

As Reported by the House Ways and Means Committee

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Sub. S. B. No. 172

Senator Jordan

**Cosponsors: Senators Seitz, Jones, Beagle, Burke, Coley, Eklund, Hite, Hottinger,
Lehner, Patton, Peterson, Uecker Representatives Scherer, Amstutz, Henne**

A BILL

To amend sections 718.03, 718.05, 5709.17, and 1
5739.02 of the Revised Code to exempt from sales 2
and use taxes the sale or use of investment 3
metal bullion and coins, to expand eligibility 4
for the fraternal organization property tax 5
exemption to property of an organization 6
operating under a state governing body that has 7
been operating in Ohio for at least eight-five 8
years, to extend the deadline for payments of 9
quarterly municipal income tax withholding 10
taxes, and to modify the rules for when 11
municipal income tax withholding payments are 12
considered to have been made. 13

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

Section 1. That sections 718.03, 718.05, 5709.17, and 14
5739.02 of the Revised Code be amended to read as follows: 15

Sec. 718.03. (A) (1) Each employer, agent of an employer, 16
or other payer located or doing business in a municipal 17
corporation that imposes a tax on income in accordance with this 18

chapter shall withhold from each employee an amount equal to the 19
qualifying wages of the employee earned by the employee in the 20
municipal corporation multiplied by the applicable rate of the 21
municipal corporation's income tax, except for qualifying wages 22
for which withholding is not required under section 718.011 of 23
the Revised Code or division (D) or (F) of this section. An 24
employer, agent of an employer, or other payer shall deduct and 25
withhold the tax from qualifying wages on the date that the 26
employer, agent, or other payer directly, indirectly, or 27
constructively pays the qualifying wages to, or credits the 28
qualifying wages to the benefit of, the employee. 29

(2) In addition to withholding the amounts required under 30
division (A)(1) of this section, an employer, agent of an 31
employer, or other payer may also deduct and withhold, on the 32
request of an employee, taxes for the municipal corporation in 33
which the employee is a resident. 34

(B)(1) Except as provided in division (B)(2) of this 35
section, an employer, agent of an employer, or other payer shall 36
remit to the tax administrator of a municipal corporation the 37
greater of the income taxes deducted and withheld or the income 38
taxes required to be deducted and withheld by the employer, 39
agent, or other payer according to the following schedule: 40

(a) Taxes required to be deducted and withheld shall be 41
remitted monthly to the tax administrator if the total taxes 42
deducted and withheld or required to be deducted and withheld by 43
the employer, agent, or other payer on behalf of the municipal 44
corporation in the preceding calendar year exceeded two thousand 45
three hundred ninety-nine dollars, or if the total amount of 46
taxes deducted and withheld or required to be deducted and 47
withheld on behalf of the municipal corporation in any month of 48

the preceding calendar quarter exceeded two hundred dollars. 49

Payments 50

~~Payment~~ under division (B) (1) (a) of this section shall be 51
made ~~so that the payment is received by~~ to the tax administrator 52
not later than fifteen days after the last day of each month. 53

(b) Any employer, agent of an employer, or other payer not 54
required to make payments under division (B) (1) (a) of this 55
section of taxes required to be deducted and withheld shall make 56
quarterly payments to the tax administrator not later than the 57
~~fifteenth last~~ day of the month following the ~~end last day~~ of 58
each calendar quarter. 59

(2) Notwithstanding division (B) (1) of this section, a 60
municipal corporation may require, by resolution, ordinance, or 61
rule, an employer, agent of an employer, or other payer to do 62
any of the following: 63

(a) Remit taxes deducted and withheld semimonthly to the 64
tax administrator if the total taxes deducted and withheld or 65
required to be deducted and withheld on behalf of the municipal 66
corporation in the preceding calendar year exceeded eleven 67
thousand nine hundred ninety-nine dollars, or if the total 68
amount of taxes deducted and withheld or required to be deducted 69
and withheld on behalf of the municipal corporation in any month 70
of the preceding calendar year exceeded one thousand dollars. 71
The payment under division (B) (2) (a) of this section shall be 72
made ~~so that the payment is received by~~ to the tax administrator 73
not later than one of the following: 74

(i) If the taxes were deducted and withheld or required to 75
be deducted and withheld during the first fifteen days of a 76
month, the third banking day after the fifteenth day of that 77

month; 78

(ii) If the taxes were deducted and withheld or required 79
to be deducted and withheld after the fifteenth day of a month 80
and before the first day of the immediately following month, the 81
third banking day after the last day of that month. 82

(b) Make payment by electronic funds transfer to the tax 83
administrator of all taxes deducted and withheld on behalf of 84
the municipal corporation if the employer, agent of an employer, 85
or other payer is required to make payments electronically for 86
the purpose of paying federal taxes withheld on payments to 87
employees under section 6302 of the Internal Revenue Code, 26 88
C.F.R. 31.6302-1, or any other federal statute or regulation. 89
The payment of tax by electronic funds transfer under this 90
division does not affect an employer's, agent's, or other 91
payer's obligation to file any return as required under this 92
section. 93

(C) An employer, agent of an employer, or other payer 94
shall make and file a return showing the amount of tax withheld 95
by the employer, agent, or other payer from the qualifying wages 96
of each employee and remitted to the tax administrator. Unless 97
the tax administrator requires all individual taxpayers to file 98
a tax return under section 718.05 of the Revised Code, a return 99
filed by an employer, agent, or other payer under this division 100
shall be accepted by a tax administrator and municipal 101
corporation as the return required of an employee whose sole 102
income subject to the tax under this chapter is the qualifying 103
wages reported by the employee's employer, agent of an employer, 104
or other payer. 105

(D) An employer, agent of an employer, or other payer is 106
not required to withhold municipal income tax with respect to an 107

individual's disqualifying disposition of an incentive stock 108
option if, at the time of the disqualifying disposition, the 109
individual is not an employee of either the corporation with 110
respect to whose stock the option has been issued or of such 111
corporation's successor entity. 112

(E) (1) An employee is not relieved from liability for a 113
tax by the failure of the employer, agent of an employer, or 114
other payer to withhold the tax as required under this chapter 115
or by the employer's, agent's, or other payer's exemption from 116
the requirement to withhold the tax. 117

(2) The failure of an employer, agent of an employer, or 118
other payer to remit to the municipal corporation the tax 119
withheld relieves the employee from liability for that tax 120
unless the employee colluded with the employer, agent, or other 121
payer in connection with the failure to remit the tax withheld. 122

