

**As Reported by the Senate Ways and Means Committee**

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**Sub. H. B. No. 430**

**Representative Schaffer**

**Cosponsors: Representatives Faber, Antani, Brenner, Ginter, Green, Greenspan, Hagan, Hambley, Hill, Johnson, Landis, Lang, Merrin, Pelanda, Perales, Reineke, Roegner, Rogers, Romanchuk, Ryan, Schuring, Slaby, Smith, R., Sprague, Thompson, Wiggam, Young**

**Senators Hackett, Beagle, Eklund**

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**A BILL**

To amend sections 5709.20, 5709.211, 5709.212, 1  
5709.22, and 5739.02 of the Revised Code to 2  
modify the language governing the sales and use 3  
tax exemption for certain kinds of property used 4  
in the production of oil and gas. 5

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

**Section 1.** That sections 5709.20, 5709.211, 5709.212, 6  
5709.22, and 5739.02 of the Revised Code be amended to read as 7  
follows: 8

**Sec. 5709.20.** As used in sections 5709.20 to 5709.27 of 9  
the Revised Code: 10

(A) "Air contaminant" means particulate matter, dust, 11  
fumes, gas, mist, smoke, vapor, or odorous substances, or any 12  
combination thereof. 13

(B) "Air pollution control facility" means any property 14

designed, constructed, or installed for the primary purpose of 15  
eliminating or reducing the emission of, or ground level 16  
concentration of, air contaminants generated at an industrial or 17  
commercial plant or site that renders air harmful or inimical to 18  
the public health or to property within this state, or such 19  
property installed on or after November 1, 1993, at a petroleum 20  
refinery for the primary purpose of eliminating or reducing 21  
substances within fuel that otherwise would create the emission 22  
of air contaminants upon the combustion of fuel. 23

(C) "Energy conversion" means the conversion of fuel or 24  
power usage and consumption from natural gas to an alternate 25  
fuel or power source other than propane, butane, naphtha, or 26  
fuel oil; or the conversion of fuel or power usage and 27  
consumption from fuel oil to an alternate fuel or power source 28  
other than natural gas, propane, butane, or naphtha. 29

(D) "Energy conversion facility" means any additional 30  
property or equipment designed, constructed, or installed after 31  
December 31, 1974, for use at an industrial or commercial plant 32  
or site for the primary purpose of energy conversion. 33

(E) "Exempt facility" means any of the facilities defined 34  
in division (B), (D), (F), (I), (K), or (L) of this section for 35  
which an exempt facility certificate is issued pursuant to 36  
section 5709.21 or for which a certificate remains valid under 37  
section 5709.201 of the Revised Code. 38

(F) "Noise pollution control facility" means any property 39  
designed, constructed, or installed for use at an industrial or 40  
commercial plant or site for the primary purpose of eliminating 41  
or reducing, at that plant or site, the emission of sound which 42  
is harmful or inimical to persons or property, or materially 43  
reduces the quality of the environment, as shall be determined 44

by the director of environmental protection within such 45  
standards for noise pollution control facilities and standards 46  
for environmental noise necessary to protect public health and 47  
welfare as may be promulgated by the United States environmental 48  
protection agency. In the absence of such United States 49  
environmental protection agency standards, the determination 50  
shall be made in accordance with generally accepted current 51  
standards of good engineering practice in environmental noise 52  
control. 53

(G) "Solid waste" means such unwanted residual solid or 54  
semi-solid material as results from industrial operations, 55  
including those of public utility companies, and commercial, 56  
distribution, research, agricultural, and community operations, 57  
including garbage, combustible or noncombustible, street dirt, 58  
and debris. 59

(H) "Solid waste energy conversion" means the conversion 60  
of solid waste into energy and the utilization of such energy 61  
for some useful purpose. 62

(I) "Solid waste energy conversion facility" means any 63  
property or equipment designed, constructed, or installed after 64  
December 31, 1974, for use at an industrial or a commercial 65  
plant or site for the primary purpose of solid waste energy 66  
conversion. 67

(J) "Thermal efficiency improvement" means the recovery 68  
and use of waste heat or waste steam produced incidental to 69  
electric power generation, industrial process heat generation, 70  
lighting, refrigeration, or space heating. 71

(K) "Thermal efficiency improvement facility" means any 72  
property or equipment designed, constructed, or installed after 73

December 31, 1974, for use at an industrial or a commercial 74  
plant or site for the primary purpose of thermal efficiency 75  
improvement. 76

(L) "Industrial water pollution control facility" means 77  
any property designed, constructed, or installed for the primary 78  
purpose of collecting or conducting industrial waste to a point 79  
of disposal or treatment; reducing, controlling, or eliminating 80  
water pollution caused by industrial waste; or reducing, 81  
controlling, or eliminating the discharge into a disposal system 82  
of industrial waste or what would be industrial waste if 83  
discharged into the waters of this state. This division applies 84  
only to property related to an industrial water pollution 85  
control facility placed into operation or initially capable of 86  
operation after December 31, 1965, and installed pursuant to the 87  
approval of the environmental protection agency, department of 88  
natural resources, or any other governmental agency having 89  
authority to approve the installation of industrial water 90  
pollution control facilities. The definitions in section 6111.01 91  
of the Revised Code, as applicable, apply to the terms used in 92  
this division. 93

(M) Property designed, constructed, installed, used, or 94  
placed in operation primarily for the safety, health, 95  
protection, or benefit, or any combination thereof, of personnel 96  
of a business, or primarily for a business's own benefit, is not 97  
an "exempt facility." 98

**Sec. 5709.211.** (A) Before issuing an exempt facility 99  
certificate pursuant to section 5709.21 of the Revised Code, the 100  
tax commissioner shall provide a copy of a properly completed 101  
application to, and obtain the opinion of, the one of the 102  
following persons: 103

(1) The director of environmental protection in the case 104  
of an exempt facility described in division (B) ~~, or (F), or (L)~~ 105  
of section 5709.20 of the Revised Code, ~~or provide a copy of the~~ 106  
~~application to, and obtain the opinion of, the, when~~ 107  
applicable, division (L) of that section; 108

(2) The director of natural resources in the case of an 109  
exempt facility described in division (L) of section 5709.20 of 110  
the Revised Code, when applicable; 111

(3) The director of development in the case of an 112  
application for an exempt facility described in division (D), 113  
(I), or (K) of section 5709.20 of the Revised Code. ~~The~~ 114

