

**As Passed by the House**

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**Sub. H. B. No. 545**

**Representative Arndt**

**Cosponsors: Representatives Romanchuk, Schaffer, Riedel, Becker, Hood, Lang, Scherer, Hambley, Patmon, Rogers, Anielski, Boyd, Cera, Green, Henne, Ramos, Retherford, Ryan, Antani, Antonio, Ashford, Boggs, Brenner, Brown, Carfagna, Celebrezze, Craig, Cupp, Edwards, Galonski, Gavarone, Ginter, Greenspan, Hagan, Holmes, Householder, Howse, Hughes, Ingram, Kelly, Kent, Lanese, Leland, Lepore-Hagan, Manning, McClain, Merrin, Miller, O'Brien, Patterson, Patton, Pelanda, Reece, Reineke, Schuring, Slaby, Smith, K., Smith, T., Stein, Strahorn, Sweeney, B., Sykes, West, Young, Speaker Smith**

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**A BILL**

To amend sections 5739.02, 5739.03, and 5739.121 of 1  
the Revised Code to authorize small retailers to 2  
remit sales taxes when the retailer receives 3  
payment from the purchaser if the payment is 4  
received after the purchased item is delivered 5  
or the service is provided and to exempt from 6  
sales and use tax tampons and other feminine 7  
hygiene products associated with menstruation. 8

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

**Section 1.** That sections 5739.02, 5739.03, and 5739.121 of 9  
the Revised Code be amended to read as follows: 10

**Sec. 5739.02.** For the purpose of providing revenue with 11  
which to meet the needs of the state, for the use of the general 12  
revenue fund of the state, for the purpose of securing a 13

thorough and efficient system of common schools throughout the 14  
state, for the purpose of affording revenues, in addition to 15  
those from general property taxes, permitted under 16  
constitutional limitations, and from other sources, for the 17  
support of local governmental functions, and for the purpose of 18  
reimbursing the state for the expense of administering this 19  
chapter, an excise tax is hereby levied on each retail sale made 20  
in this state. 21

(A) (1) The tax shall be collected as provided in section 22  
5739.025 of the Revised Code. The rate of the tax shall be five 23  
and three-fourths per cent. The tax applies and is collectible 24  
when the sale is made, regardless of the time when the price is 25  
paid or delivered. 26

(2) In the case of the lease or rental, with a fixed term 27  
of more than thirty days or an indefinite term with a minimum 28  
period of more than thirty days, of any motor vehicles designed 29  
by the manufacturer to carry a load of not more than one ton, 30  
watercraft, outboard motor, or aircraft, or of any tangible 31  
personal property, other than motor vehicles designed by the 32  
manufacturer to carry a load of more than one ton, to be used by 33  
the lessee or renter primarily for business purposes, the tax 34  
shall be collected by the vendor at the time the lease or rental 35  
is consummated and shall be calculated by the vendor on the 36  
basis of the total amount to be paid by the lessee or renter 37  
under the lease agreement. If the total amount of the 38  
consideration for the lease or rental includes amounts that are 39  
not calculated at the time the lease or rental is executed, the 40  
tax shall be calculated and collected by the vendor at the time 41  
such amounts are billed to the lessee or renter. In the case of 42  
an open-end lease or rental, the tax shall be calculated by the 43  
vendor on the basis of the total amount to be paid during the 44

initial fixed term of the lease or rental, and for each 45  
subsequent renewal period as it comes due. As used in this 46  
division, "motor vehicle" has the same meaning as in section 47  
4501.01 of the Revised Code, and "watercraft" includes an 48  
outdrive unit attached to the watercraft. 49

A lease with a renewal clause and a termination penalty or 50  
similar provision that applies if the renewal clause is not 51  
exercised is presumed to be a sham transaction. In such a case, 52  
the tax shall be calculated and paid on the basis of the entire 53  
length of the lease period, including any renewal periods, until 54  
the termination penalty or similar provision no longer applies. 55  
The taxpayer shall bear the burden, by a preponderance of the 56  
evidence, that the transaction or series of transactions is not 57  
a sham transaction. 58

(3) Except as provided in division (A) (2) of this section, 59  
in the case of a sale, the price of which consists in whole or 60  
in part of the lease or rental of tangible personal property, 61  
the tax shall be measured by the installments of that lease or 62  
rental. 63

(4) In the case of a sale of a physical fitness facility 64  
service or recreation and sports club service, the price of 65  
which consists in whole or in part of a membership for the 66  
receipt of the benefit of the service, the tax applicable to the 67  
sale shall be measured by the installments thereof. 68

(B) The tax does not apply to the following: 69

(1) Sales to the state or any of its political 70  
subdivisions, or to any other state or its political 71  
subdivisions if the laws of that state exempt from taxation 72  
sales made to this state and its political subdivisions; 73

(2) Sales of food for human consumption off the premises	74
where sold;	75
(3) Sales of food sold to students only in a cafeteria,	76
dormitory, fraternity, or sorority maintained in a private,	77
public, or parochial school, college, or university;	78
(4) Sales of newspapers and sales or transfers of	79
magazines distributed as controlled circulation publications;	80
(5) The furnishing, preparing, or serving of meals without	81
charge by an employer to an employee provided the employer	82
records the meals as part compensation for services performed or	83
work done;	84
(6) Sales of motor fuel upon receipt, use, distribution,	85
or sale of which in this state a tax is imposed by the law of	86
this state, but this exemption shall not apply to the sale of	87
motor fuel on which a refund of the tax is allowable under	88
division (A) of section 5735.14 of the Revised Code; and the tax	89
commissioner may deduct the amount of tax levied by this section	90
applicable to the price of motor fuel when granting a refund of	91
motor fuel tax pursuant to division (A) of section 5735.14 of	92
the Revised Code and shall cause the amount deducted to be paid	93
into the general revenue fund of this state;	94
(7) Sales of natural gas by a natural gas company or	95
municipal gas utility, of water by a water-works company, or of	96
steam by a heating company, if in each case the thing sold is	97
delivered to consumers through pipes or conduits, and all sales	98
of communications services by a telegraph company, all terms as	99
defined in section 5727.01 of the Revised Code, and sales of	100
electricity delivered through wires;	101
(8) Casual sales by a person, or auctioneer employed	102

directly by the person to conduct such sales, except as to such 103  
sales of motor vehicles, watercraft or outboard motors required 104  
to be titled under section 1548.06 of the Revised Code, 105  
watercraft documented with the United States coast guard, 106  
snowmobiles, and all-purpose vehicles as defined in section 107  
4519.01 of the Revised Code; 108