(F) Compensation deferred before June 26, 2003, is not 123
subject to any municipal corporation income tax or municipal 124
income tax withholding requirement to the extent the deferred 125
compensation does not constitute qualifying wages at the time 126
the deferred compensation is paid or distributed. 127

(G) Each employer, agent of an employer, or other payer 128
required to withhold taxes is liable for the payment of that 129
amount required to be withheld, whether or not such taxes have 130
been withheld, and such amount shall be deemed to be held in 131
trust for the municipal corporation until such time as the 132
withheld amount is remitted to the tax administrator. 133

(H) On or before the last day of February of each year, an 134
employer shall file a withholding reconciliation return with the 135
tax administrator listing the names, addresses, and social 136

security numbers of all employees from whose qualifying wages 137
tax was withheld or should have been withheld for the municipal 138
corporation during the preceding calendar year, the amount of 139
tax withheld, if any, from each such employee, the total amount 140
of qualifying wages paid to such employee during the preceding 141
calendar year, the name of every other municipal corporation for 142
which tax was withheld or should have been withheld from such 143
employee during the preceding calendar year, any other 144
information required for federal income tax reporting purposes 145
on Internal Revenue Service form W-2 or its equivalent form with 146
respect to such employee, and other information as may be 147
required by the tax administrator. 148

(I) The officer or the employee of the employer, agent of 149
an employer, or other payer with control or direct supervision 150
of or charged with the responsibility for withholding the tax or 151
filing the reports and making payments as required by this 152
section, shall be personally liable for a failure to file a 153
report or pay the tax due as required by this section. The 154
dissolution of an employer, agent of an employer, or other payer 155
does not discharge the officer's or employee's liability for a 156
failure of the employer, agent of an employer, or other payer to 157
file returns or pay any tax due. 158

(J) An employer is required to deduct and withhold 159
municipal income tax on tips and gratuities received by the 160
employer's employees and constituting qualifying wages only to 161
the extent that the tips and gratuities are under the employer's 162
control. For the purposes of this division, a tip or gratuity is 163
under the employer's control if the tip or gratuity is paid by 164
the customer to the employer for subsequent remittance to the 165
employee, or if the customer pays the tip or gratuity by credit 166
card, debit card, or other electronic means. 167

(K) A tax administrator shall consider any tax withheld by 168
an employer at the request of an employee when such tax is not 169
otherwise required to be withheld by this chapter to be tax 170
required to be withheld and remitted for the purposes of this 171
section. 172

Sec. 718.05. (A) An annual return with respect to the 173
income tax levied by a municipal corporation shall be completed 174
and filed by every taxpayer for any taxable year for which the 175
taxpayer is liable for the tax. If the total credit allowed 176
against the tax as described in division (D) of section 718.04 177
of the Revised Code for the year is equal to or exceeds the tax 178
imposed by the municipal corporation, no return shall be 179
required unless the municipal ordinance or resolution levying 180
the tax requires the filing of a return in such circumstances. 181

(B) If an individual is deceased, any return or notice 182
required of that individual shall be completed and filed by that 183
decedent's executor, administrator, or other person charged with 184
the property of that decedent. 185

(C) If an individual is unable to complete and file a 186
return or notice required by a municipal corporation in 187
accordance with this chapter, the return or notice required of 188
that individual shall be completed and filed by the individual's 189
duly authorized agent, guardian, conservator, fiduciary, or 190
other person charged with the care of the person or property of 191
that individual. 192

(D) Returns or notices required of an estate or a trust 193
shall be completed and filed by the fiduciary of the estate or 194
trust. 195

(E) No municipal corporation shall deny spouses the 196

ability to file a joint return. 197

(F) (1) Each return required to be filed under this section 198
shall contain the signature of the taxpayer or the taxpayer's 199
duly authorized agent and of the person who prepared the return 200
for the taxpayer, and shall include the taxpayer's social 201
security number or taxpayer identification number. Each return 202
shall be verified by a declaration under penalty of perjury. 203

(2) A tax administrator may require a taxpayer who is an 204
individual to include, with each annual return, amended return, 205
or request for refund required under this section, copies of 206
only the following documents: all of the taxpayer's Internal 207
Revenue Service form W-2, "Wage and Tax Statements," including 208
all information reported on the taxpayer's federal W-2, as well 209
as taxable wages reported or withheld for any municipal 210
corporation; the taxpayer's Internal Revenue Service form 1040 211
or, in the case of a return or request required by a qualified 212
municipal corporation, Ohio form IT-1040; and, with respect to 213
an amended tax return or refund request, any other documentation 214
necessary to support the refund request or the adjustments made 215
in the amended return. An individual taxpayer who files the 216
annual return required by this section electronically is not 217
required to provide paper copies of any of the foregoing to the 218
tax administrator unless the tax administrator requests such 219
copies after the return has been filed. 220

(3) A tax administrator may require a taxpayer that is not 221
an individual to include, with each annual net profit return, 222
amended net profit return, or request for refund required under 223
this section, copies of only the following documents: the 224
taxpayer's Internal Revenue Service form 1041, form 1065, form 225
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 226

respect to an amended tax return or refund request, any other 227
documentation necessary to support the refund request or the 228
adjustments made in the amended return. 229

A taxpayer that is not an individual and that files an 230
annual net profit return electronically through the Ohio 231
business gateway or in some other manner shall either mail the 232
documents required under this division to the tax administrator 233
at the time of filing or, if electronic submission is available, 234
submit the documents electronically through the Ohio business 235
gateway. The department of taxation shall publish a method of 236
electronically submitting the documents required under this 237
division through the Ohio business gateway on or before January 238
1, 2016. The department shall transmit all documents submitted 239
electronically under this division to the appropriate tax 240
administrator. 241

(4) After a taxpayer files a tax return, the tax 242
administrator may request, and the taxpayer shall provide, any 243
information, statements, or documents required by the municipal 244
corporation to determine and verify the taxpayer's municipal 245
income tax liability. The requirements imposed under division 246
(F) of this section apply regardless of whether the taxpayer 247
files on a generic form or on a form prescribed by the tax 248
administrator. 249

(G) (1) (a) Except as otherwise provided in this chapter, 250
each individual income tax return required to be filed under 251
this section shall be completed and filed as required by the tax 252
administrator on or before the date prescribed for the filing of 253
state individual income tax returns under division (G) of 254
section 5747.08 of the Revised Code. The taxpayer shall complete 255
and file the return or notice on forms prescribed by the tax 256

administrator or on generic forms, together with remittance made 257
payable to the municipal corporation or tax administrator. No 258
remittance is required if the amount shown to be due is ten 259
dollars or less. 260

