

**As Passed by the House**

**125th General Assembly  
Regular Session  
2003-2004**

**Sub. S. B. No. 218**

**Senators Amstutz, Goodman, Harris  
Representatives Collier, Aslanides, Chandler**

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**A B I L L**

To amend sections 5703.70, 5739.033, 5739.034, 1  
5739.17, 5740.05, 5740.08, and 5741.05; to enact 2  
sections 5739.035, 5739.123, 5739.24, 5740.09, and 3  
5740.10; and to repeal the version of section 4  
5739.033 of the Revised Code that results from 5  
Section 1 of Am. Sub. H.B. 95 of the 125th General 6  
Assembly and to amend Section 4 of Am. Sub. H.B. 7  
168 of the 125th General Assembly, as amended by 8  
Sub. H.B. 204 of the 125th General Assembly; to 9  
repeal Section 3.18 of Am. Sub. H.B. 95 of the 10  
125th General Assembly, as most recently amended 11  
by Sub. H.B. 127 and Sub. H.B. 204, both of the 12  
125th General Assembly; and to repeal Section 8 of 13  
Sub. H.B. 204 of the 125th General Assembly to 14  
provide temporary compensation to vendors as they 15  
begin to implement destination-based sourcing of 16  
their sales, to establish a procedure to 17  
compensate impacted counties for sales tax losses 18  
incurred under destination-based sourcing, to 19  
require the Tax Commissioner to work with states 20  
that are implementing the Streamlined Sales and 21  
Use Tax Agreement to encourage the adoption of an 22  
amendment that allows certain vendors to source 23  
sales at the vendor's place of business, and to 24

make changes to the sales tax law and the 25  
Interstate Streamlined Sales and Use Tax System 26  
law to comply with the Agreement. 27

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

**Section 1.** That sections 5703.70, 5739.033, 5739.034, 28  
5739.17, 5740.05, 5740.08, and 5741.05 be amended and sections 29  
5739.035, 5739.123, 5739.24, 5740.09, and 5740.10 of the Revised 30  
Code be enacted to read as follows: 31

**Sec. 5703.70.** (A) On the filing of an application for refund 32  
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 33  
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 34  
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 35  
or 5749.08 of the Revised Code, or an application for compensation 36  
under section 5739.123 of the Revised Code, if the tax 37  
commissioner determines that the amount of the refund or 38  
compensation to which the applicant is entitled is less than the 39  
amount claimed in the application, the commissioner shall give the 40  
applicant written notice by ordinary mail of the amount. The 41  
notice shall be sent to the address shown on the application ~~for a~~ 42  
~~refund~~ unless the applicant notifies the commissioner of a 43  
different address. The applicant shall have sixty days from the 44  
date the commissioner mails the notice to provide additional 45  
information to the commissioner or request a hearing, or both. 46

(B) If the applicant neither requests a hearing nor provides 47  
additional information to the tax commissioner within the time 48  
prescribed by division (A) of this section, the commissioner shall 49  
take no further action, and the refund amount or compensation 50  
amount denied becomes final. 51

(C)(1) If the applicant requests a hearing within the time 52

prescribed by division (A) of this section, the tax commissioner shall assign a time and place for the hearing and notify the applicant of such time and place, but the commissioner may continue the hearing from time to time as necessary. After the hearing, the commissioner may make such adjustments to the refund or compensation as the commissioner finds proper, and shall issue a final determination thereon.

(2) If the applicant does not request a hearing, but provides additional information, within the time prescribed by division (A) of this section, the commissioner shall review the information, make such adjustments to the refund or compensation as the commissioner finds proper, and issue a final determination thereon.

(3) The commissioner shall serve a copy of the final determination made under division (C)(1) or (2) of this section on the applicant in the manner provided in section 5703.37 of the Revised Code, and the decision is final, subject to appeal under section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code, the amount of the refund to be refunded under division (B) or (C) of this section. The commissioner also shall certify to the director and treasurer of state for payment from the general revenue fund the amount of compensation to be paid under division (B) or (C) of this section.

**Sec. 5739.033.** The This section applies to sales made on and after July 1, 2005. Sales made before July 1, 2005, are subject to section 5739.035 of the Revised Code. On and after January 1, 2005, any vendor may irrevocably elect to comply with this section for all of the vendor's sales and places of business in this

state. 84

The amount of tax due pursuant to sections 5739.02, 5739.021, 85  
5739.023, and 5739.026 of the Revised Code is the sum of the taxes 86  
imposed pursuant to those sections at the sourcing location of the 87  
sale as determined under this section or, if applicable, under 88  
division (C) of section 5739.031 or section 5739.034 or 5739.035 89  
of the Revised Code. This section applies only to a vendor's or 90  
seller's obligation to collect and remit sales taxes under section 91  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or 92  
use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 93  
of the Revised Code. This section does not affect the obligation 94  
of a consumer to remit use taxes on the storage, use, or other 95  
consumption of tangible personal property or on the benefit 96  
realized of any service provided, to the jurisdiction of that 97  
storage, use, or consumption, or benefit realized. 98

(A) Except for sales, other than leases, of titled motor 99  
vehicles, titled watercraft, or titled outboard motors as provided 100  
in section 5741.05 of the Revised Code, or as otherwise provided 101  
in this section and section 5739.034 or 5740.10 of the Revised 102  
Code, all sales shall be sourced as follows: 103

(1) If the consumer or a donee designated by the consumer 104  
receives tangible personal property or a service at a vendor's 105  
place of business, the sale shall be sourced to that place of 106  
business. 107

(2) When the tangible personal property or service is not 108  
received at a vendor's place of business, the sale shall be 109  
sourced to the location known to the vendor where the consumer or 110  
the donee designated by the consumer receives the tangible 111  
personal property or service, including the location indicated by 112  
instructions for delivery to the consumer or the consumer's donee. 113