(9) (a) Sales of services or tangible personal property, 109  
other than motor vehicles, mobile homes, and manufactured homes, 110  
by churches, organizations exempt from taxation under section 111  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 112  
organizations operated exclusively for charitable purposes as 113  
defined in division (B) (12) of this section, provided that the 114  
number of days on which such tangible personal property or 115  
services, other than items never subject to the tax, are sold 116  
does not exceed six in any calendar year, except as otherwise 117  
provided in division (B) (9) (b) of this section. If the number of 118  
days on which such sales are made exceeds six in any calendar 119  
year, the church or organization shall be considered to be 120  
engaged in business and all subsequent sales by it shall be 121  
subject to the tax. In counting the number of days, all sales by 122  
groups within a church or within an organization shall be 123  
considered to be sales of that church or organization. 124

(b) The limitation on the number of days on which tax- 125  
exempt sales may be made by a church or organization under 126  
division (B) (9) (a) of this section does not apply to sales made 127  
by student clubs and other groups of students of a primary or 128  
secondary school, or a parent-teacher association, booster 129  
group, or similar organization that raises money to support or 130  
fund curricular or extracurricular activities of a primary or 131  
secondary school. 132

(c) Divisions (B) (9) (a) and (b) of this section do not 133  
apply to sales by a noncommercial educational radio or 134  
television broadcasting station. 135

(10) Sales not within the taxing power of this state under 136  
the Constitution or laws of the United States or the 137  
Constitution of this state; 138

(11) Except for transactions that are sales under division 139  
(B) (3) (r) of section 5739.01 of the Revised Code, the 140  
transportation of persons or property, unless the transportation 141  
is by a private investigation and security service; 142

(12) Sales of tangible personal property or services to 143  
churches, to organizations exempt from taxation under section 144  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 145  
nonprofit organizations operated exclusively for charitable 146  
purposes in this state, no part of the net income of which 147  
inures to the benefit of any private shareholder or individual, 148  
and no substantial part of the activities of which consists of 149  
carrying on propaganda or otherwise attempting to influence 150  
legislation; sales to offices administering one or more homes 151  
for the aged or one or more hospital facilities exempt under 152  
section 140.08 of the Revised Code; and sales to organizations 153  
described in division (D) of section 5709.12 of the Revised 154  
Code. 155

"Charitable purposes" means the relief of poverty; the 156  
improvement of health through the alleviation of illness, 157  
disease, or injury; the operation of an organization exclusively 158  
for the provision of professional, laundry, printing, and 159  
purchasing services to hospitals or charitable institutions; the 160  
operation of a home for the aged, as defined in section 5701.13 161  
of the Revised Code; the operation of a radio or television 162

broadcasting station that is licensed by the federal 163  
communications commission as a noncommercial educational radio 164  
or television station; the operation of a nonprofit animal 165  
adoption service or a county humane society; the promotion of 166  
education by an institution of learning that maintains a faculty 167  
of qualified instructors, teaches regular continuous courses of 168  
study, and confers a recognized diploma upon completion of a 169  
specific curriculum; the operation of a parent-teacher 170  
association, booster group, or similar organization primarily 171  
engaged in the promotion and support of the curricular or 172  
extracurricular activities of a primary or secondary school; the 173  
operation of a community or area center in which presentations 174  
in music, dramatics, the arts, and related fields are made in 175  
order to foster public interest and education therein; the 176  
production of performances in music, dramatics, and the arts; or 177  
the promotion of education by an organization engaged in 178  
carrying on research in, or the dissemination of, scientific and 179  
technological knowledge and information primarily for the 180  
public. 181

Nothing in this division shall be deemed to exempt sales 182  
to any organization for use in the operation or carrying on of a 183  
trade or business, or sales to a home for the aged for use in 184  
the operation of independent living facilities as defined in 185  
division (A) of section 5709.12 of the Revised Code. 186

(13) Building and construction materials and services sold 187  
to construction contractors for incorporation into a structure 188  
or improvement to real property under a construction contract 189  
with this state or a political subdivision of this state, or 190  
with the United States government or any of its agencies; 191  
building and construction materials and services sold to 192  
construction contractors for incorporation into a structure or 193

improvement to real property that are accepted for ownership by 194  
this state or any of its political subdivisions, or by the 195  
United States government or any of its agencies at the time of 196  
completion of the structures or improvements; building and 197  
construction materials sold to construction contractors for 198  
incorporation into a horticulture structure or livestock 199  
structure for a person engaged in the business of horticulture 200  
or producing livestock; building materials and services sold to 201  
a construction contractor for incorporation into a house of 202  
public worship or religious education, or a building used 203  
exclusively for charitable purposes under a construction 204  
contract with an organization whose purpose is as described in 205  
division (B) (12) of this section; building materials and 206  
services sold to a construction contractor for incorporation 207  
into a building under a construction contract with an 208  
organization exempt from taxation under section 501(c) (3) of the 209  
Internal Revenue Code of 1986 when the building is to be used 210  
exclusively for the organization's exempt purposes; building and 211  
construction materials sold for incorporation into the original 212  
construction of a sports facility under section 307.696 of the 213  
Revised Code; building and construction materials and services 214  
sold to a construction contractor for incorporation into real 215  
property outside this state if such materials and services, when 216  
sold to a construction contractor in the state in which the real 217  
property is located for incorporation into real property in that 218  
state, would be exempt from a tax on sales levied by that state; 219  
building and construction materials for incorporation into a 220  
transportation facility pursuant to a public-private agreement 221  
entered into under sections 5501.70 to 5501.83 of the Revised 222  
Code; and, until one calendar year after the construction of a 223  
convention center that qualifies for property tax exemption 224  
under section 5709.084 of the Revised Code is completed, 225

building and construction materials and services sold to a 226  
construction contractor for incorporation into the real property 227  
comprising that convention center; 228

(14) Sales of ships or vessels or rail rolling stock used 229  
or to be used principally in interstate or foreign commerce, and 230  
repairs, alterations, fuel, and lubricants for such ships or 231  
vessels or rail rolling stock; 232

