

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 407

Representative Hagan, R.

Cosponsor: Representative Gerberry

—

A B I L L

To amend section 5739.02 of the Revised Code to 1
expand the sales tax exemption for sales of 2
natural gas, and to extend exemption to sales of 3
propane. 4

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

Section 1. That section 5739.02 of the Revised Code be 5
amended to read as follows: 6

Sec. 5739.02. For the purpose of providing revenue with which 7
to meet the needs of the state, for the use of the general revenue 8
fund of the state, for the purpose of securing a thorough and 9
efficient system of common schools throughout the state, for the 10
purpose of affording revenues, in addition to those from general 11
property taxes, permitted under constitutional limitations, and 12
from other sources, for the support of local governmental 13
functions, and for the purpose of reimbursing the state for the 14
expense of administering this chapter, an excise tax is hereby 15
levied on each retail sale made in this state. 16

(A)(1) The tax shall be collected as provided in section 17
5739.025 of the Revised Code, provided that on and after July 1, 18
2003, and on or before June 30, 2005, the rate of tax shall be six 19

per cent. On and after July 1, 2005, the rate of the tax shall be 20
five and one-half per cent. The tax applies and is collectible 21
when the sale is made, regardless of the time when the price is 22
paid or delivered. 23

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

A lease with a renewal clause and a termination penalty or 46
similar provision that applies if the renewal clause is not 47
exercised is presumed to be a sham transaction. In such a case, 48
the tax shall be calculated and paid on the basis of the entire 49
length of the lease period, including any renewal periods, until 50
the termination penalty or similar provision no longer applies. 51

The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

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

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

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

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

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

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or

sale of which in this state a tax is imposed by the law of this 82
state, but this exemption shall not apply to the sale of motor 83
fuel on which a refund of the tax is allowable under division (A) 84
of section 5735.14 of the Revised Code; and the tax commissioner 85
may deduct the amount of tax levied by this section applicable to 86
the price of motor fuel when granting a refund of motor fuel tax 87
pursuant to division (A) of section 5735.14 of the Revised Code 88
and shall cause the amount deducted to be paid into the general 89
revenue fund of this state; 90

(7) Sales of ~~natural gas by a natural gas company,~~ of water 91
by a water-works company, or of steam by a heating company, if in 92
each case the thing sold is delivered to consumers through pipes 93
or conduits, and all sales of communications services by a 94
telegraph company, all terms as defined in section 5727.01 of the 95
Revised Code, and sales of electricity delivered through wires; 96

(8) Casual sales by a person, or auctioneer employed directly 97
by the person to conduct such sales, except as to such sales of 98
motor vehicles, watercraft or outboard motors required to be 99
titled under section 1548.06 of the Revised Code, watercraft 100
documented with the United States coast guard, snowmobiles, and 101
all-purpose vehicles as defined in section 4519.01 of the Revised 102
Code; 103

(9)(a) Sales of services or tangible personal property, other 104
than motor vehicles, mobile homes, and manufactured homes, by 105
churches, organizations exempt from taxation under section 106
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 107
organizations operated exclusively for charitable purposes as 108
defined in division (B)(12) of this section, provided that the 109
number of days on which such tangible personal property or 110
services, other than items never subject to the tax, are sold does 111
not exceed six in any calendar year, except as otherwise provided 112
in division (B)(9)(b) of this section. If the number of days on 113

which such sales are made exceeds six in any calendar year, the 114
church or organization shall be considered to be engaged in 115
business and all subsequent sales by it shall be subject to the 116
tax. In counting the number of days, all sales by groups within a 117
church or within an organization shall be considered to be sales 118
of that church or organization. 119

(b) The limitation on the number of days on which tax-exempt 120
sales may be made by a church or organization under division 121
(B)(9)(a) of this section does not apply to sales made by student 122
clubs and other groups of students of a primary or secondary 123
school, or a parent-teacher association, booster group, or similar 124
organization that raises money to support or fund curricular or 125
extracurricular activities of a primary or secondary school. 126