(3) If divisions (A)(1) and (2) of this section do not apply, 114

the sale shall be sourced to the location indicated by an address 115  
for the consumer that is available from the vendor's business 116  
records that are maintained in the ordinary course of the vendor's 117  
business, when use of that address does not constitute bad faith. 118

(4) If divisions (A)(1), (2), and (3) of this section do not 119  
apply, the sale shall be sourced to the location indicated by an 120  
address for the consumer obtained during the consummation of the 121  
sale, including the address associated with the consumer's payment 122  
instrument, if no other address is available, when use of that 123  
address does not constitute bad faith. 124

(5) If divisions (A)(1), (2), (3), and (4) of this section do 125  
not apply, including in the circumstance where the vendor is 126  
without sufficient information to apply any of those divisions, 127  
the sale shall be sourced to the address from which tangible 128  
personal property was shipped, or from which the service was 129  
provided, disregarding any location that merely provided the 130  
electronic transfer of the property sold or service provided. 131

(6) As used in division (A) of this section, "receive" means 132  
taking possession of tangible personal property or making first 133  
use of a service. "Receive" does not include possession by a 134  
shipping company on behalf of a consumer. 135

(B)(1) Notwithstanding divisions (A)(1) to (5) of this 136  
section, a consumer that is not a holder of a direct payment 137  
permit granted under section 5739.031 of the Revised Code, that 138  
purchases computer software delivered electronically or a service 139  
for use in business, and that knows at the time of purchase that 140  
such software or service will be concurrently available for use in 141  
more than one taxing jurisdiction shall deliver to the vendor in 142  
conjunction with its purchase a multiple points of use exemption 143  
form prescribed by the tax commissioner disclosing this fact. On 144  
receipt of the multiple points of use exemption form, the vendor 145

is relieved of its obligation to collect, pay, or remit the tax 146  
due, and the consumer must pay the tax directly to the state. 147

(2) A consumer that delivers such form to a vendor may use 148  
any reasonable, consistent, and uniform method of apportioning the 149  
tax due on the computer software delivered electronically or 150  
service for use in business that is supported by the consumer's 151  
business records as they existed at the time of the sale. 152

(3) The multiple points of use exemption form shall remain in 153  
effect for all future sales by the vendor to the consumer until it 154  
is revoked in writing by the consumer, except as to the consumer's 155  
specific apportionment of a subsequent sale under division (B)(2) 156  
of this section and the facts existing at the time of the sale. 157

(C) A person who holds a direct payment permit issued under 158  
section 5739.031 of the Revised Code is not required to deliver a 159  
multiple points of use exemption form to a vendor. But such permit 160  
holder shall comply with division (B)(2) of this section in 161  
apportioning the tax due on computer software delivered 162  
electronically or a service used in business that will be 163  
concurrently available for use in more than one taxing 164  
jurisdiction. 165

(D)(1) Notwithstanding divisions (A)(1) to (5) of this 166  
section, the purchaser of direct mail that is not a holder of a 167  
direct payment permit shall provide to the vendor in conjunction 168  
with the purchase either a direct mail form prescribed by the tax 169  
commissioner, or information to show the jurisdictions to which 170  
the direct mail is delivered to recipients. 171

(2) Upon receipt of a direct mail form, the vendor is 172  
relieved of all obligations to collect, pay, or remit the 173  
applicable tax and the purchaser is obligated to pay that tax on a 174  
direct pay basis. A direct mail form shall remain in effect for 175  
all future sales of direct mail by the vendor to the purchaser 176

until it is revoked in writing. 177

(3) Upon receipt of information from the purchaser showing 178  
the jurisdictions to which the direct mail is delivered to 179  
recipients, the vendor shall collect the tax according to the 180  
delivery information provided by the purchaser. In the absence of 181  
bad faith, the vendor is relieved of any further obligation to 182  
collect tax on any transaction where the vendor has collected tax 183  
pursuant to the delivery information provided by the purchaser. 184

(4) If the purchaser of direct mail does not have a direct 185  
payment permit and does not provide the vendor with either a 186  
direct mail form or delivery information as required by division 187  
(D)(1) of this section, the vendor shall collect the tax according 188  
to division (A)(5) of this section. Nothing in division (D)(4) of 189  
this section shall limit a purchaser's obligation to pay sales or 190  
use tax to any state to which the direct mail is delivered. 191

(5) If a purchaser of direct mail provides the vendor with 192  
documentation of direct payment authority, the purchaser shall not 193  
be required to provide a direct mail form or delivery information 194  
to the vendor. 195

(E) If the vendor provides lodging to transient guests as 196  
specified in division (B)(2) of section 5739.01 of the Revised 197  
Code, the sale shall be sourced to the location where the lodging 198  
is located. 199

(F)(1) As used in this division and division (G) of this 200  
section, "transportation equipment" means any of the following: 201

(a) Locomotives and railcars that are utilized for the 202  
carriage of persons or property in interstate commerce. 203

(b) Trucks and truck-tractors with a gross vehicle weight 204  
rating of greater than ten thousand pounds, trailers, 205  
semi-trailers, or passenger buses that are registered through the 206

international registration plan and are operated under authority 207  
of a carrier authorized and certificated by the United States 208  
department of transportation or another federal authority to 209  
engage in the carriage of persons or property in interstate 210  
commerce. 211

(c) Aircraft that are operated by air carriers authorized and 212  
certificated by the United States department of transportation or 213  
another federal authority to engage in the carriage of persons or 214  
property in interstate or foreign commerce. 215

(d) Containers designed for use on and component parts 216  
attached to or secured on the items set forth in division 217  
(F)(1)(a), (b), or (c) of this section. 218

(2) A sale, lease, or rental of transportation equipment 219  
shall be sourced pursuant to division (A) of this section. 220