(15) Sales to persons primarily engaged in any of the 233  
activities mentioned in division (B) (42) (a), (g), or (h) of this 234  
section, to persons engaged in making retail sales, or to 235  
persons who purchase for sale from a manufacturer tangible 236  
personal property that was produced by the manufacturer in 237  
accordance with specific designs provided by the purchaser, of 238  
packages, including material, labels, and parts for packages, 239  
and of machinery, equipment, and material for use primarily in 240  
packaging tangible personal property produced for sale, 241  
including any machinery, equipment, and supplies used to make 242  
labels or packages, to prepare packages or products for 243  
labeling, or to label packages or products, by or on the order 244  
of the person doing the packaging, or sold at retail. "Packages" 245  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 246  
bindings, wrappings, and other similar devices and containers, 247  
but does not include motor vehicles or bulk tanks, trailers, or 248  
similar devices attached to motor vehicles. "Packaging" means 249  
placing in a package. Division (B) (15) of this section does not 250  
apply to persons engaged in highway transportation for hire. 251

(16) Sales of food to persons using supplemental nutrition 252  
assistance program benefits to purchase the food. As used in 253  
this division, "food" has the same meaning as in 7 U.S.C. 2012 254  
and federal regulations adopted pursuant to the Food and 255

Nutrition Act of 2008.	256
(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;	257 258 259 260 261 262 263 264 265 266 267 268 269 270
(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;	271 272 273 274 275 276 277 278 279 280 281
(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.	282 283 284 285

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;	286 287 288 289 290
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	291 292 293 294 295 296 297
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	298 299 300 301 302
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	303 304 305
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for	306 307 308 309 310 311 312 313 314 315

sale, when the plant or plants within or between which such	316
transfers or shipments occur are operated by the same person.	317
"Packages" includes containers, cases, baskets, flats, fillers,	318
filler flats, cartons, closure materials, labels, and labeling	319
materials, and "packaging" means placing therein.	320
(25) (a) Sales of water to a consumer for residential use;	321
(b) Sales of water by a nonprofit corporation engaged	322
exclusively in the treatment, distribution, and sale of water to	323
consumers, if such water is delivered to consumers through pipes	324
or tubing.	325
(26) Fees charged for inspection or reinspection of motor	326
vehicles under section 3704.14 of the Revised Code;	327
(27) Sales to persons licensed to conduct a food service	328
operation pursuant to section 3717.43 of the Revised Code, of	329
tangible personal property primarily used directly for the	330
following:	331
(a) To prepare food for human consumption for sale;	332
(b) To preserve food that has been or will be prepared for	333
human consumption for sale by the food service operator, not	334
including tangible personal property used to display food for	335
selection by the consumer;	336
(c) To clean tangible personal property used to prepare or	337
serve food for human consumption for sale.	338
(28) Sales of animals by nonprofit animal adoption	339
services or county humane societies;	340
(29) Sales of services to a corporation described in	341
division (A) of section 5709.72 of the Revised Code, and sales	342
of tangible personal property that qualifies for exemption from	343

taxation under section 5709.72 of the Revised Code;	344
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	345 346 347
(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;	348 349 350
(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;	351 352 353 354 355 356
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	357 358 359 360 361
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B) (42) (a) or	362 363 364 365 366 367 368 369 370 371 372

(n) of this section to which the vendor may otherwise be 373  
entitled, based upon the use of the thing purchased in providing 374  
the telecommunications, mobile telecommunications, or satellite 375  
broadcasting service. 376

(35) (a) Sales where the purpose of the consumer is to use 377  
or consume the things transferred in making retail sales and 378  
consisting of newspaper inserts, catalogues, coupons, flyers, 379  
gift certificates, or other advertising material that prices and 380  
describes tangible personal property offered for retail sale. 381

(b) Sales to direct marketing vendors of preliminary 382  
materials such as photographs, artwork, and typesetting that 383  
will be used in printing advertising material; and of printed 384  
matter that offers free merchandise or chances to win sweepstake 385  
prizes and that is mailed to potential customers with 386  
advertising material described in division (B) (35) (a) of this 387  
section; 388

(c) Sales of equipment such as telephones, computers, 389  
facsimile machines, and similar tangible personal property 390  
primarily used to accept orders for direct marketing retail 391  
sales. 392

(d) Sales of automatic food vending machines that preserve 393  
food with a shelf life of forty-five days or less by 394  
refrigeration and dispense it to the consumer. 395

For purposes of division (B) (35) of this section, "direct 396  
marketing" means the method of selling where consumers order 397  
tangible personal property by United States mail, delivery 398  
service, or telecommunication and the vendor delivers or ships 399  
the tangible personal property sold to the consumer from a 400  
warehouse, catalogue distribution center, or similar fulfillment 401

facility by means of the United States mail, delivery service, 402  
or common carrier. 403

(36) Sales to a person engaged in the business of 404  
horticulture or producing livestock of materials to be 405  
incorporated into a horticulture structure or livestock 406  
structure; 407

(37) Sales of personal computers, computer monitors, 408  
computer keyboards, modems, and other peripheral computer 409  
equipment to an individual who is licensed or certified to teach 410  
in an elementary or a secondary school in this state for use by 411  
that individual in preparation for teaching elementary or 412  
secondary school students; 413

(38) Sales to a professional racing team of any of the 414  
following: 415

(a) Motor racing vehicles; 416

(b) Repair services for motor racing vehicles; 417

(c) Items of property that are attached to or incorporated 418  
in motor racing vehicles, including engines, chassis, and all 419  
other components of the vehicles, and all spare, replacement, 420  
and rebuilt parts or components of the vehicles; except not 421  
including tires, consumable fluids, paint, and accessories 422  
consisting of instrumentation sensors and related items added to 423  
the vehicle to collect and transmit data by means of telemetry 424  
and other forms of communication. 425

(39) Sales of used manufactured homes and used mobile 426  
homes, as defined in section 5739.0210 of the Revised Code, made 427  
on or after January 1, 2000; 428