(b) Except as otherwise provided in this chapter, each 261
annual net profit return required to be filed under this section 262
by a taxpayer that is not an individual shall be completed and 263
filed as required by the tax administrator on or before the 264
fifteenth day of the fourth month following the end of the 265
taxpayer's taxable year. The taxpayer shall complete and file 266
the return or notice on forms prescribed by the tax 267
administrator or on generic forms, together with remittance made 268
payable to the municipal corporation or tax administrator. No 269
remittance is required if the amount shown to be due is ten 270
dollars or less. 271

(2) (a) Any taxpayer that has duly requested an automatic 272
six-month extension for filing the taxpayer's federal income tax 273
return shall automatically receive an extension for the filing 274
of a municipal income tax return. The extended due date of the 275
municipal income tax return shall be the fifteenth day of the 276
tenth month after the last day of the taxable year to which the 277
return relates. 278

(b) A taxpayer that has not requested or received a six- 279
month extension for filing the taxpayer's federal income tax 280
return may request that the tax administrator grant the taxpayer 281
a six-month extension of the date for filing the taxpayer's 282
municipal income tax return. If the request is received by the 283
tax administrator on or before the date the municipal income tax 284
return is due, the tax administrator shall grant the taxpayer's 285
requested extension. 286

(c) An extension of time to file under division (G) (2) of 287
this section is not an extension of the time to pay any tax due 288
unless the tax administrator grants an extension of that date. 289

(3) If the tax commissioner extends for all taxpayers the 290
date for filing state income tax returns under division (G) of 291
section 5747.08 of the Revised Code, a taxpayer shall 292
automatically receive an extension for the filing of a municipal 293
income tax return. The extended due date of the municipal income 294
tax return shall be the same as the extended due date of the 295
state income tax return. 296

(4) If the tax administrator considers it necessary in 297
order to ensure the payment of the tax imposed by the municipal 298
corporation in accordance with this chapter, the tax 299
administrator may require taxpayers to file returns and make 300
payments otherwise than as provided in this section, including 301
taxpayers not otherwise required to file annual returns. 302

(5) To the extent that any provision in this division 303
conflicts with any provision in section 718.052 of the Revised 304
Code, the provision in that section prevails. 305

(H) (1) For taxable years beginning after 2015, a municipal 306
corporation shall not require a taxpayer to remit tax with 307
respect to net profits if the amount due is less than ten 308
dollars. 309

(2) Any taxpayer not required to remit tax to a municipal 310
corporation for a taxable year pursuant to division (H) (1) of 311
this section shall file with the municipal corporation an annual 312
net profit return under division (F) (3) of this section. 313

~~(I) This division shall not apply to payments required to 314
be made under division (B) (1) (a) or (2) (a) of section 718.03 of 315~~

~~the Revised Code.~~ 316

(1) If any report, claim, statement, or other document 317
required to be filed, or any payment required to be made, within 318
a prescribed period or on or before a prescribed date under this 319
chapter is delivered after that period or that date by United 320
States mail to the tax administrator or other municipal official 321
with which the report, claim, statement, or other document is 322
required to be filed, or to which the payment is required to be 323
made, the date of the postmark stamped on the cover in which the 324
report, claim, statement, or other document, or payment is 325
mailed shall be deemed to be the date of delivery or the date of 326
payment. "The date of postmark" means, in the event there is 327
more than one date on the cover, the earliest date imprinted on 328
the cover by the postal service. 329

(2) If a payment under this chapter is ~~required to be~~ made 330
by electronic funds transfer, the payment ~~is~~ shall be considered 331
to be made ~~when the payment is credited to an account designated~~ 332
~~by the tax administrator for the receipt of tax payments, except~~ 333
~~that, when a payment made by electronic funds transfer is~~ 334
~~delayed due to circumstances not under the control of the~~ 335
~~taxpayer, the payment is considered to be made when the taxpayer~~ 336
~~submitted the payment on the date of the timestamp assigned by~~ 337
the first electronic system receiving that payment. 338

(J) The amounts withheld by an employer, the agent of an 339
employer, or an other payer as described in section 718.03 of 340
the Revised Code shall be allowed to the recipient of the 341
compensation as credits against payment of the tax imposed on 342
the recipient by the municipal corporation, unless the amounts 343
withheld were not remitted to the municipal corporation and the 344
recipient colluded with the employer, agent, or other payer in 345

connection with the failure to remit the amounts withheld. 346

(K) Each return required by a municipal corporation to be 347
filed in accordance with this section shall include a box that 348
the taxpayer may check to authorize another person, including a 349
tax return preparer who prepared the return, to communicate with 350
the tax administrator about matters pertaining to the return. 351
The return or instructions accompanying the return shall 352
indicate that by checking the box the taxpayer authorizes the 353
tax administrator to contact the preparer or other person 354
concerning questions that arise during the examination or other 355
review of the return and authorizes the preparer or other person 356
only to provide the tax administrator with information that is 357
missing from the return, to contact the tax administrator for 358
information about the examination or other review of the return 359
or the status of the taxpayer's refund or payments, and to 360
respond to notices about mathematical errors, offsets, or return 361
preparation that the taxpayer has received from the tax 362
administrator and has shown to the preparer or other person. 363

(L) The tax administrator of a municipal corporation shall 364
accept for filing a generic form of any income tax return, 365
report, or document required by the municipal corporation in 366
accordance with this chapter, provided that the generic form, 367
once completed and filed, contains all of the information 368
required by ordinance, resolution, or rules adopted by the 369
municipal corporation or tax administrator, and provided that 370
the taxpayer or tax return preparer filing the generic form 371
otherwise complies with the provisions of this chapter and of 372
the municipal corporation ordinance or resolution governing the 373
filing of returns, reports, or documents. 374

(M) When income tax returns, reports, or other documents 375

require the signature of a tax return preparer, the tax 376
administrator shall accept a facsimile of such a signature in 377
lieu of a manual signature. 378

(N) (1) As used in this division, "worksite location" has 379
the same meaning as in section 718.011 of the Revised Code. 380

(2) A person may notify a tax administrator that the 381
person does not expect to be a taxpayer with respect to the 382
municipal corporation for a taxable year if both of the 383
following conditions apply: 384

(a) The person was required to file a tax return with the 385
municipal corporation for the immediately preceding taxable year 386
because the person performed services at a worksite location 387
within that municipal corporation. 388

(b) The person no longer provides services in the 389
municipal corporation and does not expect to be subject to the 390
municipal corporation's income tax for the taxable year. 391