(G)(1) A lease or rental of tangible personal property that 221  
does not require recurring periodic payments shall be sourced 222  
pursuant to division (A) of this section. 223

(2) A lease or rental of tangible personal property that 224  
requires recurring periodic payments shall be sourced as follows: 225

(a) In the case of a motor vehicle, other than a motor 226  
vehicle that is transportation equipment, such lease or rental 227  
shall be sourced to the primary property location as follows: 228

(i) For a lease or rental taxed pursuant to division (A)(2) 229  
of section 5739.02 of the Revised Code, the primary property 230  
location is the address of the lessee or renter used for titling 231  
the motor vehicle pursuant to section 4505.06 of the Revised Code 232  
at the time the lease or rental is consummated. 233

(ii) For a lease or rental taxed pursuant to division (A)(3) 234  
of section 5739.02 of the Revised Code, the primary property 235  
location for each lease or rental installment is the primary 236



property location for the period covered by the installment.	237
(b) In the case of an aircraft, other than an aircraft that	238
is transportation equipment, such lease or rental shall be sourced	239
to the primary property location as follows:	240
(i) For a lease or rental taxed pursuant to division (A)(2)	241
of section 5739.02 of the Revised Code, the primary property	242
location is the primary property location at the time the lease or	243
rental is consummated.	244
(ii) For a lease or rental taxed pursuant to division (A)(3)	245
of section 5739.02 of the Revised Code, the primary property	246
location for each lease or rental installment is the primary	247
property location for the period covered by the installment.	248
(c) In the case of a watercraft or an outboard motor required	249
to be titled in this state pursuant to Chapter 1548. of the	250
Revised Code, such lease or rental shall be sourced to the primary	251
property location as follows:	252
(i) For a lease or rental taxed pursuant to division (A)(2)	253
of section 5739.02 of the Revised Code, the primary property	254
location is the address of the lessee or renter shown on the	255
title.	256
(ii) For a lease or rental taxed pursuant to division (A)(3)	257
of section 5739.02 of the Revised Code, the primary property	258
location for the initial lease or rental installment is the	259
address of the lessee or renter shown on the title. For each	260
subsequent installment, the primary property location is the	261
primary property location for the period covered by the	262
installment.	263
(d) In the case of a lease or rental of all other tangible	264
personal property, other than transportation equipment, such lease	265
or rental shall be sourced as follows:	266

(i) For a lease or rental that is taxed pursuant to division 267  
(A)(2) of section 5739.02 of the Revised Code, the lease or rental 268  
shall be sourced pursuant to division (A) of this section at the 269  
time the lease or rental is consummated. 270

(ii) For a lease or rental that is taxed pursuant to division 271  
(A)(3) of section 5739.02 of the Revised Code, the initial lease 272  
or rental installment shall be sourced pursuant to division (A) of 273  
this section. Each subsequent installment shall be sourced to the 274  
primary property location for the period covered by the 275  
installment. 276

(3) As used in division (G) of this section, "primary 277  
property location" means an address for tangible personal property 278  
provided by the lessee or renter that is available to the lessor 279  
or owner from its records maintained in the ordinary course of 280  
business, when use of that address does not constitute bad faith. 281

**Sec. 5739.034.** (A) As used in this section: 282

(1) "Air-to-ground radiotelephone service" means a radio 283  
service, as defined in 47 C.F.R. 22.99, in which common carriers 284  
are authorized to offer and provide radio telecommunications 285  
service for hire to subscribers in aircraft. 286

(2) "Call-by-call basis" means any method of charging for 287  
telecommunications services where the price is measured by 288  
individual calls. 289

(3) "Customer" means the person or entity that contracts with 290  
a seller of telecommunications service. If the end user of 291  
telecommunications service is not the contracting party, the end 292  
user of the telecommunications service is the customer of the 293  
telecommunications service. "Customer" does not include a reseller 294  
of telecommunications service or of mobile telecommunications 295  
service of a serving carrier under an agreement to serve the 296

customer outside the home service provider's licensed service area. 297  
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(4) "End user" means the person who utilizes the telecommunications service. In the case of a person other than an individual, "end user" means the individual who utilizes the service on behalf of the person. 299  
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(5) "Home service provider" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 303  
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(6) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider. 306  
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(7) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. "Post-paid calling service" includes a telecommunications service that would be a prepaid calling service, but for the fact that it is not exclusively a telecommunications service. 313  
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(8) "Prepaid calling service" means the right to access exclusively a telecommunications service that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount. 322  
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(9) "Service address" means:	328
(a) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.	329 330 331
(b) If the location in division (A)(9)(a) of this section is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.	332 333 334 335 336 337
(c) If the locations in divisions (A)(9)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use.	338 339 340
(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section.	341 342 343 344 345 346
(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located.	347 348 349 350 351 352 353
(D) Except for the telecommunications services described in division (E) of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis shall be sourced to the customer's place of primary use.	354 355 356 357

(E) The sale of the following telecommunications services 358  
shall be sourced to each level of taxing jurisdiction, as follows: 359

(1) A sale of mobile telecommunications service, other than 360  
air-to-ground radiotelephone service and prepaid calling service, 361  
shall be sourced to the customer's place of primary use as 362  
required by the Mobile Telecommunications Sourcing Act. 363

(2) A sale of post-paid calling service shall be sourced to 364  
the origination point of the telecommunications signal as first 365  
identified by the service provider's telecommunications system, or 366  
information received by the seller from its service provider, 367  
where the system used to transport such signals is not that of the 368  
seller. 369

(3) ~~A sale of prepaid calling service made prior to January 370  
1, 2004, shall be sourced under division (H) of section 5739.033 371  
of the Revised Code. On and after January 1, 2004, a sale of 372  
mobile telecommunications service that is a prepaid 373  
telecommunications service shall be sourced under division (A)(5) 374  
of section 5739.033 of the Revised Code, but in lieu of sourcing 375  
the sale of the service under division (A)(5) of that section, it 376  
may be sourced to the location associated with the mobile 377  
telephone number. 378~~