(40) Sales of tangible personal property and services to a 429

provider of electricity used or consumed directly and primarily 430  
in generating, transmitting, or distributing electricity for use 431  
by others, including property that is or is to be incorporated 432  
into and will become a part of the consumer's production, 433  
transmission, or distribution system and that retains its 434  
classification as tangible personal property after 435  
incorporation; fuel or power used in the production, 436  
transmission, or distribution of electricity; energy conversion 437  
equipment as defined in section 5727.01 of the Revised Code; and 438  
tangible personal property and services used in the repair and 439  
maintenance of the production, transmission, or distribution 440  
system, including only those motor vehicles as are specially 441  
designed and equipped for such use. The exemption provided in 442  
this division shall be in lieu of all other exemptions in 443  
division (B) (42) (a) or (n) of this section to which a provider 444  
of electricity may otherwise be entitled based on the use of the 445  
tangible personal property or service purchased in generating, 446  
transmitting, or distributing electricity. 447

(41) Sales to a person providing services under division 448  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 449  
personal property and services used directly and primarily in 450  
providing taxable services under that section. 451

(42) Sales where the purpose of the purchaser is to do any 452  
of the following: 453

(a) To incorporate the thing transferred as a material or 454  
a part into tangible personal property to be produced for sale 455  
by manufacturing, assembling, processing, or refining; or to use 456  
or consume the thing transferred directly in producing tangible 457  
personal property for sale by mining, including, without 458  
limitation, the extraction from the earth of all substances that 459

are classed geologically as minerals, production of crude oil 460  
and natural gas, or directly in the rendition of a public 461  
utility service, except that the sales tax levied by this 462  
section shall be collected upon all meals, drinks, and food for 463  
human consumption sold when transporting persons. Persons 464  
engaged in rendering services in the exploration for, and 465  
production of, crude oil and natural gas for others are deemed 466  
engaged directly in the exploration for, and production of, 467  
crude oil and natural gas. This paragraph does not exempt from 468  
"retail sale" or "sales at retail" the sale of tangible personal 469  
property that is to be incorporated into a structure or 470  
improvement to real property. 471

(b) To hold the thing transferred as security for the 472  
performance of an obligation of the vendor; 473

(c) To resell, hold, use, or consume the thing transferred 474  
as evidence of a contract of insurance; 475

(d) To use or consume the thing directly in commercial 476  
fishing; 477

(e) To incorporate the thing transferred as a material or 478  
a part into, or to use or consume the thing transferred directly 479  
in the production of, magazines distributed as controlled 480  
circulation publications; 481

(f) To use or consume the thing transferred in the 482  
production and preparation in suitable condition for market and 483  
sale of printed, imprinted, overprinted, lithographic, 484  
multilithic, blueprinted, photostatic, or other productions or 485  
reproductions of written or graphic matter; 486

(g) To use the thing transferred, as described in section 487  
5739.011 of the Revised Code, primarily in a manufacturing 488

operation to produce tangible personal property for sale;	489
(h) To use the benefit of a warranty, maintenance or	490
service contract, or similar agreement, as described in division	491
(B) (7) of section 5739.01 of the Revised Code, to repair or	492
maintain tangible personal property, if all of the property that	493
is the subject of the warranty, contract, or agreement would not	494
be subject to the tax imposed by this section;	495
(i) To use the thing transferred as qualified research and	496
development equipment;	497
(j) To use or consume the thing transferred primarily in	498
storing, transporting, mailing, or otherwise handling purchased	499
sales inventory in a warehouse, distribution center, or similar	500
facility when the inventory is primarily distributed outside	501
this state to retail stores of the person who owns or controls	502
the warehouse, distribution center, or similar facility, to	503
retail stores of an affiliated group of which that person is a	504
member, or by means of direct marketing. This division does not	505
apply to motor vehicles registered for operation on the public	506
highways. As used in this division, "affiliated group" has the	507
same meaning as in division (B) (3) (e) of section 5739.01 of the	508
Revised Code and "direct marketing" has the same meaning as in	509
division (B) (35) of this section.	510
(k) To use or consume the thing transferred to fulfill a	511
contractual obligation incurred by a warrantor pursuant to a	512
warranty provided as a part of the price of the tangible	513
personal property sold or by a vendor of a warranty, maintenance	514
or service contract, or similar agreement the provision of which	515
is defined as a sale under division (B) (7) of section 5739.01 of	516
the Revised Code;	517

(l) To use or consume the thing transferred in the	518
production of a newspaper for distribution to the public;	519
(m) To use tangible personal property to perform a service	520
listed in division (B) (3) of section 5739.01 of the Revised	521
Code, if the property is or is to be permanently transferred to	522
the consumer of the service as an integral part of the	523
performance of the service;	524
(n) To use or consume the thing transferred primarily in	525
producing tangible personal property for sale by farming,	526
agriculture, horticulture, or floriculture. Persons engaged in	527
rendering farming, agriculture, horticulture, or floriculture	528
services for others are deemed engaged primarily in farming,	529
agriculture, horticulture, or floriculture. This paragraph does	530
not exempt from "retail sale" or "sales at retail" the sale of	531
tangible personal property that is to be incorporated into a	532
structure or improvement to real property.	533
(o) To use or consume the thing transferred in acquiring,	534
formatting, editing, storing, and disseminating data or	535
information by electronic publishing;	536
(p) To provide the thing transferred to the owner or	537
lessee of a motor vehicle that is being repaired or serviced, if	538
the thing transferred is a rented motor vehicle and the	539
purchaser is reimbursed for the cost of the rented motor vehicle	540
by a manufacturer, warrantor, or provider of a maintenance,	541
service, or other similar contract or agreement, with respect to	542
the motor vehicle that is being repaired or serviced.	543
As used in division (B) (42) of this section, "thing"	544
includes all transactions included in divisions (B) (3) (a), (b),	545
and (e) of section 5739.01 of the Revised Code.	546

(43) Sales conducted through a coin operated device that 547  
activates vacuum equipment or equipment that dispenses water, 548  
whether or not in combination with soap or other cleaning agents 549  
or wax, to the consumer for the consumer's use on the premises 550  
in washing, cleaning, or waxing a motor vehicle, provided no 551  
other personal property or personal service is provided as part 552  
of the transaction. 553

(44) Sales of replacement and modification parts for 554  
engines, airframes, instruments, and interiors in, and paint 555  
for, aircraft used primarily in a fractional aircraft ownership 556  
program, and sales of services for the repair, modification, and 557  
maintenance of such aircraft, and machinery, equipment, and 558  
supplies primarily used to provide those services. 559