The person shall provide the notice in a signed affidavit 392
that briefly explains the person's circumstances, including the 393
location of the previous worksite location and the last date on 394
which the person performed services or made any sales within the 395
municipal corporation. The affidavit also shall include the 396
following statement: "The affiant has no plans to perform any 397
services within the municipal corporation, make any sales in the 398
municipal corporation, or otherwise become subject to the tax 399
levied by the municipal corporation during the taxable year. If 400
the affiant does become subject to the tax levied by the 401
municipal corporation for the taxable year, the affiant agrees 402
to be considered a taxpayer and to properly register as a 403
taxpayer with the municipal corporation if such a registration 404

is required by the municipal corporation's resolutions, 405
ordinances, or rules." The person shall sign the affidavit under 406
penalty of perjury. 407

(c) If a person submits an affidavit described in division 408
(N) (2) of this section, the tax administrator shall not require 409
the person to file any tax return for the taxable year unless 410
the tax administrator possesses information that conflicts with 411
the affidavit or if the circumstances described in the affidavit 412
change. Nothing in division (N) of this section prohibits the 413
tax administrator from performing an audit of the person. 414

Sec. 5709.17. The following property shall be exempted 415
from taxation: 416

(A) Real estate held or occupied by an association or 417
corporation, organized or incorporated under the laws of this 418
state relative to soldiers' memorial associations, monumental 419
building associations, or cemetery associations or corporations, 420
which in the opinion of the trustees, directors, or managers 421
thereof is necessary and proper to carry out the object intended 422
for such association or corporation; 423

(B) Real estate and tangible personal property held or 424
occupied by a veterans' organization that qualifies for 425
exemption from taxation under section 501(c) (19) or 501(c) (23) 426
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 427
U.S.C.A. 1, as amended, and is incorporated under the laws of 428
this state or the United States, except real estate held by such 429
an organization for the production of rental income in excess of 430
thirty-six thousand dollars in a tax year, before accounting for 431
any cost or expense incurred in the production of such income. 432
For the purposes of this division, rental income includes only 433
income arising directly from renting the real estate to others 434

for consideration. 435

(C) Tangible personal property held by a corporation 436
chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in 437
section 501(c)(3) of the Internal Revenue Code, and exempt from 438
taxation under section 501(a) of the Internal Revenue Code shall 439
be exempt from taxation if it is property obtained as described 440
in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407. 441

(D) Real estate held or occupied by a fraternal 442
organization and used primarily for meetings of and the 443
administration of the fraternal organization or for providing, 444
on a not-for-profit basis, educational or health services, 445
except real estate held by such an organization for the 446
production of rental income in excess of thirty-six thousand 447
dollars in a tax year before accounting for any cost or expense 448
incurred in the production of such income. As used in this 449
division, "rental income" has the same meaning as in division 450
(B) of this section, and "fraternal organization" means a 451
domestic fraternal society, order, or association operating 452
under the lodge, council, or grange system that qualifies for 453
exemption from taxation under section 501(c)(5), 501(c)(8), or 454
501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat. 455
2085, 26 U.S.C. 1, as amended; that provides financial support 456
for charitable purposes, as defined in division (B)(12) of 457
section 5739.02 of the Revised Code; and that operates under a 458
state governing body that has been operating in this state ~~with~~ 459
~~a state governing body~~ for at least eighty-five years. 460

Sec. 5739.02. For the purpose of providing revenue with 461
which to meet the needs of the state, for the use of the general 462
revenue fund of the state, for the purpose of securing a 463
thorough and efficient system of common schools throughout the 464

state, for the purpose of affording revenues, in addition to 465
those from general property taxes, permitted under 466
constitutional limitations, and from other sources, for the 467
support of local governmental functions, and for the purpose of 468
reimbursing the state for the expense of administering this 469
chapter, an excise tax is hereby levied on each retail sale made 470
in this state. 471

(A) (1) The tax shall be collected as provided in section 472
5739.025 of the Revised Code. The rate of the tax shall be five 473
and three-fourths per cent. The tax applies and is collectible 474
when the sale is made, regardless of the time when the price is 475
paid or delivered. 476

(2) In the case of the lease or rental, with a fixed term 477
of more than thirty days or an indefinite term with a minimum 478
period of more than thirty days, of any motor vehicles designed 479
by the manufacturer to carry a load of not more than one ton, 480
watercraft, outboard motor, or aircraft, or of any tangible 481
personal property, other than motor vehicles designed by the 482
manufacturer to carry a load of more than one ton, to be used by 483
the lessee or renter primarily for business purposes, the tax 484
shall be collected by the vendor at the time the lease or rental 485
is consummated and shall be calculated by the vendor on the 486
basis of the total amount to be paid by the lessee or renter 487
under the lease agreement. If the total amount of the 488
consideration for the lease or rental includes amounts that are 489
not calculated at the time the lease or rental is executed, the 490
tax shall be calculated and collected by the vendor at the time 491
such amounts are billed to the lessee or renter. In the case of 492
an open-end lease or rental, the tax shall be calculated by the 493
vendor on the basis of the total amount to be paid during the 494
initial fixed term of the lease or rental, and for each 495

subsequent renewal period as it comes due. As used in this 496
division, "motor vehicle" has the same meaning as in section 497
4501.01 of the Revised Code, and "watercraft" includes an 498
outdrive unit attached to the watercraft. 499

A lease with a renewal clause and a termination penalty or 500
similar provision that applies if the renewal clause is not 501
exercised is presumed to be a sham transaction. In such a case, 502
the tax shall be calculated and paid on the basis of the entire 503
length of the lease period, including any renewal periods, until 504
the termination penalty or similar provision no longer applies. 505
The taxpayer shall bear the burden, by a preponderance of the 506
evidence, that the transaction or series of transactions is not 507
a sham transaction. 508

(3) Except as provided in division (A) (2) of this section, 509
in the case of a sale, the price of which consists in whole or 510
in part of the lease or rental of tangible personal property, 511
the tax shall be measured by the installments of that lease or 512
rental. 513

(4) In the case of a sale of a physical fitness facility 514
service or recreation and sports club service, the price of 515
which consists in whole or in part of a membership for the 516
receipt of the benefit of the service, the tax applicable to the 517
sale shall be measured by the installments thereof. 518

(B) The tax does not apply to the following: 519

(1) Sales to the state or any of its political 520
subdivisions, or to any other state or its political 521
subdivisions if the laws of that state exempt from taxation 522
sales made to this state and its political subdivisions; 523