Sec. 5739.035. This section only applies to sales that are 379  
required to be sitused under this section pursuant to section 380  
5739.033 of the Revised Code. 381

(A) Except as otherwise provided in this section, the situs 382  
of all sales is the vendor's place of business. 383

(1) If the consumer or the consumer's agent takes possession 384  
of the tangible personal property at a place of business of the 385  
vendor where the purchase contract or agreement was made, the 386  
situs of the sale is that place of business. 387

(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received. 388  
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(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), (o), (r), (s), or (t) of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received. 394  
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(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the situs of the sale is the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property. 401  
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(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the situs of the sale is the location of the motor vehicle when the sale is made. 407  
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(D) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the situs of the sale is the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received. 414  
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(E) If the vendor provides a service specified in division (B)(3)(e), (g), (h), (j), (k), (l), (m), (q), or (u) of section 5739.01 of the Revised Code, the situs of the sale is the location of the consumer where the service is performed or received. 419  
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(F) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located. 423  
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(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling. 427  
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(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address. 437  
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**Sec. 5739.123.** (A) As used in this section, "destination-based sourcing requirements" means the manner in which sales are required to be sourced under section 5739.033 of the Revised Code. 446  
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(B) A vendor who holds a license issued prior to July 1, 2005, under division (A) of section 5739.17 of the Revised Code may apply for temporary compensation to assist the vendor in complying with the destination-based sourcing requirements for the first six months those sourcing requirements become applicable to the vendor under section 5739.033 of the Revised Code. The vendor shall file the application in accordance with division (C) of this section. The compensation shall be calculated for each county each month of the six-month period, and shall equal the amount of the tax reported on the return for sales of tangible personal property delivered to each county in which the vendor does not have a fixed place of business and does not, or is not required to, hold a license issued under division (A) of section 5739.17 of the Revised Code for that business, not to exceed twenty-five dollars per county for each month. Only amounts paid by the vendor for which the vendor is eligible for a discount under division (B) of section 5739.12 of the Revised Code and that are shown on returns filed during that six-month period shall be considered in calculating the compensation. In no event shall a vendor receive compensation that exceeds its total cost of complying with the destination-based sourcing requirements. For purposes of the six-month compensation period, a partial month shall be considered a month.

(C) A vendor that applies for compensation under this section shall file an application with the tax commissioner on a form prescribed by the commissioner. The application shall be filed within sixty days after the last day of the last month of the six-month period for which the vendor is requesting compensation. The commissioner shall determine the amount of compensation to which the vendor is entitled, and if that amount is equal to or greater than the amount claimed on the application, the commissioner shall certify that amount to the director of budget



and management and the treasurer of state for payment from the 482  
general revenue fund. If the commissioner determines that the 483  
amount of compensation to which the vendor is entitled is less 484  
than the amount claimed on the vendor's application, the 485  
commissioner shall proceed in accordance with section 5703.70 of 486  
the Revised Code. 487

(D) The compensation provided under this section shall not 488  
reduce the amount required to be returned to counties and transit 489  
authorities under section 5739.21 of the Revised Code. 490

**Sec. 5739.17.** (A) No person shall engage in making retail 491  
sales subject to a tax imposed by or pursuant to section 5739.02, 492  
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 493  
without having a license therefor, except as otherwise provided in 494  
divisions (A)(1), (2), and (3) of this section. 495

(1) In the dissolution of a partnership by death, the 496  
surviving partner may operate under the license of the partnership 497  
for a period of sixty days. 498

(2) The heirs or legal representatives of deceased persons, 499  
and receivers and trustees in bankruptcy, appointed by any 500  
competent authority, may operate under the license of the person 501  
so succeeded in possession. 502

(3) Two or more persons who are not partners may operate a 503  
single place of business under one license. In such case neither 504  
the retirement of any such person from business at that place of 505  
business, nor the entrance of any person, under an existing 506  
arrangement, shall affect the license or require the issuance of a 507  
new license, unless the person retiring from the business is the 508  
individual named on the vendor's license. 509

Except as otherwise provided in this section, each applicant 510  
for a license shall make out and deliver to the county auditor of 511

each county in which the applicant desires to engage in business, 512  
upon a blank to be furnished by such auditor for that purpose, a 513  
statement showing the name of the applicant, each place of 514  
business in the county where the applicant will make retail sales, 515  
the nature of the business, and any other information the tax 516  
commissioner reasonably prescribes in the form of a statement 517  
prescribed by the commissioner. 518

At the time of making the application, the applicant shall 519  
pay into the county treasury a license fee in the sum of 520  
twenty-five dollars for each fixed place of business in the county 521  
that will be the situs of retail sales. Upon receipt of the 522  
application and exhibition of the county treasurer's receipt, 523  
showing the payment of the license fee, the county auditor shall 524  
issue to the applicant a license for each fixed place of business 525  
designated in the application, authorizing the applicant to engage 526  
in business at that location. If a vendor's identity changes, the 527  
vendor shall apply for a new license. If a vendor wishes to move 528  
an existing fixed place of business to a new location within the 529  
same county, the vendor shall obtain a new vendor's license or 530  
submit a request to the tax commissioner to transfer the existing 531  
vendor's license to the new location. When the new location has 532  
been verified as being within the same county, the commissioner 533  
shall authorize the transfer and notify the county auditor of the 534  
change of location. If a vendor wishes to move an existing fixed 535  
place of business to another county, the vendor's license shall 536  
not transfer and the vendor shall obtain a new vendor's license 537  
from the county in which the business is to be located. The form 538  
of the license shall be prescribed by the commissioner. The fees 539  
collected shall be credited to the general fund of the county. 540