(45) Sales of telecommunications service that is used 560  
directly and primarily to perform the functions of a call 561  
center. As used in this division, "call center" means any 562  
physical location where telephone calls are placed or received 563  
in high volume for the purpose of making sales, marketing, 564  
customer service, technical support, or other specialized 565  
business activity, and that employs at least fifty individuals 566  
that engage in call center activities on a full-time basis, or 567  
sufficient individuals to fill fifty full-time equivalent 568  
positions. 569

(46) Sales by a telecommunications service vendor of 900 570  
service to a subscriber. This division does not apply to 571  
information services, as defined in division (FF) of section 572  
5739.01 of the Revised Code. 573

(47) Sales of value-added non-voice data service. This 574  
division does not apply to any similar service that is not 575  
otherwise a telecommunications service. 576

(48) (a) Sales of machinery, equipment, and software to a 577  
qualified direct selling entity for use in a warehouse or 578  
distribution center primarily for storing, transporting, or 579  
otherwise handling inventory that is held for sale to 580  
independent salespersons who operate as direct sellers and that 581  
is held primarily for distribution outside this state; 582

(b) As used in division (B) (48) (a) of this section: 583

(i) "Direct seller" means a person selling consumer 584  
products to individuals for personal or household use and not 585  
from a fixed retail location, including selling such product at 586  
in-home product demonstrations, parties, and other one-on-one 587  
selling. 588

(ii) "Qualified direct selling entity" means an entity 589  
selling to direct sellers at the time the entity enters into a 590  
tax credit agreement with the tax credit authority pursuant to 591  
section 122.17 of the Revised Code, provided that the agreement 592  
was entered into on or after January 1, 2007. Neither 593  
contingencies relevant to the granting of, nor later 594  
developments with respect to, the tax credit shall impair the 595  
status of the qualified direct selling entity under division (B) 596  
(48) of this section after execution of the tax credit agreement 597  
by the tax credit authority. 598

(c) Division (B) (48) of this section is limited to 599  
machinery, equipment, and software first stored, used, or 600  
consumed in this state within the period commencing June 24, 601  
2008, and ending on the date that is five years after that date. 602

(49) Sales of materials, parts, equipment, or engines used 603  
in the repair or maintenance of aircraft or avionics systems of 604  
such aircraft, and sales of repair, remodeling, replacement, or 605

maintenance services in this state performed on aircraft or on 606  
an aircraft's avionics, engine, or component materials or parts. 607  
As used in division (B) (49) of this section, "aircraft" means 608  
aircraft of more than six thousand pounds maximum certified 609  
takeoff weight or used exclusively in general aviation. 610

(50) Sales of full flight simulators that are used for 611  
pilot or flight-crew training, sales of repair or replacement 612  
parts or components, and sales of repair or maintenance services 613  
for such full flight simulators. "Full flight simulator" means a 614  
replica of a specific type, or make, model, and series of 615  
aircraft cockpit. It includes the assemblage of equipment and 616  
computer programs necessary to represent aircraft operations in 617  
ground and flight conditions, a visual system providing an out- 618  
of-the-cockpit view, and a system that provides cues at least 619  
equivalent to those of a three-degree-of-freedom motion system, 620  
and has the full range of capabilities of the systems installed 621  
in the device as described in appendices A and B of part 60 of 622  
chapter 1 of title 14 of the Code of Federal Regulations. 623

(51) Any transfer or lease of tangible personal property 624  
between the state and JobsOhio in accordance with section 625  
4313.02 of the Revised Code. 626

(52) (a) Sales to a qualifying corporation. 627

(b) As used in division (B) (52) of this section: 628

(i) "Qualifying corporation" means a nonprofit corporation 629  
organized in this state that leases from an eligible county 630  
land, buildings, structures, fixtures, and improvements to the 631  
land that are part of or used in a public recreational facility 632  
used by a major league professional athletic team or a class A 633  
to class AAA minor league affiliate of a major league 634

professional athletic team for a significant portion of the 635  
team's home schedule, provided the following apply: 636

(I) The facility is leased from the eligible county 637  
pursuant to a lease that requires substantially all of the 638  
revenue from the operation of the business or activity conducted 639  
by the nonprofit corporation at the facility in excess of 640  
operating costs, capital expenditures, and reserves to be paid 641  
to the eligible county at least once per calendar year. 642

(II) Upon dissolution and liquidation of the nonprofit 643  
corporation, all of its net assets are distributable to the 644  
board of commissioners of the eligible county from which the 645  
corporation leases the facility. 646

(ii) "Eligible county" has the same meaning as in section 647  
307.695 of the Revised Code. 648

(53) Sales to or by a cable service provider, video 649  
service provider, or radio or television broadcast station 650  
regulated by the federal government of cable service or 651  
programming, video service or programming, audio service or 652  
programming, or electronically transferred digital audiovisual 653  
or audio work. As used in division (B) (53) of this section, 654  
"cable service" and "cable service provider" have the same 655  
meanings as in section 1332.01 of the Revised Code, and "video 656  
service," "video service provider," and "video programming" have 657  
the same meanings as in section 1332.21 of the Revised Code. 658

(54) Sales of investment metal bullion and investment 659  
coins. "Investment metal bullion" means any bullion described in 660  
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 661  
whether that bullion is in the physical possession of a trustee. 662  
"Investment coin" means any coin composed primarily of gold, 663

silver, platinum, or palladium.	664
(55) Sales of a digital audio work electronically	665
transferred for delivery through use of a machine, such as a	666
juke box, that does all of the following:	667
(a) Accepts direct payments to operate;	668
(b) Automatically plays a selected digital audio work for	669
a single play upon receipt of a payment described in division	670
(B) (55) (a) of this section;	671
(c) Operates exclusively for the purpose of playing	672
digital audio works in a commercial establishment.	673
(56) (a) Sales of the following occurring on the first	674
Friday of August and the following Saturday and Sunday of each	675
year, beginning in 2018:	676
(i) An item of clothing, the price of which is seventy-	677
five dollars or less;	678
(ii) An item of school supplies, the price of which is	679
twenty dollars or less;	680
(iii) An item of school instructional material, the price	681
of which is twenty dollars or less.	682
(b) As used in division (B) (56) of this section:	683
(i) "Clothing" means all human wearing apparel suitable	684
for general use. "Clothing" includes, but is not limited to,	685
aprons, household and shop; athletic supporters; baby receiving	686
blankets; bathing suits and caps; beach capes and coats; belts	687
and suspenders; boots; coats and jackets; costumes; diapers,	688
children and adult, including disposable diapers; <del>ear muffs</del>	689
<u> earmuffs</u> ; footlets; formal wear; garters and garter belts;	690