The opinion shall provide the commissioner with a 115  
recommendation of whether the property is primarily designed, 116  
constructed, installed, and used as an exempt facility. The 117  
applicant shall provide additional information upon request by 118  
the tax commissioner, the director of environmental protection, 119  
the director of natural resources, or the director of 120  
development, and allow them to inspect the property listed in 121  
the application for the purposes of sections 5709.20 to 5709.27 122  
of the Revised Code. The tax commissioner shall provide to the 123  
applicant a copy of the opinion issued by ~~either~~ the director of 124  
environmental protection, director of natural resources, or ~~the~~ 125  
director of the department of development, as applicable. 126

(B) The opinions of the director of the environmental 127  
protection agency, the director of natural resources, and the 128  
director of development under division (A) of this section or 129  
division (C) (4) of section 5709.22 of the Revised Code are not 130  
final actions or orders subject to appeal. 131

**Sec. 5709.212.** (A) With every application for an exempt 132

facility certificate filed pursuant to section 5709.21 of the 133  
Revised Code, the applicant shall pay a fee equal to one-half of 134  
one per cent of the total exempt facility project cost, not to 135  
exceed two thousand dollars. If the director of environmental 136  
protection is required to provide the opinion for an 137  
application, the fee shall be credited to the non-Title V clean 138  
air fund created in section 3704.035 of the Revised Code for use 139  
in administering section 5709.211 of the Revised Code, unless 140  
the application is for an industrial water pollution control 141  
facility. ~~If the application is for an industrial water~~ 142  
~~pollution control facility.~~ In such a case, the fee shall be 143  
credited to the surface water protection fund created in section 144  
6111.038 of the Revised Code for use in administering section 145  
5709.211 of the Revised Code. If the director of development or 146  
director of natural resources is required to provide the opinion 147  
for an application, the fee for each exempt facility application 148  
shall be credited to the exempt facility inspection fund, which 149  
is hereby created in the state treasury, for appropriation to 150  
the development services agency or department of natural 151  
resources, as applicable, for use in administering section 152  
5709.211 of the Revised Code. 153

An applicant is not entitled to any tax exemption under 154  
section 5709.25 of the Revised Code until the fee required by 155  
this section is paid. The fee required by this section is not 156  
refundable, and is due with the application for an exempt 157  
facility certificate even if an exempt facility certificate 158  
ultimately is not issued or is withdrawn. Any application 159  
submitted without payment of the fee shall be deemed incomplete 160  
until the fee is paid. 161

(B) The application fee imposed under division (A) of this 162  
section for a jointly owned facility shall be equal to one-half 163

of one per cent of the total exempt facility project cost, not 164  
to exceed two thousand dollars for each facility that is the 165  
subject of the application. 166

**Sec. 5709.22.** (A) After receiving an opinion from the 167  
director of environmental protection, the director of natural 168  
resources, or the director of development, the tax commissioner 169  
shall promptly ascertain if an application filed under section 170  
5709.21 of the Revised Code shall be allowed or disallowed in 171  
whole or in part. The commissioner shall give written notice of 172  
the proposed finding to the applicant and the county auditor of 173  
the county in which the facility described in the application is 174  
located. Within sixty days after sending written notice of the 175  
proposed finding, the applicant or the county auditor may file a 176  
request for reconsideration, in writing, to the commissioner and 177  
may request that the commissioner conduct a hearing on the 178  
application. If no request for reconsideration is filed, the 179  
commissioner's proposed findings shall be final and, if 180  
applicable, the commissioner shall issue an exempt facility 181  
certificate, which shall not be subject to appeal pursuant to 182  
section 5717.02 of the Revised Code. 183

(B) If a reconsideration of the tax commissioner's 184  
proposed finding is requested by the applicant or the county 185  
auditor, the commissioner shall notify the applicant and the 186  
auditor of the time and place of the hearing, which the 187  
commissioner may continue from time to time as the commissioner 188  
finds necessary. The commissioner also shall notify the 189  
environmental protection agency, department of natural 190  
resources, or department of development, as applicable, of the 191  
hearing. The environmental protection agency, department of 192  
natural resources, or ~~the~~ department of development shall 193  
participate in the hearing if requested in writing by the 194

commissioner, the applicant, or the county auditor. After 195  
conducting the hearing, the commissioner shall issue a final 196  
determination, with a copy of it served on the applicant and 197  
applicable county auditors in the manner prescribed by section 198  
5703.37 of the Revised Code. The final determination is subject 199  
to appeal pursuant to section 5717.02 of the Revised Code. Once 200  
all appeals are exhausted, the commissioner shall issue, if 201  
applicable, the exempt facility certificate based on the outcome 202  
of the appeal. 203

(C) The tax commissioner, on the commissioner's own 204  
initiative or on complaint by the county auditor of any county 205  
in which property to which the exempt facility certificate 206  
relates is located, shall revoke the certificate, or modify it 207  
by restricting its operation, if it appears to the commissioner 208  
that any of the following has occurred: 209

(1) The certificate was obtained by fraud or 210  
misrepresentation; 211

(2) The holder of the certificate has failed substantially 212  
to proceed with the construction, reconstruction, installation, 213  
or acquisition of an exempt facility; 214

(3) The property to which the certificate relates has 215  
ceased to be used as an exempt facility; 216

(4) The tax commissioner issued the certificate in error. 217  
As used in this section, "error" means any of the following: 218

(a) A clerical or mathematical mistake; 219

(b) When the commissioner agrees with an opinion from the 220  
director of environmental protection, the director of natural 221  
resources, or the director of development that a certificate 222  
should not have been issued; 223



(c) When the tax commissioner determines that the issuance 224  
of the certificate may have been improper as the result of a 225  
final adjudication by the board of tax appeals, or by a court 226  
with jurisdiction on appeal from that board, that is adverse to 227  
the original exempt status of the facility, regardless of 228  
whether the holder of the certificate was a party to such 229  
adjudication. 230

(D) If the revocation or modification of a certificate 231  
under division (C) (4) of this section is an action found to be 232  
frivolous for the purposes of section 5703.54 of the Revised 233  
Code the certificate holder may claim damages as provided under 234  
division (B) of that section. 235