The tax commissioner may establish or participate in a 541  
registration system whereby any vendor may obtain a vendor's 542  
license by submitting to the commissioner a vendor's license 543

application and a license fee of twenty-five dollars for each 544  
fixed place of business at which the vendor intends to make retail 545  
sales. Under this registration system, the commissioner shall 546  
issue a vendor's license to the applicant on behalf of the county 547  
auditor of the county in which the applicant desires to engage in 548  
business, and shall forward a copy of the application and license 549  
fee to that county. 550

A vendor that makes retail sales subject to tax under Chapter 551  
5739. of the Revised Code pursuant to a permit issued by the 552  
division of liquor control shall obtain a vendor's license in the 553  
identical name and for the identical address as shown on the 554  
permit. 555

Except as otherwise provided in this section, if a vendor has 556  
no fixed place of business and sells from a vehicle, each vehicle 557  
intended to be used within a county constitutes a place of 558  
business for the purpose of this section. 559

(B) As used in this division, "transient vendor" means any 560  
person who makes sales of tangible personal property from vending 561  
machines located on land owned by others, who leases titled motor 562  
vehicles, titled watercraft, or titled outboard motors, who 563  
effectuates leases that are taxed according to division (A)(2) of 564  
section 5739.02 of the Revised Code, or who, in the usual course 565  
of the person's business, transports inventory, stock of goods, or 566  
similar tangible personal property to a temporary place of 567  
business or temporary exhibition, show, fair, flea market, or 568  
similar event in a county in which the person has no fixed place 569  
of business, for the purpose of making retail sales of such 570  
property. A "temporary place of business" means any public or 571  
quasi-public place including, but not limited to, a hotel, rooming 572  
house, storeroom, building, part of a building, tent, vacant lot, 573  
railroad car, or motor vehicle that is temporarily occupied for 574  
the purpose of making retail sales of goods to the public. A place 575

of business is not temporary if the same person conducted business 576  
at the place continuously for more than six months or occupied the 577  
premises as the person's permanent residence for more than six 578  
months, or if the person intends it to be a fixed place of 579  
business. 580

Any transient vendor, in lieu of obtaining a vendor's license 581  
under division (A) of this section for counties in which the 582  
transient vendor has no fixed place of business, may apply to the 583  
tax commissioner, on a form prescribed by the commissioner, for a 584  
transient vendor's license. The transient vendor's license 585  
authorizes the transient vendor to make retail sales in any county 586  
in which the transient vendor does not maintain a fixed place of 587  
business. Any holder of a transient vendor's license shall not be 588  
required to obtain a separate vendor's license from the county 589  
auditor in that county. Upon the commissioner's determination that 590  
an applicant is a transient vendor, the applicant shall pay a 591  
license fee in the amount of twenty-five dollars, at which time 592  
the tax commissioner shall issue the license. The tax commissioner 593  
may require a vendor to be licensed as a transient vendor if, in 594  
the opinion of the commissioner, such licensing is necessary for 595  
the efficient administration of the tax. 596

Any holder of a valid transient vendor's license may make 597  
retail sales at a temporary place of business or temporary 598  
exhibition, show, fair, flea market, or similar event, held 599  
anywhere in the state without complying with any provision of 600  
section 311.37 of the Revised Code. Any holder of a valid vendor's 601  
license may make retail sales as a transient vendor at a temporary 602  
place of business or temporary exhibition, show, fair, flea 603  
market, or similar event held in any county in which the vendor 604  
maintains a fixed place of business for which the vendor holds a 605  
vendor's license without obtaining a transient vendor's license. 606

(C) As used in this division, "service vendor" means any 607

person who, in the usual course of the person's business, sells 608  
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 609  
(k), (l), (m), (q), or (u) of section 5739.01 of the Revised Code. 610

Every service vendor shall make application to the tax 611  
commissioner for a service vendor's license. Each applicant shall 612  
pay a license fee in the amount of twenty-five dollars. Upon the 613  
commissioner's determination that an applicant is a service vendor 614  
and payment of the fee, the commissioner shall issue the applicant 615  
a service vendor's license. 616

Only sales described in division (B)(3)(e), (f), (g), (h), 617  
(i), (j), (k), (l), (m), (q), or (u) of section 5739.01 of the 618  
Revised Code may be made under authority of a service vendor's 619  
license, and that license authorizes sales to be made at any place 620  
in this state. Any service vendor who makes sales of other 621  
services or tangible personal property subject to the sales tax 622  
also shall be licensed under division (A), (B), or (D) of this 623  
section. 624

(D) As used in this division, "delivery vendor" means any 625  
vendor who engages in one or more of the activities described in 626  
divisions (D)(1) to (4) of this section, and who maintains no 627  
store, showroom, or similar fixed place of business or other 628  
location where merchandise regularly is offered for sale or 629  
displayed or shown in catalogs for selection or pick-up by 630  
consumers, or where consumers bring goods for repair or other 631  
service. 632

(1) The vendor makes retail sales of tangible personal 633  
property; 634

(2) The vendor rents or leases, at retail, tangible personal 635  
property, except titled motor vehicles, titled watercraft, or 636  
titled outboard motors; 637

(3) The vendor provides a service, at retail, described in 638

division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code.