girdles; gloves and mittens for general use; hats and caps; 691  
hosiery; insoles for shoes; lab coats; neckties; overshoes; 692  
pantyhose; rainwear; rubber pants; sandals; scarves; shoes and 693  
shoe laces; slippers; sneakers; socks and stockings; steel-toed 694  
shoes; underwear; uniforms, athletic and nonathletic; and 695  
wedding apparel. "Clothing" does not include items purchased for 696  
use in a trade or business; clothing accessories or equipment; 697  
protective equipment; sports or recreational equipment; belt 698  
buckles sold separately; costume masks sold separately; patches 699  
and emblems sold separately; sewing equipment and supplies 700  
including, but not limited to, knitting needles, patterns, pins, 701  
scissors, sewing machines, sewing needles, tape measures, and 702  
thimbles; and sewing materials that become part of "clothing" 703  
including, but not limited to, buttons, fabric, lace, thread, 704  
yarn, and zippers. 705

(ii) "School supplies" means items commonly used by a 706  
student in a course of study. "School supplies" includes only 707  
the following items: binders; book bags; calculators; cellophane 708  
tape; blackboard chalk; compasses; composition books; crayons; 709  
erasers; folders, expandable, pocket, plastic, and manila; glue, 710  
paste, and paste sticks; highlighters; index cards; index card 711  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 712  
loose-leaf ruled notebook paper, copy paper, graph paper, 713  
tracing paper, manila paper, colored paper, poster board, and 714  
construction paper; pencil boxes and other school supply boxes; 715  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 716  
and writing tablets. "School supplies" does not include any item 717  
purchased for use in a trade or business. 718

(iii) "School instructional material" means written 719  
material commonly used by a student in a course of study as a 720  
reference and to learn the subject being taught. "School 721

instructional material" includes only the following items: 722  
reference books, reference maps and globes, textbooks, and 723  
workbooks. "School instructional material" does not include any 724  
material purchased for use in a trade or business. 725

(57) On and after July 1, 2019, sales of tampons, panty 726  
liners, menstrual cups, sanitary napkins, and other similar 727  
tangible personal property the principal purpose of which is 728  
feminine hygiene in connection with the menstrual cycle. 729

(C) For the purpose of the proper administration of this 730  
chapter, and to prevent the evasion of the tax, it is presumed 731  
that all sales made in this state are subject to the tax until 732  
the contrary is established. 733

(D) The levy of this tax on retail sales of recreation and 734  
sports club service shall not prevent a municipal corporation 735  
from levying any tax on recreation and sports club dues or on 736  
any income generated by recreation and sports club dues. 737

(E) The tax collected by the vendor from the consumer 738  
under this chapter is not part of the price, but is a tax 739  
collection for the benefit of the state, and of counties levying 740  
an additional sales tax pursuant to section 5739.021 or 5739.026 741  
of the Revised Code and of transit authorities levying an 742  
additional sales tax pursuant to section 5739.023 of the Revised 743  
Code. Except for the discount authorized under section 5739.12 744  
of the Revised Code and the effects of any rounding pursuant to 745  
section 5703.055 of the Revised Code, no person other than the 746  
state or such a county or transit authority shall derive any 747  
benefit from the collection or payment of the tax levied by this 748  
section or section 5739.021, 5739.023, or 5739.026 of the 749  
Revised Code. 750

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 751  
section 5739.051 of the Revised Code, the tax imposed by or 752  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 753  
the Revised Code shall be paid by the consumer to the vendor, 754  
and each vendor shall collect from the consumer, as a trustee 755  
for the state of Ohio, the full and exact amount of the tax 756  
payable on each taxable sale, in the manner and at the times 757  
provided as follows: 758

(1) If the price is, at or prior to the provision of the 759  
service or the delivery of possession of the thing sold to the 760  
consumer, paid in currency passed from hand to hand by the 761  
consumer or the consumer's agent to the vendor or the vendor's 762  
agent, the vendor or the vendor's agent shall collect the tax 763  
with and at the same time as the price; 764

(2) If the price is otherwise paid or to be paid, the 765  
vendor or the vendor's agent shall, at or prior to the provision 766  
of the service or the delivery of possession of the thing sold 767  
to the consumer, charge the tax imposed by or pursuant to 768  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 769  
Code to the account of the consumer, which amount shall be 770  
collected by the vendor from the consumer in addition to the 771  
price. Such—The amount of the tax shall become a legal charge in 772  
favor of the vendor and against the consumer. Except as 773  
authorized in division (G)(1) of this section, such a sale shall 774  
be reported on and the amount of the tax applicable thereto 775  
shall be remitted with the return for the period in which the 776  
sale is made, ~~and the amount of the tax shall become a legal~~ 777  
~~charge in favor of the vendor and against the consumer.~~ 778

(B) (1) (a) If any sale is claimed to be exempt under 779  
division (E) of section 5739.01 of the Revised Code or under 780

section 5739.02 of the Revised Code, with the exception of 781  
divisions (B) (1) to (11) or (28) of section 5739.02 of the 782  
Revised Code, or if the consumer claims the transaction is not a 783  
taxable sale due to one or more of the exclusions provided under 784  
divisions (JJ) (1) to (5) of section 5739.01 of the Revised Code, 785  
the consumer must provide to the vendor, and the vendor must 786  
obtain from the consumer, a certificate specifying the reason 787  
that the sale is not legally subject to the tax. The certificate 788  
shall be in such form, and shall be provided either in a hard 789  
copy form or electronic form, as the tax commissioner 790  
prescribes. 791

(b) A vendor that obtains a fully completed exemption 792  
certificate from a consumer is relieved of liability for 793  
collecting and remitting tax on any sale covered by that 794  
certificate. If it is determined the exemption was improperly 795  
claimed, the consumer shall be liable for any tax due on that 796  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 797  
Chapter 5741. of the Revised Code. Relief under this division 798  
from liability does not apply to any of the following: 799