(c) Divisions (B)(9)(a) and (b) of this section do not apply 127
to sales by a noncommercial educational radio or television 128
broadcasting station. 129

(10) Sales not within the taxing power of this state under 130
the Constitution of the United States; 131

(11) Except for transactions that are sales under division 132
(B)(3)(r) of section 5739.01 of the Revised Code, the 133
transportation of persons or property, unless the transportation 134
is by a private investigation and security service; 135

(12) Sales of tangible personal property or services to 136
churches, to organizations exempt from taxation under section 137
501(c)(3) of the Internal Revenue Code of 1986, and to any other 138
nonprofit organizations operated exclusively for charitable 139
purposes in this state, no part of the net income of which inures 140
to the benefit of any private shareholder or individual, and no 141
substantial part of the activities of which consists of carrying 142
on propaganda or otherwise attempting to influence legislation; 143
sales to offices administering one or more homes for the aged or 144

one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division

(A) of section 5709.12 of the Revised Code.	177
(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;	178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209

(14) Sales of ships or vessels or rail rolling stock used or 210
to be used principally in interstate or foreign commerce, and 211
repairs, alterations, fuel, and lubricants for such ships or 212
vessels or rail rolling stock; 213

(15) Sales to persons primarily engaged in any of the 214
activities mentioned in division (B)(42)(a) or (g) of this 215
section, to persons engaged in making retail sales, or to persons 216
who purchase for sale from a manufacturer tangible personal 217
property that was produced by the manufacturer in accordance with 218
specific designs provided by the purchaser, of packages, including 219
material, labels, and parts for packages, and of machinery, 220
equipment, and material for use primarily in packaging tangible 221
personal property produced for sale, including any machinery, 222
equipment, and supplies used to make labels or packages, to 223
prepare packages or products for labeling, or to label packages or 224
products, by or on the order of the person doing the packaging, or 225
sold at retail. "Packages" includes bags, baskets, cartons, 226
crates, boxes, cans, bottles, bindings, wrappings, and other 227
similar devices and containers, but does not include motor 228
vehicles or bulk tanks, trailers, or similar devices attached to 229
motor vehicles. "Packaging" means placing in a package. Division 230
(B)(15) of this section does not apply to persons engaged in 231
highway transportation for hire. 232

(16) Sales of food to persons using food stamp benefits to 233
purchase the food. As used in this division, "food" has the same 234
meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 235
2012, as amended, and federal regulations adopted pursuant to that 236
act. 237

(17) Sales to persons engaged in farming, agriculture, 238
horticulture, or floriculture, of tangible personal property for 239
use or consumption directly in the production by farming, 240
agriculture, horticulture, or floriculture of other tangible 241

personal property for use or consumption directly in the 242
production of tangible personal property for sale by farming, 243
agriculture, horticulture, or floriculture; or material and parts 244
for incorporation into any such tangible personal property for use 245
or consumption in production; and of tangible personal property 246
for such use or consumption in the conditioning or holding of 247
products produced by and for such use, consumption, or sale by 248
persons engaged in farming, agriculture, horticulture, or 249
floriculture, except where such property is incorporated into real 250
property; 251

(18) Sales of drugs for a human being that may be dispensed 252
only pursuant to a prescription; insulin as recognized in the 253
official United States pharmacopoeia; urine and blood testing 254
materials when used by diabetics or persons with hypoglycemia to 255
test for glucose or acetone; hypodermic syringes and needles when 256
used by diabetics for insulin injections; epoetin alfa when 257
purchased for use in the treatment of persons with medical 258
disease; hospital beds when purchased by hospitals, nursing homes, 259
or other medical facilities; and medical oxygen and medical 260
oxygen-dispensing equipment when purchased by hospitals, nursing 261
homes, or other medical facilities; 262

(19) Sales of prosthetic devices, durable medical equipment 263
for home use, or mobility enhancing equipment, when made pursuant 264
to a prescription and when such devices or equipment are for use 265
by a human being. 266