A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

Sec. 5739.24. (A) As used in this section: 670

(1) "Destination-based sourcing requirements" has the same meaning as in section 5739.123 of the Revised Code. 671  
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(2) "Impacted county" means a county having a population of less than seventy-five thousand as of the decennial census of 2000 taken by the United States census bureau. 673  
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(3) "Master account holder" means a person that holds more than one vendor's license under division (A) of section 5739.17 of the Revised Code, operates in multiple tax jurisdictions under the same ownership, and files or is required to file a consolidated return under section 5739.12 of the Revised Code. 676  
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(4) "Tax jurisdiction" means a county or, if applicable, the portion of a county in which a transit authority has territory. 681  
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(B)(1) Within thirty days after the thirtieth day of June and the thirty-first day of December of each year, a master account holder that makes a sale that is subject to the destination-based sourcing requirements shall file with the tax commissioner a report that details the total taxable sales it made for the prior six-month period in each tax jurisdiction and at each fixed place of business for which the master account holder holds or should hold a license, irrespective of where those sales were sourced under those requirements. The commissioner may extend the time for filing the report under this section. 683  
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(2) If the report required by division (B)(1) of this section is not timely filed by a master account holder, the tax commissioner shall mail notice of a delinquent report to the holder. In addition to any other penalties or additional charges imposed under this chapter, the commissioner may impose a penalty of up to fifty dollars for each fixed place of business of the master account holder. If the report is filed within fifteen days 693  
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after the commissioner mails the delinquency notice, the penalty 700  
may be remitted in full or in part by the commissioner. But if the 701  
master account holder fails to file the report within fifteen days 702  
after the commissioner mails the notice, the commissioner shall 703  
impose a penalty of up to one hundred dollars for each fixed place 704  
of business of the master account holder. This penalty may not be 705  
remitted in full by the commissioner. A penalty imposed under this 706  
division is subject to collection and assessment in the same 707  
manner as any tax levied under this chapter. 708

(C)(1) Within seventy-five days after the thirtieth day of 709  
June and the thirty-first day of December of each year, the tax 710  
commissioner shall determine for each county both of the 711  
following: 712

(a) The amount of taxes paid by all vendors licensed under 713  
division (A) of section 5739.17 of the Revised Code that were 714  
levied by sections 5739.021 and 5739.026 of the Revised Code and 715  
were collected by the county in accordance with the 716  
destination-based sourcing requirements; 717

(b) The amount of taxes levied by those sections that would 718  
have been paid to the county by vendors licensed under division 719  
(A) of section 5739.17 of the Revised Code if the taxes had been 720  
collected by the county in accordance with section 5739.035 of the 721  
Revised Code. 722

The commissioner may make any adjustments that are necessary 723  
to account for delinquent tax returns or reports. 724

(2) In making the determination required by division (C)(1) 725  
of this section, the commissioner shall use the lesser of the 726  
county's tax rate in effect as of January 1, 2005, or the actual 727  
tax rate in effect for the six-month period for which the 728  
compensation was calculated. 729

(3) The commissioner also shall calculate the percentage 730



difference between the amounts determined under divisions 731  
(C)(1)(a) and (b) of this section by using a fraction, with the 732  
amount determined under division (C)(1)(a) of this section in the 733  
numerator, and the amount determined under division (C)(1)(b) of 734  
this section in the denominator. 735

(D)(1) If the percentage difference calculated under division 736  
(C)(3) of this section for a county is ninety-six per cent or 737  
less, and the county is an impacted county under this section, the 738  
county shall receive compensation. Within ninety days after the 739  
thirtieth day of June and the thirty-first day of December of each 740  
year, the tax commissioner, in the next ensuing payment to be made 741  
under division (B)(1) of section 5739.21 of the Revised Code, 742  
shall in addition provide from the general revenue fund to such 743  
county compensation in the amount of ninety-eight per cent of the 744  
denominator calculated under division (C)(3) of this section, 745  
minus the numerator calculated under division (C)(3) of this 746  
section. 747

(2) A county that is entitled to compensation under division 748  
(D)(1) of this section may request an advance payment of that 749  
compensation. The commissioner shall adopt rules that establish 750  
the manner by which such county may make the request and the 751  
method the commissioner will use to determine the amount of the 752  
advance payment to be made to the county. Compensation provided 753  
under division (D)(1) of this section shall be adjusted 754  
accordingly to account for advance payments made under division 755  
(D)(2) of this section. 756

(E) If, under division (C)(1) of this section, the tax 757  
commissioner determines that a county collected more taxes under 758  
the destination-based sourcing requirements than it would have 759  
collected if taxes had been paid in accordance with section 760  
5739.035 of the Revised Code, the county is a windfall county 761  
under this division. Within ninety days after the thirtieth day of 762

June and the thirty-first day of December of each year, the 763  
commissioner, in the next ensuing payment to be made under 764  
division (B)(1) of section 5739.21 of the Revised Code, shall 765  
reduce the amount to be returned to each windfall county by the 766  
total amount of excess taxes that would have been received by all 767  
windfall counties in proportion to the total amount needed to 768  
compensate counties under division (D) of this section. 769

(F) The commissioner shall make available to the public the 770  
determinations made under division (C) of this section, but any 771  
data obtained from taxpayers under this section or that would 772  
identify those taxpayers shall remain confidential. 773

(G) There is hereby created the county compensation tax study 774  
committee. The committee shall consist of the following seven 775  
members: the tax commissioner, three members of the senate 776  
appointed by the president of the senate, and three members of the 777  
house of representatives appointed by the speaker of the house of 778  
representatives. The appointments shall be made not later than 779  
January 31, 2006. The tax commissioner shall be the chairperson of 780  
the committee and the department of taxation shall provide any 781  
information and assistance that is required by the committee to 782  
carry out its duties. The committee shall study the extent to 783  
which each county has been impacted by the destination-based 784  
sourcing requirements. Not later than June 30, 2006, the committee 785  
shall issue a report of its findings and shall make 786  
recommendations to the president of the senate and the speaker of 787  
the house of representatives, at which time the committee shall 788  
cease to exist. 789

**Sec. 5740.05.** The tax commissioner shall not enter into the 790  
agreement unless the agreement requires each state to meet the 791  
requirements set forth in divisions (A) to (I) of this section. 792  
The agreement shall: 793