(i) A vendor that fraudulently fails to collect tax; 800

(ii) A vendor that solicits consumers to participate in 801  
the unlawful claim of an exemption; 802

(iii) A vendor that accepts an exemption certificate from 803  
a consumer that claims an exemption based on who purchases or 804  
who sells property or a service, when the subject of the 805  
transaction sought to be covered by the exemption certificate is 806  
actually received by the consumer at a location operated by the 807  
vendor in this state, and this state has posted to its web site 808  
an exemption certificate form that clearly and affirmatively 809  
indicates that the claimed exemption is not available in this 810

state; 811

(iv) A vendor that accepts an exemption certificate from a 812  
consumer who claims a multiple points of use exemption under 813  
division (D) of section 5739.033 of the Revised Code, if the 814  
item purchased is tangible personal property, other than 815  
prewritten computer software. 816

(2) The vendor shall maintain records, including exemption 817  
certificates, of all sales on which a consumer has claimed an 818  
exemption, and provide them to the tax commissioner on request. 819

(3) The tax commissioner may establish an identification 820  
system whereby the commissioner issues an identification number 821  
to a consumer that is exempt from payment of the tax. The 822  
consumer must present the number to the vendor, if any sale is 823  
claimed to be exempt as provided in this section. 824

(4) If no certificate is provided or obtained within 825  
ninety days after the date on which such sale is consummated, it 826  
shall be presumed that the tax applies. Failure to have so 827  
provided or obtained a certificate shall not preclude a vendor, 828  
within one hundred twenty days after the tax commissioner gives 829  
written notice of intent to levy an assessment, from either 830  
establishing that the sale is not subject to the tax, or 831  
obtaining, in good faith, a fully completed exemption 832  
certificate. 833

(5) Certificates need not be obtained nor provided where 834  
the identity of the consumer is such that the transaction is 835  
never subject to the tax imposed or where the item of tangible 836  
personal property sold or the service provided is never subject 837  
to the tax imposed, regardless of use, or when the sale is in 838  
interstate commerce. 839

(6) If a transaction is claimed to be exempt under 840  
division (B) (13) of section 5739.02 of the Revised Code, the 841  
contractor shall obtain certification of the claimed exemption 842  
from the contractee. This certification shall be in addition to 843  
an exemption certificate provided by the contractor to the 844  
vendor. A contractee that provides a certification under this 845  
division shall be deemed to be the consumer of all items 846  
purchased by the contractor under the claim of exemption, if it 847  
is subsequently determined that the exemption is not properly 848  
claimed. The certification shall be in such form as the tax 849  
commissioner prescribes. 850

(C) As used in this division, "contractee" means a person 851  
who seeks to enter or enters into a contract or agreement with a 852  
contractor or vendor for the construction of real property or 853  
for the sale and installation onto real property of tangible 854  
personal property. 855

Any contractor or vendor may request from any contractee a 856  
certification of what portion of the property to be transferred 857  
under such contract or agreement is to be incorporated into the 858  
realty and what portion will retain its status as tangible 859  
personal property after installation is completed. The 860  
contractor or vendor shall request the certification by 861  
certified mail delivered to the contractee, return receipt 862  
requested. Upon receipt of such request and prior to entering 863  
into the contract or agreement, the contractee shall provide to 864  
the contractor or vendor a certification sufficiently detailed 865  
to enable the contractor or vendor to ascertain the resulting 866  
classification of all materials purchased or fabricated by the 867  
contractor or vendor and transferred to the contractee. This 868  
requirement applies to a contractee regardless of whether the 869  
contractee holds a direct payment permit under section 5739.031 870

of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section. 871  
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For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials. 873  
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If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials. 884  
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This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor. 896  
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(D) Notwithstanding division (B) of section 5739.01 of the 900

Revised Code, whenever the total rate of tax imposed under this 901  
chapter is increased after the date after a construction 902  
contract is entered into, the contractee shall reimburse the 903  
construction contractor for any additional tax paid on tangible 904  
property consumed or services received pursuant to the contract. 905

(E) A vendor who files a petition for reassessment 906  
contesting the assessment of tax on sales for which the vendor 907  
obtained no valid exemption certificates and for which the 908  
vendor failed to establish that the sales were properly not 909  
subject to the tax during the one-hundred-twenty-day period 910  
allowed under division (B) of this section, may present to the 911  
tax commissioner additional evidence to prove that the sales 912  
were properly subject to a claim of exception or exemption. The 913  
vendor shall file such evidence within ninety days of the 914  
receipt by the vendor of the notice of assessment, except that, 915  
upon application and for reasonable cause, the period for 916  
submitting such evidence shall be extended thirty days. 917

The commissioner shall consider such additional evidence 918  
in reaching the final determination on the assessment and 919  
petition for reassessment. 920

(F) Whenever a vendor refunds the price, minus any 921  
separately stated delivery charge, of an item of tangible 922  
personal property on which the tax imposed under this chapter 923  
has been paid, the vendor shall also refund the amount of tax 924  
paid, minus the amount of tax attributable to the delivery 925  
charge. 926

(G) (1) In lieu of reporting and remitting tax as 927  
prescribed by division (A) (2) of this section for sales 928  
described in that division, a vendor that is a qualifying small 929  
vendor for a calendar year may, for such sales made on or after 930

the first day of the following calendar year, report and remit 931  
such taxes on the return for the vendor's reporting period that 932  
includes the day the vendor or vendor's agent receives payment 933  
of the price from the consumer. If, after such a sale is made, 934  
the consumer pays only part of the price in a reporting period, 935  
the vendor shall report and remit the tax for the part of the 936  
price paid in that reporting period. A qualifying small vendor 937  
reporting and remitting tax under division (G) (1) of this 938  
section remains subject to collection requirements prescribed in 939  
division (A) (2) of section 5739.02 of the Revised Code and to 940  
the requirement to remit tax on an accelerated basis as 941  
prescribed in section 5739.122 of the Revised Code, as 942  
applicable to the vendor. 943