(2) Sales of food for human consumption off the premises 524

where sold;	525
(3) Sales of food sold to students only in a cafeteria,	526
dormitory, fraternity, or sorority maintained in a private,	527
public, or parochial school, college, or university;	528
(4) Sales of newspapers and sales or transfers of	529
magazines distributed as controlled circulation publications;	530
(5) The furnishing, preparing, or serving of meals without	531
charge by an employer to an employee provided the employer	532
records the meals as part compensation for services performed or	533
work done;	534
(6) Sales of motor fuel upon receipt, use, distribution,	535
or sale of which in this state a tax is imposed by the law of	536
this state, but this exemption shall not apply to the sale of	537
motor fuel on which a refund of the tax is allowable under	538
division (A) of section 5735.14 of the Revised Code; and the tax	539
commissioner may deduct the amount of tax levied by this section	540
applicable to the price of motor fuel when granting a refund of	541
motor fuel tax pursuant to division (A) of section 5735.14 of	542
the Revised Code and shall cause the amount deducted to be paid	543
into the general revenue fund of this state;	544
(7) Sales of natural gas by a natural gas company, of	545
water by a water-works company, or of steam by a heating	546
company, if in each case the thing sold is delivered to	547
consumers through pipes or conduits, and all sales of	548
communications services by a telegraph company, all terms as	549
defined in section 5727.01 of the Revised Code, and sales of	550
electricity delivered through wires;	551
(8) Casual sales by a person, or auctioneer employed	552
directly by the person to conduct such sales, except as to such	553

sales of motor vehicles, watercraft or outboard motors required 554
to be titled under section 1548.06 of the Revised Code, 555
watercraft documented with the United States coast guard, 556
snowmobiles, and all-purpose vehicles as defined in section 557
4519.01 of the Revised Code; 558

(9) (a) Sales of services or tangible personal property, 559
other than motor vehicles, mobile homes, and manufactured homes, 560
by churches, organizations exempt from taxation under section 561
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 562
organizations operated exclusively for charitable purposes as 563
defined in division (B) (12) of this section, provided that the 564
number of days on which such tangible personal property or 565
services, other than items never subject to the tax, are sold 566
does not exceed six in any calendar year, except as otherwise 567
provided in division (B) (9) (b) of this section. If the number of 568
days on which such sales are made exceeds six in any calendar 569
year, the church or organization shall be considered to be 570
engaged in business and all subsequent sales by it shall be 571
subject to the tax. In counting the number of days, all sales by 572
groups within a church or within an organization shall be 573
considered to be sales of that church or organization. 574

(b) The limitation on the number of days on which tax- 575
exempt sales may be made by a church or organization under 576
division (B) (9) (a) of this section does not apply to sales made 577
by student clubs and other groups of students of a primary or 578
secondary school, or a parent-teacher association, booster 579
group, or similar organization that raises money to support or 580
fund curricular or extracurricular activities of a primary or 581
secondary school. 582

(c) Divisions (B) (9) (a) and (b) of this section do not 583

apply to sales by a noncommercial educational radio or 584
television broadcasting station. 585

(10) Sales not within the taxing power of this state under 586
the Constitution or laws of the United States or the 587
Constitution of this state; 588

(11) Except for transactions that are sales under division 589
(B) (3) (r) of section 5739.01 of the Revised Code, the 590
transportation of persons or property, unless the transportation 591
is by a private investigation and security service; 592

(12) Sales of tangible personal property or services to 593
churches, to organizations exempt from taxation under section 594
501(c) (3) of the Internal Revenue Code of 1986, and to any other 595
nonprofit organizations operated exclusively for charitable 596
purposes in this state, no part of the net income of which 597
inures to the benefit of any private shareholder or individual, 598
and no substantial part of the activities of which consists of 599
carrying on propaganda or otherwise attempting to influence 600
legislation; sales to offices administering one or more homes 601
for the aged or one or more hospital facilities exempt under 602
section 140.08 of the Revised Code; and sales to organizations 603
described in division (D) of section 5709.12 of the Revised 604
Code. 605

"Charitable purposes" means the relief of poverty; the 606
improvement of health through the alleviation of illness, 607
disease, or injury; the operation of an organization exclusively 608
for the provision of professional, laundry, printing, and 609
purchasing services to hospitals or charitable institutions; the 610
operation of a home for the aged, as defined in section 5701.13 611
of the Revised Code; the operation of a radio or television 612
broadcasting station that is licensed by the federal 613

communications commission as a noncommercial educational radio 614
or television station; the operation of a nonprofit animal 615
adoption service or a county humane society; the promotion of 616
education by an institution of learning that maintains a faculty 617
of qualified instructors, teaches regular continuous courses of 618
study, and confers a recognized diploma upon completion of a 619
specific curriculum; the operation of a parent-teacher 620
association, booster group, or similar organization primarily 621
engaged in the promotion and support of the curricular or 622
extracurricular activities of a primary or secondary school; the 623
operation of a community or area center in which presentations 624
in music, dramatics, the arts, and related fields are made in 625
order to foster public interest and education therein; the 626
production of performances in music, dramatics, and the arts; or 627
the promotion of education by an organization engaged in 628
carrying on research in, or the dissemination of, scientific and 629
technological knowledge and information primarily for the 630
public. 631

Nothing in this division shall be deemed to exempt sales 632
to any organization for use in the operation or carrying on of a 633
trade or business, or sales to a home for the aged for use in 634
the operation of independent living facilities as defined in 635
division (A) of section 5709.12 of the Revised Code. 636

(13) Building and construction materials and services sold 637
to construction contractors for incorporation into a structure 638
or improvement to real property under a construction contract 639
with this state or a political subdivision of this state, or 640
with the United States government or any of its agencies; 641
building and construction materials and services sold to 642
construction contractors for incorporation into a structure or 643
improvement to real property that are accepted for ownership by 644

this state or any of its political subdivisions, or by the 645
United States government or any of its agencies at the time of 646
completion of the structures or improvements; building and 647
construction materials sold to construction contractors for 648
incorporation into a horticulture structure or livestock 649
structure for a person engaged in the business of horticulture 650
or producing livestock; building materials and services sold to 651
a construction contractor for incorporation into a house of 652
public worship or religious education, or a building used 653
exclusively for charitable purposes under a construction 654
contract with an organization whose purpose is as described in 655
division (B) (12) of this section; building materials and 656
services sold to a construction contractor for incorporation 657
into a building under a construction contract with an 658
organization exempt from taxation under section 501(c) (3) of the 659
Internal Revenue Code of 1986 when the building is to be used 660
exclusively for the organization's exempt purposes; building and 661
construction materials sold for incorporation into the original 662
construction of a sports facility under section 307.696 of the 663
Revised Code; building and construction materials and services 664
sold to a construction contractor for incorporation into real 665
property outside this state if such materials and services, when 666
sold to a construction contractor in the state in which the real 667
property is located for incorporation into real property in that 668
state, would be exempt from a tax on sales levied by that state; 669
building and construction materials for incorporation into a 670
transportation facility pursuant to a public-private agreement 671
entered into under sections 5501.70 to 5501.83 of the Revised 672
Code; and, until one calendar year after the construction of a 673
convention center that qualifies for property tax exemption 674
under section 5709.084 of the Revised Code is completed, 675
building and construction materials and services sold to a 676

construction contractor for incorporation into the real property 677
comprising that convention center; 678