(E) Upon service of notice ~~certificate~~ to the holder of an 236  
exempt facility certificate, in the manner provided in section 237  
5703.37 of the Revised Code, of the tax commissioner's 238  
revocation or modification of the certificate under division (C) 239  
of this section, the certificate shall cease to be in force or 240  
shall remain in force only as modified, as the case may require. 241  
The notice is subject to appeal under section 5717.02 of the 242  
Revised Code. Once all appeals are exhausted, the commissioner 243  
shall issue a modified certificate, if applicable, and the 244  
holder of the certificate shall be allowed to claim a refund 245  
within one hundred eighty days, notwithstanding any other time 246  
limitation provided by law of the taxes paid as a result of the 247  
certificate being revoked or modified. 248

**Sec. 5739.02.** For the purpose of providing revenue with 249  
which to meet the needs of the state, for the use of the general 250  
revenue fund of the state, for the purpose of securing a 251  
thorough and efficient system of common schools throughout the 252  
state, for the purpose of affording revenues, in addition to 253

those from general property taxes, permitted under 254  
constitutional limitations, and from other sources, for the 255  
support of local governmental functions, and for the purpose of 256  
reimbursing the state for the expense of administering this 257  
chapter, an excise tax is hereby levied on each retail sale made 258  
in this state. 259

(A) (1) The tax shall be collected as provided in section 260  
5739.025 of the Revised Code. The rate of the tax shall be five 261  
and three-fourths per cent. The tax applies and is collectible 262  
when the sale is made, regardless of the time when the price is 263  
paid or delivered. 264

(2) In the case of the lease or rental, with a fixed term 265  
of more than thirty days or an indefinite term with a minimum 266  
period of more than thirty days, of any motor vehicles designed 267  
by the manufacturer to carry a load of not more than one ton, 268  
watercraft, outboard motor, or aircraft, or of any tangible 269  
personal property, other than motor vehicles designed by the 270  
manufacturer to carry a load of more than one ton, to be used by 271  
the lessee or renter primarily for business purposes, the tax 272  
shall be collected by the vendor at the time the lease or rental 273  
is consummated and shall be calculated by the vendor on the 274  
basis of the total amount to be paid by the lessee or renter 275  
under the lease agreement. If the total amount of the 276  
consideration for the lease or rental includes amounts that are 277  
not calculated at the time the lease or rental is executed, the 278  
tax shall be calculated and collected by the vendor at the time 279  
such amounts are billed to the lessee or renter. In the case of 280  
an open-end lease or rental, the tax shall be calculated by the 281  
vendor on the basis of the total amount to be paid during the 282  
initial fixed term of the lease or rental, and for each 283  
subsequent renewal period as it comes due. As used in this 284

division, "motor vehicle" has the same meaning as in section 285  
4501.01 of the Revised Code, and "watercraft" includes an 286  
outdrive unit attached to the watercraft. 287

A lease with a renewal clause and a termination penalty or 288  
similar provision that applies if the renewal clause is not 289  
exercised is presumed to be a sham transaction. In such a case, 290  
the tax shall be calculated and paid on the basis of the entire 291  
length of the lease period, including any renewal periods, until 292  
the termination penalty or similar provision no longer applies. 293  
The taxpayer shall bear the burden, by a preponderance of the 294  
evidence, that the transaction or series of transactions is not 295  
a sham transaction. 296

(3) Except as provided in division (A) (2) of this section, 297  
in the case of a sale, the price of which consists in whole or 298  
in part of the lease or rental of tangible personal property, 299  
the tax shall be measured by the installments of that lease or 300  
rental. 301

(4) In the case of a sale of a physical fitness facility 302  
service or recreation and sports club service, the price of 303  
which consists in whole or in part of a membership for the 304  
receipt of the benefit of the service, the tax applicable to the 305  
sale shall be measured by the installments thereof. 306

(B) The tax does not apply to the following: 307

(1) Sales to the state or any of its political 308  
subdivisions, or to any other state or its political 309  
subdivisions if the laws of that state exempt from taxation 310  
sales made to this state and its political subdivisions; 311

(2) Sales of food for human consumption off the premises 312  
where sold; 313

(3) Sales of food sold to students only in a cafeteria,	314
dormitory, fraternity, or sorority maintained in a private,	315
public, or parochial school, college, or university;	316
(4) Sales of newspapers and sales or transfers of	317
magazines distributed as controlled circulation publications;	318
(5) The furnishing, preparing, or serving of meals without	319
charge by an employer to an employee provided the employer	320
records the meals as part compensation for services performed or	321
work done;	322
(6) Sales of motor fuel upon receipt, use, distribution,	323
or sale of which in this state a tax is imposed by the law of	324
this state, but this exemption shall not apply to the sale of	325
motor fuel on which a refund of the tax is allowable under	326
division (A) of section 5735.14 of the Revised Code; and the tax	327
commissioner may deduct the amount of tax levied by this section	328
applicable to the price of motor fuel when granting a refund of	329
motor fuel tax pursuant to division (A) of section 5735.14 of	330
the Revised Code and shall cause the amount deducted to be paid	331
into the general revenue fund of this state;	332
(7) Sales of natural gas by a natural gas company or	333
municipal gas utility, of water by a water-works company, or of	334
steam by a heating company, if in each case the thing sold is	335
delivered to consumers through pipes or conduits, and all sales	336
of communications services by a telegraph company, all terms as	337
defined in section 5727.01 of the Revised Code, and sales of	338
electricity delivered through wires;	339
(8) Casual sales by a person, or auctioneer employed	340
directly by the person to conduct such sales, except as to such	341
sales of motor vehicles, watercraft or outboard motors required	342

to be titled under section 1548.06 of the Revised Code, 343  
watercraft documented with the United States coast guard, 344  
snowmobiles, and all-purpose vehicles as defined in section 345  
4519.01 of the Revised Code; 346

(9) (a) Sales of services or tangible personal property, 347  
other than motor vehicles, mobile homes, and manufactured homes, 348  
by churches, organizations exempt from taxation under section 349  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 350  
organizations operated exclusively for charitable purposes as 351  
defined in division (B) (12) of this section, provided that the 352  
number of days on which such tangible personal property or 353  
services, other than items never subject to the tax, are sold 354  
does not exceed six in any calendar year, except as otherwise 355  
provided in division (B) (9) (b) of this section. If the number of 356  
days on which such sales are made exceeds six in any calendar 357  
year, the church or organization shall be considered to be 358  
engaged in business and all subsequent sales by it shall be 359  
subject to the tax. In counting the number of days, all sales by 360  
groups within a church or within an organization shall be 361  
considered to be sales of that church or organization. 362