(A) Set restrictions to limit over time the number of state sales and use tax rates;	794 795
(B) Establish uniform standards for attributing the source of transactions to taxing jurisdictions, the administration of exempt sales, and sales and use tax returns and remittances;	796 797 798
(C) Provide a central, electronic registration system that allows a seller to register to collect sales and use taxes for, and remit them to, all member states;	799 800 801
(D) Provide that registration with the central registration system and the collection of sales and use taxes in the member states will not be used as a factor in determining whether the seller has nexus with a state for any tax;	802 803 804 805
(E) Provide for reduction of the burdens of complying with local sales and use taxes through the following:	806 807
(1) Restricting variances between the state and local tax bases;	808 809
(2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the states so that sellers collecting and remitting those taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from, local taxing jurisdictions;	810 811 812 813 814
(3) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes;	815 816 817 818
(4) Providing notice to sellers and certified service providers of changes in local sales and use tax rates and in the boundaries of local taxing jurisdictions.	819 820 821
(F) Outline any monetary allowances that are to be provided by the member states to sellers or certified service providers.	822 823

The agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity, ~~to be completed by July 1, 2002.~~

(G) Require each state to certify compliance with the terms of the agreement prior to becoming a member of the agreement, and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member;

(H) Require each member state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information;

(I) Provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement.

**Sec. 5740.08.** (A) As used in this section:

(1) "Confidential taxpayer information" means all information that is protected under Title LVII of the Revised Code or other applicable law.

(2) "Personally identifiable information" means information that identifies a person.

(3) "Anonymous data" means information that does not identify a person.

(B) A certified service provider shall preserve the privacy of consumers who buy, lease, or rent tangible personal property or services from sellers with whom the provider has contracted for the collection and remittance of sales and use taxes to this state. The certified service provider shall protect the personally identifiable information of a consumer information in the same

manner as required of the department of taxation for taxpayer 854  
information. The certified service provider shall use a certified 855  
automated system to perform sales and use tax calculations, 856  
remittances, and reporting that does not retain the personally 857  
identifiable information of consumers, except as follows: 858

(1) To determine whether a consumer's status or intended use 859  
of the goods or services purchased is exempt from the sales or use 860  
tax; 861

(2) To investigate fraud by a consumer or seller; 862

(3) To the extent necessary to ensure the reliability of the 863  
providers' technology and certified automated system in performing 864  
all of a seller's sales and use tax functions. 865

The certified service provider shall provide technical, 866  
physical, and administrative safeguards to protect personally 867  
identifiable information from unauthorized access and disclosure. 868

~~(B) A certified service provider~~ (C) The tax commissioner 869  
shall provide to consumers clear and conspicuous notice of ~~its~~ the 870  
commissioner's information retention and sharing practices, 871  
including what personally identifiable information ~~it~~ the 872  
commissioner collects, how the information collected is used, how 873  
long the information is retained, and whether the information ~~is~~ 874  
may be disclosed to other ~~member~~ states. ~~A provider that retains~~ 875  
~~personally identifiable information in accordance with division~~ 876  
~~(A) of this section shall notify consumers of its intent to retain~~ 877  
~~such information and shall afford consumers reasonable access to~~ 878  
~~their data and the opportunity to correct inaccurately recorded~~ 879  
~~data.~~ When the commissioner retains a consumer's personally 880  
identifiable information that the commissioner received from a 881  
certified service provider, the commissioner shall allow the 882  
consumer to examine that information and correct any inaccurately 883  
recorded information. 884

~~(C)~~(D) If any person, other than a member state or a person 885  
otherwise authorized by the laws of this state, seeks to discover 886  
a consumer's personally identifiable information, the tax 887  
commissioner shall make a reasonable and timely effort ~~shall be~~ 888  
~~made by the provider~~ to notify the consumer of such request. 889

~~(D)~~(E) Notwithstanding this section, the laws of this state 890  
regarding the collection, use, and maintenance of confidential 891  
taxpayer information remain applicable and binding. The agreement 892  
does not enlarge or limit this state's authority to do any of the 893  
following: 894

(1) Conduct audits or other reviews as provided under the 895  
agreement or state law; 896

(2) Provide records pursuant to section 149.43 of the Revised 897  
Code or to governmental agencies under disclosure laws; 898

(3) Prevent the disclosure of confidential taxpayer 899  
information in accordance with Title LVII of the Revised Code; 900

(4) Prevent, consistent with federal law, the disclosure or 901  
misuse of federal return information obtained under a disclosure 902  
agreement with the Internal Revenue Service; 903

(5) Collect, disclose, disseminate, or otherwise use 904  
anonymous data for governmental purposes. 905

~~(E)~~(F) This section does not enlarge or limit the privacy 906  
policies of any seller that has selected a certified service 907  
provider as its agent to perform all of the seller's sales and use 908  
tax functions. 909

~~(F)~~(G) A certified service provider that fails to comply with 910  
this section is subject to investigation by the tax commissioner 911  
or the commissioner's agents and the attorney general, and to 912  
prosecution by the attorney general. 913

Sec. 5740.09. (A) No cause of action shall accrue against a 914  
seller for over-collection of the taxes levied by section 5739.02, 915  
5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, or 916  
5741.023 of the Revised Code until the purchaser has provided 917  
written notice of the over-collection to the seller and the seller 918  
has had sixty days after the notice was mailed to respond. The 919  
notice must contain the information necessary to determine the 920  
validity of the request. In no case shall a cause of action accrue 921  
against a seller for the over-collection of such taxes if either 922  
the purchaser or the seller has filed a refund claim for the 923  
over-collection pursuant to section 5739.07 or 5741.10 of the 924  
Revised Code. 925

(B) In connection with a purchaser's request from a seller of 926  
over-collected taxes under division (A) of this section, a seller 927  
shall be presumed to have a reasonable business practice if, in 928  
the collection of the taxes, the seller does both of the 929  
following: 930

(1) Uses either a certified service provider or a certified 931  
automated system, including a proprietary system; and 932