(20) Sales of emergency and fire protection vehicles and 267
equipment to nonprofit organizations for use solely in providing 268
fire protection and emergency services, including trauma care and 269
emergency medical services, for political subdivisions of the 270
state; 271

(21) Sales of tangible personal property manufactured in this 272
state, if sold by the manufacturer in this state to a retailer for 273

use in the retail business of the retailer outside of this state 274
and if possession is taken from the manufacturer by the purchaser 275
within this state for the sole purpose of immediately removing the 276
same from this state in a vehicle owned by the purchaser; 277

(22) Sales of services provided by the state or any of its 278
political subdivisions, agencies, instrumentalities, institutions, 279
or authorities, or by governmental entities of the state or any of 280
its political subdivisions, agencies, instrumentalities, 281
institutions, or authorities; 282

(23) Sales of motor vehicles to nonresidents of this state 283
under the circumstances described in division (B) of section 284
5739.029 of the Revised Code; 285

(24) Sales to persons engaged in the preparation of eggs for 286
sale of tangible personal property used or consumed directly in 287
such preparation, including such tangible personal property used 288
for cleaning, sanitizing, preserving, grading, sorting, and 289
classifying by size; packages, including material and parts for 290
packages, and machinery, equipment, and material for use in 291
packaging eggs for sale; and handling and transportation equipment 292
and parts therefor, except motor vehicles licensed to operate on 293
public highways, used in intraplant or interplant transfers or 294
shipment of eggs in the process of preparation for sale, when the 295
plant or plants within or between which such transfers or 296
shipments occur are operated by the same person. "Packages" 297
includes containers, cases, baskets, flats, fillers, filler flats, 298
cartons, closure materials, labels, and labeling materials, and 299
"packaging" means placing therein. 300

(25)(a) Sales of water to a consumer for residential use, 301
except the sale of bottled water, distilled water, mineral water, 302
carbonated water, or ice; 303

(b) Sales of water by a nonprofit corporation engaged 304

exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	305 306 307
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	308 309
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	310 311 312 313
(a) To prepare food for human consumption for sale;	314
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	315 316 317 318
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	319 320
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	321 322
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	323 324 325 326
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	327 328 329
(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;	330 331 332
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are	333 334

primarily used for transporting tangible personal property 335
belonging to others by a person engaged in highway transportation 336
for hire, except for packages and packaging used for the 337
transportation of tangible personal property; 338

(33) Sales to the state headquarters of any veterans' 339
organization in this state that is either incorporated and issued 340
a charter by the congress of the United States or is recognized by 341
the United States veterans administration, for use by the 342
headquarters; 343

(34) Sales to a telecommunications service vendor, mobile 344
telecommunications service vendor, or satellite broadcasting 345
service vendor of tangible personal property and services used 346
directly and primarily in transmitting, receiving, switching, or 347
recording any interactive, one- or two-way electromagnetic 348
communications, including voice, image, data, and information, 349
through the use of any medium, including, but not limited to, 350
poles, wires, cables, switching equipment, computers, and record 351
storage devices and media, and component parts for the tangible 352
personal property. The exemption provided in this division shall 353
be in lieu of all other exemptions under division (B)(42)(a) of 354
this section to which the vendor may otherwise be entitled, based 355
upon the use of the thing purchased in providing the 356
telecommunications, mobile telecommunications, or satellite 357
broadcasting service. 358

(35)(a) Sales where the purpose of the consumer is to use or 359
consume the things transferred in making retail sales and 360
consisting of newspaper inserts, catalogues, coupons, flyers, gift 361
certificates, or other advertising material that prices and 362
describes tangible personal property offered for retail sale. 363

(b) Sales to direct marketing vendors of preliminary 364
materials such as photographs, artwork, and typesetting that will 365
be used in printing advertising material; of printed matter that 366

offers free merchandise or chances to win sweepstake prizes and 367
that is mailed to potential customers with advertising material 368
described in division (B)(35)(a) of this section; and of equipment 369
such as telephones, computers, facsimile machines, and similar 370
tangible personal property primarily used to accept orders for 371
direct marketing retail sales. 372