(14) Sales of ships or vessels or rail rolling stock used 679
or to be used principally in interstate or foreign commerce, and 680
repairs, alterations, fuel, and lubricants for such ships or 681
vessels or rail rolling stock; 682

(15) Sales to persons primarily engaged in any of the 683
activities mentioned in division (B) (42) (a), (g), or (h) of this 684
section, to persons engaged in making retail sales, or to 685
persons who purchase for sale from a manufacturer tangible 686
personal property that was produced by the manufacturer in 687
accordance with specific designs provided by the purchaser, of 688
packages, including material, labels, and parts for packages, 689
and of machinery, equipment, and material for use primarily in 690
packaging tangible personal property produced for sale, 691
including any machinery, equipment, and supplies used to make 692
labels or packages, to prepare packages or products for 693
labeling, or to label packages or products, by or on the order 694
of the person doing the packaging, or sold at retail. "Packages" 695
includes bags, baskets, cartons, crates, boxes, cans, bottles, 696
bindings, wrappings, and other similar devices and containers, 697
but does not include motor vehicles or bulk tanks, trailers, or 698
similar devices attached to motor vehicles. "Packaging" means 699
placing in a package. Division (B) (15) of this section does not 700
apply to persons engaged in highway transportation for hire. 701

(16) Sales of food to persons using supplemental nutrition 702
assistance program benefits to purchase the food. As used in 703
this division, "food" has the same meaning as in 7 U.S.C. 2012 704
and federal regulations adopted pursuant to the Food and 705
Nutrition Act of 2008. 706

(17) Sales to persons engaged in farming, agriculture, 707
horticulture, or floriculture, of tangible personal property for 708
use or consumption primarily in the production by farming, 709
agriculture, horticulture, or floriculture of other tangible 710
personal property for use or consumption primarily in the 711
production of tangible personal property for sale by farming, 712
agriculture, horticulture, or floriculture; or material and 713
parts for incorporation into any such tangible personal property 714
for use or consumption in production; and of tangible personal 715
property for such use or consumption in the conditioning or 716
holding of products produced by and for such use, consumption, 717
or sale by persons engaged in farming, agriculture, 718
horticulture, or floriculture, except where such property is 719
incorporated into real property; 720

(18) Sales of drugs for a human being that may be 721
dispensed only pursuant to a prescription; insulin as recognized 722
in the official United States pharmacopoeia; urine and blood 723
testing materials when used by diabetics or persons with 724
hypoglycemia to test for glucose or acetone; hypodermic syringes 725
and needles when used by diabetics for insulin injections; 726
epoetin alfa when purchased for use in the treatment of persons 727
with medical disease; hospital beds when purchased by hospitals, 728
nursing homes, or other medical facilities; and medical oxygen 729
and medical oxygen-dispensing equipment when purchased by 730
hospitals, nursing homes, or other medical facilities; 731

(19) Sales of prosthetic devices, durable medical 732
equipment for home use, or mobility enhancing equipment, when 733
made pursuant to a prescription and when such devices or 734
equipment are for use by a human being. 735

(20) Sales of emergency and fire protection vehicles and 736

equipment to nonprofit organizations for use solely in providing 737
fire protection and emergency services, including trauma care 738
and emergency medical services, for political subdivisions of 739
the state; 740

(21) Sales of tangible personal property manufactured in 741
this state, if sold by the manufacturer in this state to a 742
retailer for use in the retail business of the retailer outside 743
of this state and if possession is taken from the manufacturer 744
by the purchaser within this state for the sole purpose of 745
immediately removing the same from this state in a vehicle owned 746
by the purchaser; 747

(22) Sales of services provided by the state or any of its 748
political subdivisions, agencies, instrumentalities, 749
institutions, or authorities, or by governmental entities of the 750
state or any of its political subdivisions, agencies, 751
instrumentalities, institutions, or authorities; 752

(23) Sales of motor vehicles to nonresidents of this state 753
under the circumstances described in division (B) of section 754
5739.029 of the Revised Code; 755

(24) Sales to persons engaged in the preparation of eggs 756
for sale of tangible personal property used or consumed directly 757
in such preparation, including such tangible personal property 758
used for cleaning, sanitizing, preserving, grading, sorting, and 759
classifying by size; packages, including material and parts for 760
packages, and machinery, equipment, and material for use in 761
packaging eggs for sale; and handling and transportation 762
equipment and parts therefor, except motor vehicles licensed to 763
operate on public highways, used in intraplant or interplant 764
transfers or shipment of eggs in the process of preparation for 765
sale, when the plant or plants within or between which such 766

transfers or shipments occur are operated by the same person.	767
"Packages" includes containers, cases, baskets, flats, fillers,	768
filler flats, cartons, closure materials, labels, and labeling	769
materials, and "packaging" means placing therein.	770
(25) (a) Sales of water to a consumer for residential use;	771
(b) Sales of water by a nonprofit corporation engaged	772
exclusively in the treatment, distribution, and sale of water to	773
consumers, if such water is delivered to consumers through pipes	774
or tubing.	775
(26) Fees charged for inspection or reinspection of motor	776
vehicles under section 3704.14 of the Revised Code;	777
(27) Sales to persons licensed to conduct a food service	778
operation pursuant to section 3717.43 of the Revised Code, of	779
tangible personal property primarily used directly for the	780
following:	781
(a) To prepare food for human consumption for sale;	782
(b) To preserve food that has been or will be prepared for	783
human consumption for sale by the food service operator, not	784
including tangible personal property used to display food for	785
selection by the consumer;	786
(c) To clean tangible personal property used to prepare or	787
serve food for human consumption for sale.	788
(28) Sales of animals by nonprofit animal adoption	789
services or county humane societies;	790
(29) Sales of services to a corporation described in	791
division (A) of section 5709.72 of the Revised Code, and sales	792
of tangible personal property that qualifies for exemption from	793
taxation under section 5709.72 of the Revised Code;	794

(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	795 796 797
(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;	798 799 800
(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;	801 802 803 804 805 806
(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;	807 808 809 810 811
(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 (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing	812 813 814 815 816 817 818 819 820 821 822 823 824

the telecommunications, mobile telecommunications, or satellite 825
broadcasting service. 826