(b) The limitation on the number of days on which tax- 363  
exempt sales may be made by a church or organization under 364  
division (B) (9) (a) of this section does not apply to sales made 365  
by student clubs and other groups of students of a primary or 366  
secondary school, or a parent-teacher association, booster 367  
group, or similar organization that raises money to support or 368  
fund curricular or extracurricular activities of a primary or 369  
secondary school. 370

(c) Divisions (B) (9) (a) and (b) of this section do not 371  
apply to sales by a noncommercial educational radio or 372

television broadcasting station.	373
(10) Sales not within the taxing power of this state under the Constitution or laws of the United States or the Constitution of this state;	374 375 376
(11) Except for transactions that are sales under division (B) (3) (r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;	377 378 379 380
(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.	381 382 383 384 385 386 387 388 389 390 391 392 393
"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio	394 395 396 397 398 399 400 401 402

or television station; the operation of a nonprofit animal 403  
adoption service or a county humane society; the promotion of 404  
education by an institution of learning that maintains a faculty 405  
of qualified instructors, teaches regular continuous courses of 406  
study, and confers a recognized diploma upon completion of a 407  
specific curriculum; the operation of a parent-teacher 408  
association, booster group, or similar organization primarily 409  
engaged in the promotion and support of the curricular or 410  
extracurricular activities of a primary or secondary school; the 411  
operation of a community or area center in which presentations 412  
in music, dramatics, the arts, and related fields are made in 413  
order to foster public interest and education therein; the 414  
production of performances in music, dramatics, and the arts; or 415  
the promotion of education by an organization engaged in 416  
carrying on research in, or the dissemination of, scientific and 417  
technological knowledge and information primarily for the 418  
public. 419

Nothing in this division shall be deemed to exempt sales 420  
to any organization for use in the operation or carrying on of a 421  
trade or business, or sales to a home for the aged for use in 422  
the operation of independent living facilities as defined in 423  
division (A) of section 5709.12 of the Revised Code. 424

(13) Building and construction materials and services sold 425  
to construction contractors for incorporation into a structure 426  
or improvement to real property under a construction contract 427  
with this state or a political subdivision of this state, or 428  
with the United States government or any of its agencies; 429  
building and construction materials and services sold to 430  
construction contractors for incorporation into a structure or 431  
improvement to real property that are accepted for ownership by 432  
this state or any of its political subdivisions, or by the 433

United States government or any of its agencies at the time of 434  
completion of the structures or improvements; building and 435  
construction materials sold to construction contractors for 436  
incorporation into a horticulture structure or livestock 437  
structure for a person engaged in the business of horticulture 438  
or producing livestock; building materials and services sold to 439  
a construction contractor for incorporation into a house of 440  
public worship or religious education, or a building used 441  
exclusively for charitable purposes under a construction 442  
contract with an organization whose purpose is as described in 443  
division (B) (12) of this section; building materials and 444  
services sold to a construction contractor for incorporation 445  
into a building under a construction contract with an 446  
organization exempt from taxation under section 501(c) (3) of the 447  
Internal Revenue Code of 1986 when the building is to be used 448  
exclusively for the organization's exempt purposes; building and 449  
construction materials sold for incorporation into the original 450  
construction of a sports facility under section 307.696 of the 451  
Revised Code; building and construction materials and services 452  
sold to a construction contractor for incorporation into real 453  
property outside this state if such materials and services, when 454  
sold to a construction contractor in the state in which the real 455  
property is located for incorporation into real property in that 456  
state, would be exempt from a tax on sales levied by that state; 457  
building and construction materials for incorporation into a 458  
transportation facility pursuant to a public-private agreement 459  
entered into under sections 5501.70 to 5501.83 of the Revised 460  
Code; and, until one calendar year after the construction of a 461  
convention center that qualifies for property tax exemption 462  
under section 5709.084 of the Revised Code is completed, 463  
building and construction materials and services sold to a 464  
construction contractor for incorporation into the real property 465



comprising that convention center;	466
(14) Sales of ships or vessels or rail rolling stock used	467
or to be used principally in interstate or foreign commerce, and	468
repairs, alterations, fuel, and lubricants for such ships or	469
vessels or rail rolling stock;	470
(15) Sales to persons primarily engaged in any of the	471
activities mentioned in division (B) (42) (a), (g), or (h) of this	472
section, to persons engaged in making retail sales, or to	473
persons who purchase for sale from a manufacturer tangible	474
personal property that was produced by the manufacturer in	475
accordance with specific designs provided by the purchaser, of	476
packages, including material, labels, and parts for packages,	477
and of machinery, equipment, and material for use primarily in	478
packaging tangible personal property produced for sale,	479
including any machinery, equipment, and supplies used to make	480
labels or packages, to prepare packages or products for	481
labeling, or to label packages or products, by or on the order	482
of the person doing the packaging, or sold at retail. "Packages"	483
includes bags, baskets, cartons, crates, boxes, cans, bottles,	484
bindings, wrappings, and other similar devices and containers,	485
but does not include motor vehicles or bulk tanks, trailers, or	486
similar devices attached to motor vehicles. "Packaging" means	487
placing in a package. Division (B) (15) of this section does not	488
apply to persons engaged in highway transportation for hire.	489
(16) Sales of food to persons using supplemental nutrition	490
assistance program benefits to purchase the food. As used in	491
this division, "food" has the same meaning as in 7 U.S.C. 2012	492
and federal regulations adopted pursuant to the Food and	493
Nutrition Act of 2008.	494
(17) Sales to persons engaged in farming, agriculture,	495

horticulture, or floriculture, of tangible personal property for 496  
use or consumption primarily in the production by farming, 497  
agriculture, horticulture, or floriculture of other tangible 498  
personal property for use or consumption primarily in the 499  
production of tangible personal property for sale by farming, 500  
agriculture, horticulture, or floriculture; or material and 501  
parts for incorporation into any such tangible personal property 502  
for use or consumption in production; and of tangible personal 503  
property for such use or consumption in the conditioning or 504  
holding of products produced by and for such use, consumption, 505  
or sale by persons engaged in farming, agriculture, 506  
horticulture, or floriculture, except where such property is 507  
incorporated into real property; 508