(2) A qualifying small vendor reporting and remitting tax 944  
as prescribed by division (G) (1) of this section may begin 945  
reporting and remitting tax as prescribed by division (A) (2) of 946  
this section for sales described in that division made on or 947  
after the first day of a calendar year. Such a vendor shall 948  
report and remit, with the vendor's return for the last 949  
reporting period in the preceding calendar year, the amount of 950  
any tax charged on sales described in division (A) (2) of this 951  
section made in preceding calendar years, but not yet remitted 952  
as prescribed by that division, except for any tax charged on 953  
bad debt reported under division (G) of section 5739.121 of the 954  
Revised Code. 955

(3) A vendor reporting and remitting tax as prescribed by 956  
division (G) (1) of this section that ceases to qualify as a 957  
qualifying small vendor for a calendar year shall begin 958  
reporting and remitting tax as prescribed by division (A) (2) of 959  
this section for sales described in that division that are made 960  
on or after the first day of the following calendar year. Such a 961

vendor shall report and remit, with the vendor's return for the 962  
last reporting period in the preceding calendar year, the amount 963  
of any tax charged on sales described in division (A) (2) of this 964  
section made in preceding calendar years, but not yet remitted 965  
as prescribed by that division, except for any tax charged on 966  
bad debt reported under division (G) of section 5739.121 of the 967  
Revised Code. 968

(4) As used in division (G) of this section, "qualifying 969  
small vendor" means a vendor that (a) has gross sales of less 970  
than one million dollars in a calendar year and (b) qualifies as 971  
a microbusiness, as that term is defined in section 166.50 of 972  
the Revised Code, for at least seven months of a calendar year. 973

**Sec. 5739.121.** (A) As used in this section, "bad debt" 974  
means any debt that has become worthless or uncollectible in the 975  
time period between a vendor's preceding return and the present 976  
return, has been uncollected for at least six months, and that 977  
may be claimed as a deduction pursuant to the "Internal Revenue 978  
Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and 979  
regulations adopted pursuant thereto, or that could be claimed 980  
as such a deduction if the vendor kept accounts on an accrual 981  
basis. "Bad debt" does not include any interest or sales tax on 982  
the purchase price, uncollectible amounts on property that 983  
remains in the possession of the vendor until the full purchase 984  
price is paid, expenses incurred in attempting to collect any 985  
account receivable or for any portion of the debt recovered, and 986  
repossessed property. 987

(B) In computing taxable receipts for purposes of this 988  
chapter, a vendor may deduct the amount of bad debts. The amount 989  
deducted must be charged off as uncollectible on the books of 990  
the vendor. A deduction may be claimed only with respect to bad 991

debts on which the taxes pursuant to sections 5739.10 and 992  
5739.12 of the Revised Code were paid in a preceding tax period. 993  
If the vendor's business consists of taxable and nontaxable 994  
transactions, the deduction shall equal the full amount of the 995  
debt if the debt is documented as a taxable transaction in the 996  
vendor's records. If no such documentation is available, the 997  
maximum deduction on any bad debt shall equal the amount of the 998  
bad debt multiplied by the quotient obtained by dividing the 999  
sales taxed pursuant to this chapter during the preceding 1000  
calendar year by all sales during the preceding calendar year, 1001  
whether taxed or not. If a consumer or other person pays all or 1002  
part of a bad debt with respect to which a vendor claimed a 1003  
deduction under this section, the vendor shall be liable for the 1004  
amount of taxes deducted in connection with that portion of the 1005  
debt for which payment is received and shall remit such taxes in 1006  
the vendor's next payment to the tax commissioner. 1007

(C) Any claim for a bad debt deduction under this section 1008  
shall be supported by such evidence as the tax commissioner by 1009  
rule requires. The commissioner shall review any change in the 1010  
rate of taxation applicable to any taxable sales by a vendor 1011  
claiming a deduction pursuant to this section and adopt rules 1012  
for altering the deduction in the event of such a change in 1013  
order to ensure that the deduction on any bad debt does not 1014  
result in the vendor claiming the deduction recovering any more 1015  
or less than the taxes imposed on the sale that constitutes the 1016  
bad debt. 1017

(D) In any reporting period in which the amount of bad 1018  
debt exceeds the amount of taxable sales for the period, the 1019  
vendor may file a refund claim for any tax collected on the bad 1020  
debt in excess of the tax reported on the return. The refund 1021  
claim shall be filed in the manner provided in section 5739.07 1022

of the Revised Code, except that the claim may be filed within 1023  
four years of the due date of the return on which the bad debt 1024  
first could have been claimed. 1025

(E) When the filing responsibilities of a vendor have been 1026  
assumed by a certified service provider, the certified service 1027  
provider shall claim the bad debt allowance provided by this 1028  
section on behalf of the vendor. The certified service provider 1029  
shall credit or refund to the vendor the full amount of any bad 1030  
debt allowance or refund. 1031

(F) No person other than the vendor in the transaction 1032  
that generated the bad debt or, as provided in division (E) of 1033  
this section, a certified service provider, may claim the bad 1034  
debt allowance provided by this section. 1035

(G) A qualifying small vendor that remits tax on sales as 1036  
prescribed by division (G) (1) of section 5739.03 of the Revised 1037  
Code shall report all of the following to the tax commissioner: 1038

(1) The amount of bad debt from such sales charged off as 1039  
uncollectible on the books of the vendor upon which the vendor 1040  
charged tax to the account of the consumer under division (A) (2) 1041  
of section 5739.03 of the Revised Code; 1042

(2) The name and address of the consumer responsible for 1043  
the bad debt; 1044

(3) Any other information required by the commissioner to 1045  
identify the consumer responsible for the bad debt. 1046

The information shall be reported with the vendor's return 1047  
for the reporting period in which the bad debt described in 1048  
division (G) (1) of this section is charged off as uncollectible 1049  
on the books of the vendor. 1050

A qualifying small vendor required to report bad debt 1051  
under this division is not liable for any tax imposed under this 1052  
chapter on bad debt timely reported under this division. But if 1053  
a consumer or other person pays all or part of a bad debt so 1054  
reported, the vendor shall be liable for the amount of such 1055  
taxes on the portion of the debt for which payment is received 1056  
and shall report and remit such taxes with the vendor's next 1057  
return. 1058

**Section 2.** That existing sections 5739.02, 5739.03, and 1059  
5739.121 of the Revised Code are hereby repealed. 1060

**Section 3.** The amendment by this act of sections 5739.03 1061  
and 5739.121 of the Revised Code applies on and after January 1, 1062  
2020. 1063