(2) Has remitted to the state all taxes collected, less any 933  
deductions or collection allowances provided by section 5739.12 or 934  
5741.12 of the Revised Code. 935

Sec. 5740.10. As used in this section, "vendors" means 936  
persons licensed under division (A) of section 5739.17 of the 937  
Revised Code that have limited Ohio taxable sales, as defined by 938  
the tax commissioner under this section. 939

To address the impact the change from origin-based sourcing 940  
under section 5739.035 of the Revised Code to destination-based 941  
sourcing under section 5739.033 of the Revised Code has on 942  
vendors, the tax commissioner shall work with the states that are 943

implementing the interstate streamlined sales and use tax 944  
agreement to encourage the adoption of an amendment to the 945  
agreement that allows states to mitigate the impact by allowing 946  
vendors to source sales at the vendors' places of business. If the 947  
amendment is adopted or if this change in sourcing is otherwise 948  
allowed without amendment of the agreement, the commissioner shall 949  
adopt a rule that excepts vendors from destination-based sourcing 950  
under section 5739.033 of the Revised Code, but that otherwise 951  
keeps Ohio in substantial compliance with the agreement. 952

**Sec. 5741.05.** (A) A Beginning January 1, 2005, a seller that 953  
collects the tax levied by sections 5741.02, 5741.021, 5741.022, 954  
or 5741.023 of the Revised Code on transactions, other than sales 955  
of titled motor vehicles, titled watercraft, or titled outboard 956  
motors, shall determine under section 5739.033 or 5739.034 of the 957  
Revised Code the jurisdiction for which to collect the tax. A 958  
vendor or seller of motor vehicles, watercraft, or outboard motors 959  
required to be titled in this state shall collect the tax levied 960  
by section 5739.02 or 5741.02 of the Revised Code and the 961  
additional taxes levied by division (A)(1) of section 5741.021, 962  
division (A)(1) of section 5741.022, and division (A)(1) of 963  
section 5741.023 of the Revised Code for the consumer's county of 964  
residence as provided in section 1548.06 and division (B) of 965  
section 4505.06 of the Revised Code. 966

(B) A vendor or seller is not responsible for collecting or 967  
remitting additional tax if a consumer subsequently stores, uses, 968  
or consumes the tangible personal property or service in another 969  
jurisdiction with a rate of tax imposed by sections 5741.02, 970  
5741.021, 5741.022, or 5741.023 of the Revised Code that is higher 971  
than the amount collected by the vendor or seller pursuant to 972  
Chapter 5739. or 5741. of the Revised Code. 973



**Section 2.** That existing sections 5703.70, 5739.033, 974  
5739.034, 5739.17, 5740.05, 5740.08, and 5741.05 of the Revised 975  
Code are hereby repealed. 976

**Section 3.** The version of section 5739.033 of the Revised 977  
Code that results from Section 1 of Am. Sub. H.B. 95 of the 125th 978  
General Assembly is hereby repealed. This repeal does not affect 979  
the version of section 5739.033 of the Revised Code that results 980  
from Section 3.16 of Am. Sub. H.B. 95 of the 125th General 981  
Assembly, and that was intended to take effect July 1, 2005. 982  
Rather, that version of section 5739.033 of the Revised Code is 983  
amended by this act and, as amended by this act, takes effect 984  
January 1, 2005. 985

**Section 4.** That Section 4 of Am. Sub. H.B. 168 of the 125th 986  
General Assembly, as amended by Sub. H.B. 204 of the 125th General 987  
Assembly, be amended to read as follows: 988

**Sec. 4.** Notwithstanding Section 3 of Am. Sub. S.B. 143 of the 989  
124th General Assembly, as subsequently amended by Section 8 of 990  
Sub. S.B. 47 of the 125th General Assembly and Section 134.14 of 991  
Am. Sub. H.B. 95 of the 125th General Assembly, the enactment of 992  
section 5741.05 of the Revised Code by Am. Sub. S.B. 143 of the 993  
124th General Assembly shall take effect ~~July~~ January 1, 2005. The 994  
General Assembly intends by enacting this section to clarify that 995  
the operation of section 5741.05 of the Revised Code ~~was~~ is to be 996  
coordinated with the ~~revised~~ revised effective ~~dates~~ to date of 997  
amended section 5739.033 of the Revised Code ~~that were made by~~ 998  
~~Sub. S.B. 47 of the 125th General Assembly and Sub. H.B. 127 of~~ 999  
~~the 125th General Assembly.~~ 1000

**Section 5.** That existing Section 4 of Am. Sub. H.B. 168 of 1001

the 125th General Assembly, as amended by Sub. H.B. 204 of the 1002  
125th General Assembly, is hereby repealed. 1003

**Section 6.** That Section 3.18 of Am. Sub. H.B. 95 of the 125th 1004  
General Assembly, as most recently amended by Sub. H.B. 127 and 1005  
Sub. H.B. 204, both of the 125th General Assembly, is hereby 1006  
repealed. 1007

**Section 7.** That Section 8 of Sub. H.B. 204 of the 125th 1008  
General Assembly is hereby repealed. 1009

**Section 8.** Sections 5739.033, 5739.034, 5739.035, 5740.10, 1010  
and 5741.05 of the Revised Code, as amended or enacted by this 1011  
act, provide for or are essential to the implementation of a tax 1012  
levy. Therefore, under Ohio Constitution, Article II, Section 1d, 1013  
those sections as amended or enacted by this act are not subject 1014  
to the referendum and go into immediate effect when this act 1015  
becomes law. 1016

**Section 9.** Sections 3 to 9 of this act provide for or are 1017  
essential to the implementation of a tax levy. Therefore, under 1018  
Ohio Constitution, Article II, Section 1d, Sections 3 to 9 of this 1019  
act are not subject to the referendum and go into immediate effect 1020  
when this act becomes law. 1021