(18) Sales of drugs for a human being that may be 509  
dispensed only pursuant to a prescription; insulin as recognized 510  
in the official United States pharmacopoeia; urine and blood 511  
testing materials when used by diabetics or persons with 512  
hypoglycemia to test for glucose or acetone; hypodermic syringes 513  
and needles when used by diabetics for insulin injections; 514  
epoetin alfa when purchased for use in the treatment of persons 515  
with medical disease; hospital beds when purchased by hospitals, 516  
nursing homes, or other medical facilities; and medical oxygen 517  
and medical oxygen-dispensing equipment when purchased by 518  
hospitals, nursing homes, or other medical facilities; 519

(19) Sales of prosthetic devices, durable medical 520  
equipment for home use, or mobility enhancing equipment, when 521  
made pursuant to a prescription and when such devices or 522  
equipment are for use by a human being. 523

(20) Sales of emergency and fire protection vehicles and 524  
equipment to nonprofit organizations for use solely in providing 525

fire protection and emergency services, including trauma care 526  
and emergency medical services, for political subdivisions of 527  
the state; 528

(21) Sales of tangible personal property manufactured in 529  
this state, if sold by the manufacturer in this state to a 530  
retailer for use in the retail business of the retailer outside 531  
of this state and if possession is taken from the manufacturer 532  
by the purchaser within this state for the sole purpose of 533  
immediately removing the same from this state in a vehicle owned 534  
by the purchaser; 535

(22) Sales of services provided by the state or any of its 536  
political subdivisions, agencies, instrumentalities, 537  
institutions, or authorities, or by governmental entities of the 538  
state or any of its political subdivisions, agencies, 539  
instrumentalities, institutions, or authorities; 540

(23) Sales of motor vehicles to nonresidents of this state 541  
under the circumstances described in division (B) of section 542  
5739.029 of the Revised Code; 543

(24) Sales to persons engaged in the preparation of eggs 544  
for sale of tangible personal property used or consumed directly 545  
in such preparation, including such tangible personal property 546  
used for cleaning, sanitizing, preserving, grading, sorting, and 547  
classifying by size; packages, including material and parts for 548  
packages, and machinery, equipment, and material for use in 549  
packaging eggs for sale; and handling and transportation 550  
equipment and parts therefor, except motor vehicles licensed to 551  
operate on public highways, used in intraplant or interplant 552  
transfers or shipment of eggs in the process of preparation for 553  
sale, when the plant or plants within or between which such 554  
transfers or shipments occur are operated by the same person. 555

"Packages" includes containers, cases, baskets, flats, fillers,	556
filler flats, cartons, closure materials, labels, and labeling	557
materials, and "packaging" means placing therein.	558
(25) (a) Sales of water to a consumer for residential use;	559
(b) Sales of water by a nonprofit corporation engaged	560
exclusively in the treatment, distribution, and sale of water to	561
consumers, if such water is delivered to consumers through pipes	562
or tubing.	563
(26) Fees charged for inspection or reinspection of motor	564
vehicles under section 3704.14 of the Revised Code;	565
(27) Sales to persons licensed to conduct a food service	566
operation pursuant to section 3717.43 of the Revised Code, of	567
tangible personal property primarily used directly for the	568
following:	569
(a) To prepare food for human consumption for sale;	570
(b) To preserve food that has been or will be prepared for	571
human consumption for sale by the food service operator, not	572
including tangible personal property used to display food for	573
selection by the consumer;	574
(c) To clean tangible personal property used to prepare or	575
serve food for human consumption for sale.	576
(28) Sales of animals by nonprofit animal adoption	577
services or county humane societies;	578
(29) Sales of services to a corporation described in	579
division (A) of section 5709.72 of the Revised Code, and sales	580
of tangible personal property that qualifies for exemption from	581
taxation under section 5709.72 of the Revised Code;	582

(30) Sales and installation of agricultural land tile, as 583  
defined in division (B) (5) (a) of section 5739.01 of the Revised 584  
Code; 585

(31) Sales and erection or installation of portable grain 586  
bins, as defined in division (B) (5) (b) of section 5739.01 of the 587  
Revised Code; 588

(32) The sale, lease, repair, and maintenance of, parts 589  
for, or items attached to or incorporated in, motor vehicles 590  
that are primarily used for transporting tangible personal 591  
property belonging to others by a person engaged in highway 592  
transportation for hire, except for packages and packaging used 593  
for the transportation of tangible personal property; 594

(33) Sales to the state headquarters of any veterans' 595  
organization in this state that is either incorporated and 596  
issued a charter by the congress of the United States or is 597  
recognized by the United States veterans administration, for use 598  
by the headquarters; 599

(34) Sales to a telecommunications service vendor, mobile 600  
telecommunications service vendor, or satellite broadcasting 601  
service vendor of tangible personal property and services used 602  
directly and primarily in transmitting, receiving, switching, or 603  
recording any interactive, one- or two-way electromagnetic 604  
communications, including voice, image, data, and information, 605  
through the use of any medium, including, but not limited to, 606  
poles, wires, cables, switching equipment, computers, and record 607  
storage devices and media, and component parts for the tangible 608  
personal property. The exemption provided in this division shall 609  
be in lieu of all other exemptions under division (B) (42) (a) or 610  
(n) of this section to which the vendor may otherwise be 611  
entitled, based upon the use of the thing purchased in providing 612

the telecommunications, mobile telecommunications, or satellite 613  
broadcasting service. 614

(35) (a) Sales where the purpose of the consumer is to use 615  
or consume the things transferred in making retail sales and 616  
consisting of newspaper inserts, catalogues, coupons, flyers, 617  
gift certificates, or other advertising material that prices and 618  
describes tangible personal property offered for retail sale. 619

(b) Sales to direct marketing vendors of preliminary 620  
materials such as photographs, artwork, and typesetting that 621  
will be used in printing advertising material; and of printed 622  
matter that offers free merchandise or chances to win sweepstake 623  
prizes and that is mailed to potential customers with 624  
advertising material described in division (B) (35) (a) of this 625  
section; 626

(c) Sales of equipment such as telephones, computers, 627  
facsimile machines, and similar tangible personal property 628  
primarily used to accept orders for direct marketing retail 629  
sales. 630

(d) Sales of automatic food vending machines that preserve 631  
food with a shelf life of forty-five days or less by 632  
refrigeration and dispense it to the consumer. 633

For purposes of division (B) (35) of this section, "direct 634  
marketing" means the method of selling where consumers order 635  
tangible personal property by United States mail, delivery 636  
service, or telecommunication and the vendor delivers or ships 637  
the tangible personal property sold to the consumer from a 638  
warehouse, catalogue distribution center, or similar fulfillment 639  
facility by means of the United States mail, delivery service, 640  
or common carrier. 641