(c) Sales of automatic food vending machines that preserve 373
food with a shelf life of forty-five days or less by refrigeration 374
and dispense it to the consumer. 375

For purposes of division (B)(35) of this section, "direct 376
marketing" means the method of selling where consumers order 377
tangible personal property by United States mail, delivery 378
service, or telecommunication and the vendor delivers or ships the 379
tangible personal property sold to the consumer from a warehouse, 380
catalogue distribution center, or similar fulfillment facility by 381
means of the United States mail, delivery service, or common 382
carrier. 383

(36) Sales to a person engaged in the business of 384
horticulture or producing livestock of materials to be 385
incorporated into a horticulture structure or livestock structure; 386

(37) Sales of personal computers, computer monitors, computer 387
keyboards, modems, and other peripheral computer equipment to an 388
individual who is licensed or certified to teach in an elementary 389
or a secondary school in this state for use by that individual in 390
preparation for teaching elementary or secondary school students; 391

(38) Sales to a professional racing team of any of the 392
following: 393

(a) Motor racing vehicles; 394

(b) Repair services for motor racing vehicles; 395

(c) Items of property that are attached to or incorporated in 396

motor racing vehicles, including engines, chassis, and all other 397
components of the vehicles, and all spare, replacement, and 398
rebuilt parts or components of the vehicles; except not including 399
tires, consumable fluids, paint, and accessories consisting of 400
instrumentation sensors and related items added to the vehicle to 401
collect and transmit data by means of telemetry and other forms of 402
communication. 403

(39) Sales of used manufactured homes and used mobile homes, 404
as defined in section 5739.0210 of the Revised Code, made on or 405
after January 1, 2000; 406

(40) Sales of tangible personal property and services to a 407
provider of electricity used or consumed directly and primarily in 408
generating, transmitting, or distributing electricity for use by 409
others, including property that is or is to be incorporated into 410
and will become a part of the consumer's production, transmission, 411
or distribution system and that retains its classification as 412
tangible personal property after incorporation; fuel or power used 413
in the production, transmission, or distribution of electricity; 414
and tangible personal property and services used in the repair and 415
maintenance of the production, transmission, or distribution 416
system, including only those motor vehicles as are specially 417
designed and equipped for such use. The exemption provided in this 418
division shall be in lieu of all other exemptions in division 419
(B)(42)(a) of this section to which a provider of electricity may 420
otherwise be entitled based on the use of the tangible personal 421
property or service purchased in generating, transmitting, or 422
distributing electricity. 423

(41) Sales to a person providing services under division 424
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 425
personal property and services used directly and primarily in 426
providing taxable services under that section. 427

(42) Sales where the purpose of the purchaser is to do any of 428

the following: 429

(a) To incorporate the thing transferred as a material or a 430
part into tangible personal property to be produced for sale by 431
manufacturing, assembling, processing, or refining; or to use or 432
consume the thing transferred directly in producing tangible 433
personal property for sale by mining, including, without 434
limitation, the extraction from the earth of all substances that 435
are classed geologically as minerals, production of crude oil and 436
natural gas, farming, agriculture, horticulture, or floriculture, 437
or directly in the rendition of a public utility service, except 438
that the sales tax levied by this section shall be collected upon 439
all meals, drinks, and food for human consumption sold when 440
transporting persons. Persons engaged in rendering farming, 441
agricultural, horticultural, or floricultural services, and 442
services in the exploration for, and production of, crude oil and 443
natural gas, for others are deemed engaged directly in farming, 444
agriculture, horticulture, and floriculture, or exploration for, 445
and production of, crude oil and natural gas. This paragraph does 446
not exempt from "retail sale" or "sales at retail" the sale of 447
tangible personal property that is to be incorporated into a 448
structure or improvement to real property. 449

(b) To hold the thing transferred as security for the 450
performance of an obligation of the vendor; 451

(c) To resell, hold, use, or consume the thing transferred as 452
evidence of a contract of insurance; 453

