revised 1052  
Code, if the tax commissioner determines that certain property 1053  
certified by the contractee as tangible personal property 1054  
pursuant to this division is, in fact, real property, the 1055  
contractee shall be considered to be the consumer of all 1056  
materials so incorporated into that real property and shall be 1057  
liable for the applicable tax, and the contractor or vendor 1058  
shall be excused from any liability on those materials. 1059

If a contractee fails to provide such certification upon 1060  
the request of the contractor or vendor, the contractor or 1061  
vendor shall comply with the provisions of this chapter and 1062  
Chapter 5741. of the Revised Code without the certification. If 1063  
the tax commissioner determines that such compliance has been 1064  
performed in good faith and that certain property treated as 1065  
tangible personal property by the contractor or vendor is, in 1066  
fact, real property, the contractee shall be considered to be 1067  
the consumer of all materials so incorporated into that real 1068  
property and shall be liable for the applicable tax, and the 1069  
construction contractor or vendor shall be excused from any 1070  
liability on those materials. 1071

This division does not apply to any contract or agreement 1072  
where the tax commissioner determines as a fact that a 1073  
certification under this division was made solely on the 1074  
decision or advice of the contractor or vendor. 1075

(D) Notwithstanding division (B) of section 5739.01 of the 1076  
Revised Code, whenever the total rate of tax imposed under this 1077  
chapter is increased after the date after a construction 1078

contract is entered into, the contractee shall reimburse the 1079  
construction contractor for any additional tax paid on tangible 1080  
property consumed or services received pursuant to the contract. 1081

(E) A vendor who files a petition for reassessment 1082  
contesting the assessment of tax on sales for which the vendor 1083  
obtained no valid exemption certificates and for which the 1084  
vendor failed to establish that the sales were properly not 1085  
subject to the tax during the one-hundred-twenty-day period 1086  
allowed under division (B) of this section, may present to the 1087  
tax commissioner additional evidence to prove that the sales 1088  
were properly subject to a claim of exception or exemption. The 1089  
vendor shall file such evidence within ninety days of the 1090  
receipt by the vendor of the notice of assessment, except that, 1091  
upon application and for reasonable cause, the period for 1092  
submitting such evidence shall be extended thirty days. 1093

The commissioner shall consider such additional evidence 1094  
in reaching the final determination on the assessment and 1095  
petition for reassessment. 1096

(F) Whenever a vendor refunds the price, minus any 1097  
separately stated delivery charge, of an item of tangible 1098  
personal property on which the tax imposed under this chapter 1099  
has been paid, the vendor shall also refund the amount of tax 1100  
paid, minus the amount of tax attributable to the delivery 1101  
charge. 1102

**Sec. 5739.05.** (A) (1) The tax commissioner shall enforce 1103  
and administer sections 5739.01 to 5739.31 of the Revised Code, 1104  
which are hereby declared to be sections which the commissioner 1105  
is required to administer within the meaning of sections 5703.17 1106  
to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. 1107  
The commissioner may adopt and promulgate, in accordance with 1108

sections 119.01 to 119.13 of the Revised Code, such rules as the 1109  
commissioner deems necessary to administer sections 5739.01 to 1110  
5739.31 of the Revised Code. 1111

(2) On or before the first day of May of each year, the 1112  
commissioner shall make available to vendors a notice explaining 1113  
the three-day exemption period required under division (B) (55) 1114  
of section 5739.02 of the Revised Code. 1115

(3) On or before first day of December and August of each 1116  
year, the commissioner shall make available to vendors a notice 1117  
explaining the two-month exemption period required under 1118  
division (B) (67) of section 5739.02 of the Revised Code 1119  
commencing on the following first day of March or November, 1120  
respectively. 1121

(B) Upon application, the commissioner may authorize a 1122  
vendor to pay on a predetermined basis the tax levied by or 1123  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 1124  
the Revised Code upon sales of things produced or distributed or 1125  
services provided by such vendor, and the commissioner may waive 1126  
the collection of the tax from the consumer. The commissioner 1127  
shall not grant such authority unless the commissioner finds 1128  
that the granting of the authority would improve compliance and 1129  
increase the efficiency of the administration of the tax. The 1130  
person to whom such authority is granted shall post a notice, if 1131  
required by the commissioner, at the location where the product 1132  
is offered for sale that the tax is included in the selling 1133  
price. The commissioner may adopt rules to administer this 1134  
division. 1135

(C) Upon application, the commissioner may authorize a 1136  
vendor to remit, on the basis of a prearranged agreement under 1137  
this division, the tax levied by section 5739.02 or pursuant to 1138

section 5739.021, 5739.023, or 5739.026 of the Revised Code. The 1139  
proportions and ratios in a prearranged agreement shall be 1140  
determined either by a test check conducted by the commissioner 1141  
under terms and conditions agreed to by the commissioner and the 1142  
vendor or by any other method agreed upon by the vendor and the 1143  
commissioner. If the parties are unable to agree to the terms 1144  
and conditions of the test check or other method, the 1145  
application shall be denied. 1146

If used, the test check shall determine the proportion 1147  
that taxable retail sales bear to all of the vendor's retail 1148  
sales and the ratio which the tax required to be collected under 1149  
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the 1150  
Revised Code bears to the receipts from the vendor's taxable 1151  
retail sales. 1152

The vendor's liability for remitting the tax shall be 1153  
based solely upon the proportions and ratios established in the 1154  
agreement until such time that the vendor or the commissioner 1155  
believes that the nature of the vendor's business has so changed 1156  
as to make the agreement no longer representative. The 1157  
commissioner may give notice to the vendor at any time that the 1158  
authorization is revoked or the vendor may notify the 1159  
commissioner that the vendor no longer elects to report under 1160  
the authorization. Such notice shall be delivered to the other 1161  
party in the manner provided in section 5703.37 of the Revised 1162  
Code. The revocation or cancellation is effective the last day 1163  
of the month in which the vendor or the commissioner receives 1164  
the notice. 1165

**Section 2.** That existing sections 5739.02, 5739.03, and 1166  
5739.05 of the Revised Code are hereby repealed. 1167

**Section 3.** The amendment by this act of section 5739.02 of 1168



the Revised Code applies on and after the first day of March,	1169
April, November, or December occurring after the effective date	1170
of this section, whichever comes first.	1171