(36) Sales to a person engaged in the business of 642  
horticulture or producing livestock of materials to be 643  
incorporated into a horticulture structure or livestock 644  
structure; 645

(37) Sales of personal computers, computer monitors, 646  
computer keyboards, modems, and other peripheral computer 647  
equipment to an individual who is licensed or certified to teach 648  
in an elementary or a secondary school in this state for use by 649  
that individual in preparation for teaching elementary or 650  
secondary school students; 651

(38) Sales to a professional racing team of any of the 652  
following: 653

(a) Motor racing vehicles; 654

(b) Repair services for motor racing vehicles; 655

(c) Items of property that are attached to or incorporated 656  
in motor racing vehicles, including engines, chassis, and all 657  
other components of the vehicles, and all spare, replacement, 658  
and rebuilt parts or components of the vehicles; except not 659  
including tires, consumable fluids, paint, and accessories 660  
consisting of instrumentation sensors and related items added to 661  
the vehicle to collect and transmit data by means of telemetry 662  
and other forms of communication. 663

(39) Sales of used manufactured homes and used mobile 664  
homes, as defined in section 5739.0210 of the Revised Code, made 665  
on or after January 1, 2000; 666

(40) Sales of tangible personal property and services to a 667  
provider of electricity used or consumed directly and primarily 668  
in generating, transmitting, or distributing electricity for use 669  
by others, including property that is or is to be incorporated 670

into and will become a part of the consumer's production, 671  
transmission, or distribution system and that retains its 672  
classification as tangible personal property after 673  
incorporation; fuel or power used in the production, 674  
transmission, or distribution of electricity; energy conversion 675  
equipment as defined in section 5727.01 of the Revised Code; and 676  
tangible personal property and services used in the repair and 677  
maintenance of the production, transmission, or distribution 678  
system, including only those motor vehicles as are specially 679  
designed and equipped for such use. The exemption provided in 680  
this division shall be in lieu of all other exemptions in 681  
division (B) (42) (a) or (n) of this section to which a provider 682  
of electricity may otherwise be entitled based on the use of the 683  
tangible personal property or service purchased in generating, 684  
transmitting, or distributing electricity. 685

(41) Sales to a person providing services under division 686  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 687  
personal property and services used directly and primarily in 688  
providing taxable services under that section. 689

(42) Sales where the purpose of the purchaser is to do any 690  
of the following: 691

(a) To incorporate the thing transferred as a material or 692  
a part into tangible personal property to be produced for sale 693  
by manufacturing, assembling, processing, or refining; or to use 694  
or consume the thing transferred directly in producing tangible 695  
personal property for sale by mining, including, without 696  
limitation, the extraction from the earth of all substances that 697  
are classed geologically as minerals, ~~production of crude oil~~ 698  
~~and natural gas~~, or directly in the rendition of a public 699  
utility service, except that the sales tax levied by this 700



section shall be collected upon all meals, drinks, and food for 701  
human consumption sold when transporting persons. ~~Persons~~ 702  
~~engaged in rendering services in the exploration for, and~~ 703  
~~production of, crude oil and natural gas for others are deemed~~ 704  
~~engaged directly in the exploration for, and production of,~~ 705  
~~crude oil and natural gas.~~ This paragraph does not exempt from 706  
"retail sale" or "sales at retail" the sale of tangible personal 707  
property that is to be incorporated into a structure or 708  
improvement to real property. 709

(b) To hold the thing transferred as security for the 710  
performance of an obligation of the vendor; 711

(c) To resell, hold, use, or consume the thing transferred 712  
as evidence of a contract of insurance; 713

(d) To use or consume the thing directly in commercial 714  
fishing; 715

(e) To incorporate the thing transferred as a material or 716  
a part into, or to use or consume the thing transferred directly 717  
in the production of, magazines distributed as controlled 718  
circulation publications; 719

(f) To use or consume the thing transferred in the 720  
production and preparation in suitable condition for market and 721  
sale of printed, imprinted, overprinted, lithographic, 722  
multilithic, blueprinted, photostatic, or other productions or 723  
reproductions of written or graphic matter; 724

(g) To use the thing transferred, as described in section 725  
5739.011 of the Revised Code, primarily in a manufacturing 726  
operation to produce tangible personal property for sale; 727

(h) To use the benefit of a warranty, maintenance or 728  
service contract, or similar agreement, as described in division 729

(B) (7) of section 5739.01 of the Revised Code, to repair or 730  
maintain tangible personal property, if all of the property that 731  
is the subject of the warranty, contract, or agreement would not 732  
be subject to the tax imposed by this section; 733

(i) To use the thing transferred as qualified research and 734  
development equipment; 735

(j) To use or consume the thing transferred primarily in 736  
storing, transporting, mailing, or otherwise handling purchased 737  
sales inventory in a warehouse, distribution center, or similar 738  
facility when the inventory is primarily distributed outside 739  
this state to retail stores of the person who owns or controls 740  
the warehouse, distribution center, or similar facility, to 741  
retail stores of an affiliated group of which that person is a 742  
member, or by means of direct marketing. This division does not 743  
apply to motor vehicles registered for operation on the public 744  
highways. As used in this division, "affiliated group" has the 745  
same meaning as in division (B) (3) (e) of section 5739.01 of the 746  
Revised Code and "direct marketing" has the same meaning as in 747  
division (B) (35) of this section. 748

(k) To use or consume the thing transferred to fulfill a 749  
contractual obligation incurred by a warrantor pursuant to a 750  
warranty provided as a part of the price of the tangible 751  
personal property sold or by a vendor of a warranty, maintenance 752  
or service contract, or similar agreement the provision of which 753  
is defined as a sale under division (B) (7) of section 5739.01 of 754  
the Revised Code; 755

(l) To use or consume the thing transferred in the 756  
production of a newspaper for distribution to the public; 757

(m) To use tangible personal property to perform a service 758

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;

(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.