(35) (a) Sales where the purpose of the consumer is to use 827
or consume the things transferred in making retail sales and 828
consisting of newspaper inserts, catalogues, coupons, flyers, 829
gift certificates, or other advertising material that prices and 830
describes tangible personal property offered for retail sale. 831

(b) Sales to direct marketing vendors of preliminary 832
materials such as photographs, artwork, and typesetting that 833
will be used in printing advertising material; and of printed 834
matter that offers free merchandise or chances to win sweepstake 835
prizes and that is mailed to potential customers with 836
advertising material described in division (B) (35) (a) of this 837
section; 838

(c) Sales of equipment such as telephones, computers, 839
facsimile machines, and similar tangible personal property 840
primarily used to accept orders for direct marketing retail 841
sales. 842

(d) Sales of automatic food vending machines that preserve 843
food with a shelf life of forty-five days or less by 844
refrigeration and dispense it to the consumer. 845

For purposes of division (B) (35) of this section, "direct 846
marketing" means the method of selling where consumers order 847
tangible personal property by United States mail, delivery 848
service, or telecommunication and the vendor delivers or ships 849
the tangible personal property sold to the consumer from a 850
warehouse, catalogue distribution center, or similar fulfillment 851
facility by means of the United States mail, delivery service, 852
or common carrier. 853

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;	854 855 856 857
(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;	858 859 860 861 862 863
(38) Sales to a professional racing team of any of the following:	864 865
(a) Motor racing vehicles;	866
(b) Repair services for motor racing vehicles;	867
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	868 869 870 871 872 873 874 875
(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	876 877 878
(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated	879 880 881 882

into and will become a part of the consumer's production, 883
transmission, or distribution system and that retains its 884
classification as tangible personal property after 885
incorporation; fuel or power used in the production, 886
transmission, or distribution of electricity; energy conversion 887
equipment as defined in section 5727.01 of the Revised Code; and 888
tangible personal property and services used in the repair and 889
maintenance of the production, transmission, or distribution 890
system, including only those motor vehicles as are specially 891
designed and equipped for such use. The exemption provided in 892
this division shall be in lieu of all other exemptions in 893
division (B) (42) (a) or (n) of this section to which a provider 894
of electricity may otherwise be entitled based on the use of the 895
tangible personal property or service purchased in generating, 896
transmitting, or distributing electricity. 897

(41) Sales to a person providing services under division 898
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 899
personal property and services used directly and primarily in 900
providing taxable services under that section. 901

(42) Sales where the purpose of the purchaser is to do any 902
of the following: 903

(a) To incorporate the thing transferred as a material or 904
a part into tangible personal property to be produced for sale 905
by manufacturing, assembling, processing, or refining; or to use 906
or consume the thing transferred directly in producing tangible 907
personal property for sale by mining, including, without 908
limitation, the extraction from the earth of all substances that 909
are classed geologically as minerals, production of crude oil 910
and natural gas, or directly in the rendition of a public 911
utility service, except that the sales tax levied by this 912

section shall be collected upon all meals, drinks, and food for 913
human consumption sold when transporting persons. Persons 914
engaged in rendering services in the exploration for, and 915
production of, crude oil and natural gas for others are deemed 916
engaged directly in the exploration for, and production of, 917
crude oil and natural gas. This paragraph does not exempt from 918
"retail sale" or "sales at retail" the sale of tangible personal 919
property that is to be incorporated into a structure or 920
improvement to real property. 921

(b) To hold the thing transferred as security for the 922
performance of an obligation of the vendor; 923

(c) To resell, hold, use, or consume the thing transferred 924
as evidence of a contract of insurance; 925

(d) To use or consume the thing directly in commercial 926
fishing; 927

(e) To incorporate the thing transferred as a material or 928
a part into, or to use or consume the thing transferred directly 929
in the production of, magazines distributed as controlled 930
circulation publications; 931

(f) To use or consume the thing transferred in the 932
production and preparation in suitable condition for market and 933
sale of printed, imprinted, overprinted, lithographic, 934
multilithic, blueprinted, photostatic, or other productions or 935
reproductions of written or graphic matter; 936

(g) To use the thing transferred, as described in section 937
5739.011 of the Revised Code, primarily in a manufacturing 938
operation to produce tangible personal property for sale; 939

(h) To use the benefit of a warranty, maintenance or 940
service contract, or similar agreement, as described in division 941

(B) (7) of section 5739.01 of the Revised Code, to repair or 942
maintain tangible personal property, if all of the property that 943
is the subject of the warranty, contract, or agreement would not 944
be subject to the tax imposed by this section; 945

(i) To use the thing transferred as qualified research and 946
development equipment; 947

(j) To use or consume the thing transferred primarily in 948
storing, transporting, mailing, or otherwise handling purchased 949
sales inventory in a warehouse, distribution center, or similar 950
facility when the inventory is primarily distributed outside 951
this state to retail stores of the person who owns or controls 952
the warehouse, distribution center, or similar facility, to 953
retail stores of an affiliated group of which that person is a 954
member, or by means of direct marketing. This division does not 955
apply to motor vehicles registered for operation on the public 956
highways. As used in this division, "affiliated group" has the 957
same meaning as in division (B) (3) (e) of section 5739.01 of the 958
Revised Code and "direct marketing" has the same meaning as in 959
division (B) (35) of this section. 960

(k) To use or consume the thing transferred to fulfill a 961
contractual obligation incurred by a warrantor pursuant to a 962
warranty provided as a part of the price of the tangible 963
personal property sold or by a vendor of a warranty, maintenance 964
or service contract, or similar agreement the provision of which 965
is defined as a sale under division (B) (7) of section 5739.01 of 966
the Revised Code; 967

(l) To use or consume the thing transferred in the 968
production of a newspaper for distribution to the public; 969

(m) To use tangible personal property to perform a service 970

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.