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

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

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

As used in division (B) (42) (q) of this section, "production" means operations and tangible personal property

directly used to expose and evaluate an underground reservoir 788  
that may contain hydrocarbon resources, prepare the wellbore for 789  
production, and lift and control all substances yielded by the 790  
reservoir to the surface of the earth. 791

(i) For the purposes of division (B) (42) (g) of this 792  
section, the "thing transferred" includes, but is not limited 793  
to, any of the following: 794

(I) Services provided in the construction of permanent 795  
access roads, services provided in the construction of the well 796  
site, and services provided in the construction of temporary 797  
impoundments; 798

(II) Equipment and rigging used for the specific purpose 799  
of creating with integrity a wellbore pathway to underground 800  
reservoirs; 801

(III) Drilling and workover services used to work within a 802  
subsurface wellbore, and tangible personal property directly 803  
used in providing such services; 804

(IV) Casing, tubulars, and float and centralizing 805  
equipment; 806

(V) Trailers to which production equipment is attached; 807

(VI) Well completion services, including cementing of 808  
casing, and tangible personal property directly used in 809  
providing such services; 810

(VII) Wireline evaluation, mud logging, and perforation 811  
services, and tangible personal property directly used in 812  
providing such services; 813

(VIII) Reservoir stimulation, hydraulic fracturing, and 814  
acidizing services, and tangible personal property directly used 815

<u>in providing such services, including all material pumped</u>	816
<u>downhole;</u>	817
<u>(IX) Pressure pumping equipment;</u>	818
<u>(X) Artificial lift systems equipment;</u>	819
<u>(XI) Wellhead equipment and well site equipment used to</u>	820
<u>separate, stabilize, and control hydrocarbon phases and produced</u>	821
<u>water;</u>	822
<u>(XII) Tangible personal property directly used to control</u>	823
<u>production equipment.</u>	824
<u>(ii) For the purposes of division (B) (42) (q) of this</u>	825
<u>section, the "thing transferred" does not include any of the</u>	826
<u>following:</u>	827
<u>(I) Tangible personal property used primarily in the</u>	828
<u>exploration and production of any mineral resource regulated</u>	829
<u>under Chapter 1509. of the Revised Code other than oil or gas;</u>	830
<u>(II) Tangible personal property used primarily in storing,</u>	831
<u>holding, or delivering solutions or chemicals used in well</u>	832
<u>stimulation as defined in section 1509.01 of the Revised Code;</u>	833
<u>(III) Tangible personal property used primarily in</u>	834
<u>preparing, installing, or reclaiming foundations for drilling or</u>	835
<u>pumping equipment or well stimulation material tanks;</u>	836
<u>(IV) Tangible personal property used primarily in</u>	837
<u>transporting, delivering, or removing equipment to or from the</u>	838
<u>well site or storing such equipment before its use at the well</u>	839
<u>site;</u>	840
<u>(V) Tangible personal property used primarily in gathering</u>	841
<u>operations occurring off the well site, including gathering</u>	842

<u>pipelines transporting hydrocarbon gas or liquids away from a</u>	843
<u>crude oil or natural gas production facility;</u>	844
<u>(VI) Tangible personal property that is to be incorporated</u>	845
<u>into a structure or improvement to real property;</u>	846
<u>(VII) Well site fencing, lighting, or security systems;</u>	847
<u>(VIII) Communication devices or services;</u>	848
<u>(IX) Office supplies;</u>	849
<u>(X) Trailers used as offices or lodging;</u>	850
<u>(XI) Motor vehicles of any kind;</u>	851
<u>(XII) Tangible personal property used primarily for the</u>	852
<u>storage of drilling byproducts and fuel not used for production;</u>	853
<u>(XIII) Tangible personal property used primarily as a</u>	854
<u>safety device;</u>	855
<u>(XIV) Data collection or monitoring devices;</u>	856
<u>(XV) Access ladders, stairs, or platforms attached to</u>	857
<u>storage tanks.</u>	858
<u>The enumeration of tangible personal property in division</u>	859
<u>(B) (42) (q) (ii) of this section is not intended to be exhaustive,</u>	860
<u>and any tangible personal property not so enumerated shall not</u>	861
<u>necessarily be construed to be a "thing transferred" for the</u>	862
<u>purposes of division (B) (42) (q) of this section.</u>	863
<u>The commissioner shall adopt and promulgate rules under</u>	864
<u>sections 119.01 to 119.13 of the Revised Code that the</u>	865
<u>commissioner deems necessary to administer division (B) (42) (q)</u>	866
<u>of this section.</u>	867
<u>As used in division (B) (42) of this section, "thing"</u>	868

includes all transactions included in divisions (B) (3) (a), (b), 869  
and (e) of section 5739.01 of the Revised Code. 870

(43) Sales conducted through a coin operated device that 871  
activates vacuum equipment or equipment that dispenses water, 872  
whether or not in combination with soap or other cleaning agents 873  
or wax, to the consumer for the consumer's use on the premises 874  
in washing, cleaning, or waxing a motor vehicle, provided no 875  
other personal property or personal service is provided as part 876  
of the transaction. 877

(44) Sales of replacement and modification parts for 878  
engines, airframes, instruments, and interiors in, and paint 879  
for, aircraft used primarily in a fractional aircraft ownership 880  
program, and sales of services for the repair, modification, and 881  
maintenance of such aircraft, and machinery, equipment, and 882  
supplies primarily used to provide those services. 883

(45) Sales of telecommunications service that is used 884  
directly and primarily to perform the functions of a call 885  
center. As used in this division, "call center" means any 886  
physical location where telephone calls are placed or received 887  
in high volume for the purpose of making sales, marketing, 888  
customer service, technical support, or other specialized 889  
business activity, and that employs at least fifty individuals 890  
that engage in call center activities on a full-time basis, or 891  
sufficient individuals to fill fifty full-time equivalent 892  
positions. 893

(46) Sales by a telecommunications service vendor of 900 894  
service to a subscriber. This division does not apply to 895  
information services, as defined in division (FF) of section 896  
5739.01 of the Revised Code. 897

(47) Sales of value-added non-voice data service. This 898  
division does not apply to any similar service that is not 899  
otherwise a telecommunications service. 900

(48) (a) Sales of machinery, equipment, and software to a 901  
qualified direct selling entity for use in a warehouse or 902  
distribution center primarily for storing, transporting, or 903  
otherwise handling inventory that is held for sale to 904  
independent salespersons who operate as direct sellers and that 905  
is held primarily for distribution outside this state; 906

(b) As used in division (B) (48) (a) of this section: 907

(i) "Direct seller" means a person selling consumer 908  
products to individuals for personal or household use and not 909  
from a fixed retail location, including selling such product at 910  
in-home product demonstrations, parties, and other one-on-one 911  
selling. 912

(ii) "Qualified direct selling entity" means an entity 913  
selling to direct sellers at the time the entity enters into a 914  
tax credit agreement with the tax credit authority pursuant to 915  
section 122.17 of the Revised Code, provided that the agreement 916  
was entered into on or after January 1, 2007. Neither 917  
contingencies relevant to the granting of, nor later 918  
developments with respect to, the tax credit shall impair the 919  
status of the qualified direct selling entity under division (B) 920  
(48) of this section after execution of the tax credit agreement 921  
by the tax credit authority. 922

(c) Division (B) (48) of this section is limited to 923  
machinery, equipment, and software first stored, used, or 924  
consumed in this state within the period commencing June 24, 925  
2008, and ending on the date that is five years after that date. 926



(49) Sales of materials, parts, equipment, or engines used 927  
in the repair or maintenance of aircraft or avionics systems of 928  
such aircraft, and sales of repair, remodeling, replacement, or 929  
maintenance services in this state performed on aircraft or on 930  
an aircraft's avionics, engine, or component materials or parts. 931  
As used in division (B) (49) of this section, "aircraft" means 932  
aircraft of more than six thousand pounds maximum certified 933  
takeoff weight or used exclusively in general aviation. 934

(50) Sales of full flight simulators that are used for 935  
pilot or flight-crew training, sales of repair or replacement 936  
parts or components, and sales of repair or maintenance services 937  
for such full flight simulators. "Full flight simulator" means a 938  
replica of a specific type, or make, model, and series of 939  
aircraft cockpit. It includes the assemblage of equipment and 940  
computer programs necessary to represent aircraft operations in 941  
ground and flight conditions, a visual system providing an out- 942  
of-the-cockpit view, and a system that provides cues at least 943  
equivalent to those of a three-degree-of-freedom motion system, 944  
and has the full range of capabilities of the systems installed 945  
in the device as described in appendices A and B of part 60 of 946  
chapter 1 of title 14 of the Code of Federal Regulations. 947

(51) Any transfer or lease of tangible personal property 948  
between the state and JobsOhio in accordance with section 949  
4313.02 of the Revised Code. 950

(52) (a) Sales to a qualifying corporation. 951

(b) As used in division (B) (52) of this section: 952

(i) "Qualifying corporation" means a nonprofit corporation 953  
organized in this state that leases from an eligible county 954  
land, buildings, structures, fixtures, and improvements to the 955

land that are part of or used in a public recreational facility 956  
used by a major league professional athletic team or a class A 957  
to class AAA minor league affiliate of a major league 958  
professional athletic team for a significant portion of the 959  
team's home schedule, provided the following apply: 960

(I) The facility is leased from the eligible county 961  
pursuant to a lease that requires substantially all of the 962  
revenue from the operation of the business or activity conducted 963  
by the nonprofit corporation at the facility in excess of 964  
operating costs, capital expenditures, and reserves to be paid 965  
to the eligible county at least once per calendar year. 966

(II) Upon dissolution and liquidation of the nonprofit 967  
corporation, all of its net assets are distributable to the 968  
board of commissioners of the eligible county from which the 969  
corporation leases the facility. 970

(ii) "Eligible county" has the same meaning as in section 971  
307.695 of the Revised Code. 972

(53) Sales to or by a cable service provider, video 973  
service provider, or radio or television broadcast station 974  
regulated by the federal government of cable service or 975  
programming, video service or programming, audio service or 976  
programming, or electronically transferred digital audiovisual 977  
or audio work. As used in division (B) (53) of this section, 978  
"cable service" and "cable service provider" have the same 979  
meanings as in section 1332.01 of the Revised Code, and "video 980  
service," "video service provider," and "video programming" have 981  
the same meanings as in section 1332.21 of the Revised Code. 982

(54) Sales of investment metal bullion and investment 983  
coins. "Investment metal bullion" means any bullion described in 984

section 408(m) (3) (B) of the Internal Revenue Code, regardless of 985  
whether that bullion is in the physical possession of a trustee. 986  
"Investment coin" means any coin composed primarily of gold, 987  
silver, platinum, or palladium. 988

(C) For the purpose of the proper administration of this 989  
chapter, and to prevent the evasion of the tax, it is presumed 990  
that all sales made in this state are subject to the tax until 991  
the contrary is established. 992

(D) The levy of this tax on retail sales of recreation and 993  
sports club service shall not prevent a municipal corporation 994  
from levying any tax on recreation and sports club dues or on 995  
any income generated by recreation and sports club dues. 996

(E) The tax collected by the vendor from the consumer 997  
under this chapter is not part of the price, but is a tax 998  
collection for the benefit of the state, and of counties levying 999  
an additional sales tax pursuant to section 5739.021 or 5739.026 1000  
of the Revised Code and of transit authorities levying an 1001  
additional sales tax pursuant to section 5739.023 of the Revised 1002  
Code. Except for the discount authorized under section 5739.12 1003  
of the Revised Code and the effects of any rounding pursuant to 1004  
section 5703.055 of the Revised Code, no person other than the 1005  
state or such a county or transit authority shall derive any 1006  
benefit from the collection or payment of the tax levied by this 1007  
section or section 5739.021, 5739.023, or 5739.026 of the 1008  
Revised Code. 1009

**Section 2.** That existing sections 5709.20, 5709.211, 1010  
5709.212, 5709.22, and 5739.02 of the Revised Code are hereby 1011  
repealed. 1012

**Section 3.** The amendment by this act of sections 5709.20, 1013

5709.211, 5709.212, 5709.22, and 5739.02 of the Revised Code is 1014  
a remedial measure intended to clarify existing law and applies 1015  
to all cases pending on a petition for reassessment or further 1016  
appeal, or transactions subject to an audit by the Department of 1017  
Taxation, on or after, May 18, 2018. 1018

**Section 4.** Section 5739.02 of the Revised Code is 1019  
presented in this act as a composite of the section as amended 1020  
by Am. Sub. H.B. 64, Sub. H.B. 390, and Sub. S.B. 172, all of 1021  
the 131st General Assembly. The General Assembly, applying the 1022  
principle stated in division (B) of section 1.52 of the Revised 1023  
Code that amendments are to be harmonized if reasonably capable 1024  
of simultaneous operation, finds that the composite is the 1025  
resulting version of the section in effect prior to the 1026  
effective date of the section as presented in this act. 1027