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

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

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership

program, and sales of services for the repair, modification, and 1000
maintenance of such aircraft, and machinery, equipment, and 1001
supplies primarily used to provide those services. 1002

(45) Sales of telecommunications service that is used 1003
directly and primarily to perform the functions of a call 1004
center. As used in this division, "call center" means any 1005
physical location where telephone calls are placed or received 1006
in high volume for the purpose of making sales, marketing, 1007
customer service, technical support, or other specialized 1008
business activity, and that employs at least fifty individuals 1009
that engage in call center activities on a full-time basis, or 1010
sufficient individuals to fill fifty full-time equivalent 1011
positions. 1012

(46) Sales by a telecommunications service vendor of 900 1013
service to a subscriber. This division does not apply to 1014
information services, as defined in division (FF) of section 1015
5739.01 of the Revised Code. 1016

(47) Sales of value-added non-voice data service. This 1017
division does not apply to any similar service that is not 1018
otherwise a telecommunications service. 1019

(48) (a) Sales of machinery, equipment, and software to a 1020
qualified direct selling entity for use in a warehouse or 1021
distribution center primarily for storing, transporting, or 1022
otherwise handling inventory that is held for sale to 1023
independent salespersons who operate as direct sellers and that 1024
is held primarily for distribution outside this state; 1025

(b) As used in division (B) (48) (a) of this section: 1026

(i) "Direct seller" means a person selling consumer 1027
products to individuals for personal or household use and not 1028

from a fixed retail location, including selling such product at 1029
in-home product demonstrations, parties, and other one-on-one 1030
selling. 1031

(ii) "Qualified direct selling entity" means an entity 1032
selling to direct sellers at the time the entity enters into a 1033
tax credit agreement with the tax credit authority pursuant to 1034
section 122.17 of the Revised Code, provided that the agreement 1035
was entered into on or after January 1, 2007. Neither 1036
contingencies relevant to the granting of, nor later 1037
developments with respect to, the tax credit shall impair the 1038
status of the qualified direct selling entity under division (B) 1039
(48) of this section after execution of the tax credit agreement 1040
by the tax credit authority. 1041

(c) Division (B) (48) of this section is limited to 1042
machinery, equipment, and software first stored, used, or 1043
consumed in this state within the period commencing June 24, 1044
2008, and ending on the date that is five years after that date. 1045

(49) Sales of materials, parts, equipment, or engines used 1046
in the repair or maintenance of aircraft or avionics systems of 1047
such aircraft, and sales of repair, remodeling, replacement, or 1048
maintenance services in this state performed on aircraft or on 1049
an aircraft's avionics, engine, or component materials or parts. 1050
As used in division (B) (49) of this section, "aircraft" means 1051
aircraft of more than six thousand pounds maximum certified 1052
takeoff weight or used exclusively in general aviation. 1053

(50) Sales of full flight simulators that are used for 1054
pilot or flight-crew training, sales of repair or replacement 1055
parts or components, and sales of repair or maintenance services 1056
for such full flight simulators. "Full flight simulator" means a 1057
replica of a specific type, or make, model, and series of 1058

aircraft cockpit. It includes the assemblage of equipment and 1059
computer programs necessary to represent aircraft operations in 1060
ground and flight conditions, a visual system providing an out- 1061
of-the-cockpit view, and a system that provides cues at least 1062
equivalent to those of a three-degree-of-freedom motion system, 1063
and has the full range of capabilities of the systems installed 1064
in the device as described in appendices A and B of part 60 of 1065
chapter 1 of title 14 of the Code of Federal Regulations. 1066

(51) Any transfer or lease of tangible personal property 1067
between the state and JobsOhio in accordance with section 1068
4313.02 of the Revised Code. 1069

(52) (a) Sales to a qualifying corporation. 1070

(b) As used in division (B) (52) of this section: 1071

(i) "Qualifying corporation" means a nonprofit corporation 1072
organized in this state that leases from an eligible county 1073
land, buildings, structures, fixtures, and improvements to the 1074
land that are part of or used in a public recreational facility 1075
used by a major league professional athletic team or a class A 1076
to class AAA minor league affiliate of a major league 1077
professional athletic team for a significant portion of the 1078
team's home schedule, provided the following apply: 1079

(I) The facility is leased from the eligible county 1080
pursuant to a lease that requires substantially all of the 1081
revenue from the operation of the business or activity conducted 1082
by the nonprofit corporation at the facility in excess of 1083
operating costs, capital expenditures, and reserves to be paid 1084
to the eligible county at least once per calendar year. 1085

(II) Upon dissolution and liquidation of the nonprofit 1086
corporation, all of its net assets are distributable to the 1087

board of commissioners of the eligible county from which the 1088
corporation leases the facility. 1089

(ii) "Eligible county" has the same meaning as in section 1090
307.695 of the Revised Code. 1091

(53) Sales to or by a cable service provider, video 1092
service provider, or radio or television broadcast station 1093
regulated by the federal government of cable service or 1094
programming, video service or programming, audio service or 1095
programming, or electronically transferred digital audiovisual 1096
or audio work. As used in division (B) (53) of this section, 1097
"cable service" and "cable service provider" have the same 1098
meanings as in section 1332.01 of the Revised Code, and "video 1099
service," "video service provider," and "video programming" have 1100
the same meanings as in section 1332.21 of the Revised Code. 1101

(54) Sales of investment metal bullion and investment 1102
coins. "Investment metal bullion" means any bullion described in 1103
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 1104
whether that bullion is in the physical possession of a trustee. 1105
"Investment coin" means any coin composed primarily of gold, 1106
silver, platinum, or palladium. 1107

(C) For the purpose of the proper administration of this 1108
chapter, and to prevent the evasion of the tax, it is presumed 1109
that all sales made in this state are subject to the tax until 1110
the contrary is established. 1111

(D) The levy of this tax on retail sales of recreation and 1112
sports club service shall not prevent a municipal corporation 1113
from levying any tax on recreation and sports club dues or on 1114
any income generated by recreation and sports club dues. 1115

(E) The tax collected by the vendor from the consumer 1116

under this chapter is not part of the price, but is a tax 1117
collection for the benefit of the state, and of counties levying 1118
an additional sales tax pursuant to section 5739.021 or 5739.026 1119
of the Revised Code and of transit authorities levying an 1120
additional sales tax pursuant to section 5739.023 of the Revised 1121
Code. Except for the discount authorized under section 5739.12 1122
of the Revised Code and the effects of any rounding pursuant to 1123
section 5703.055 of the Revised Code, no person other than the 1124
state or such a county or transit authority shall derive any 1125
benefit from the collection or payment of the tax levied by this 1126
section or section 5739.021, 5739.023, or 5739.026 of the 1127
Revised Code. 1128

Section 2. That existing sections 718.03, 718.05, 5709.17, 1129
and 5739.02 of the Revised Code are hereby repealed. 1130

Section 3. (A) The amendment by this act of section 1131
5739.02 of the Revised Code applies on and after the first day 1132
of the first January, April, July, or October that begins at 1133
least sixty days after the effective date of this act. 1134

(B) The amendment by this act of section 5709.17 of the 1135
Revised Code applies to applications for exemption that are 1136
pending on, or are filed after, the effective date of this act. 1137