(d) To use or consume the thing directly in commercial 454
fishing; 455

(e) To incorporate the thing transferred as a material or a 456
part into, or to use or consume the thing transferred directly in 457
the production of, magazines distributed as controlled circulation 458
publications; 459

(f) To use or consume the thing transferred in the production 460
and preparation in suitable condition for market and sale of 461
printed, imprinted, overprinted, lithographic, multilithic, 462
blueprinted, photostatic, or other productions or reproductions of 463
written or graphic matter; 464

(g) To use the thing transferred, as described in section 465
5739.011 of the Revised Code, primarily in a manufacturing 466
operation to produce tangible personal property for sale; 467

(h) To use the benefit of a warranty, maintenance or service 468
contract, or similar agreement, as described in division (B)(7) of 469
section 5739.01 of the Revised Code, to repair or maintain 470
tangible personal property, if all of the property that is the 471
subject of the warranty, contract, or agreement would not be 472
subject to the tax imposed by this section; 473

(i) To use the thing transferred as qualified research and 474
development equipment; 475

(j) To use or consume the thing transferred primarily in 476
storing, transporting, mailing, or otherwise handling purchased 477
sales inventory in a warehouse, distribution center, or similar 478
facility when the inventory is primarily distributed outside this 479
state to retail stores of the person who owns or controls the 480
warehouse, distribution center, or similar facility, to retail 481
stores of an affiliated group of which that person is a member, or 482
by means of direct marketing. This division does not apply to 483
motor vehicles registered for operation on the public highways. As 484
used in this division, "affiliated group" has the same meaning as 485
in division (B)(3)(e) of section 5739.01 of the Revised Code and 486
"direct marketing" has the same meaning as in division (B)(35) of 487
this section. 488

(k) To use or consume the thing transferred to fulfill a 489
contractual obligation incurred by a warrantor pursuant to a 490

warranty provided as a part of the price of the tangible personal 491
property sold or by a vendor of a warranty, maintenance or service 492
contract, or similar agreement the provision of which is defined 493
as a sale under division (B)(7) of section 5739.01 of the Revised 494
Code; 495

(1) To use or consume the thing transferred in the production 496
of a newspaper for distribution to the public; 497

(m) To use tangible personal property to perform a service 498
listed in division (B)(3) of section 5739.01 of the Revised Code, 499
if the property is or is to be permanently transferred to the 500
consumer of the service as an integral part of the performance of 501
the service. 502

As used in division (B)(42) of this section, "thing" includes 503
all transactions included in divisions (B)(3)(a), (b), and (e) of 504
section 5739.01 of the Revised Code. 505

(43) Sales conducted through a coin operated device that 506
activates vacuum equipment or equipment that dispenses water, 507
whether or not in combination with soap or other cleaning agents 508
or wax, to the consumer for the consumer's use on the premises in 509
washing, cleaning, or waxing a motor vehicle, provided no other 510
personal property or personal service is provided as part of the 511
transaction. 512

(44) Sales of replacement and modification parts for engines, 513
airframes, instruments, and interiors in, and paint for, aircraft 514
used primarily in a fractional aircraft ownership program, and 515
sales of services for the repair, modification, and maintenance of 516
such aircraft, and machinery, equipment, and supplies primarily 517
used to provide those services. 518

(45) Sales of telecommunications service that is used 519
directly and primarily to perform the functions of a call center. 520
As used in this division, "call center" means any physical 521

location where telephone calls are placed or received in high 522
volume for the purpose of making sales, marketing, customer 523
service, technical support, or other specialized business 524
activity, and that employs at least fifty individuals that engage 525
in call center activities on a full-time basis, or sufficient 526
individuals to fill fifty full-time equivalent positions. 527

(46) Sales by a telecommunications service vendor of 900 528
service to a subscriber. This division does not apply to 529
information services, as defined in division (FF) of section 530
5739.01 of the Revised Code. 531

(47) Sales of value-added non-voice data service. This 532
division does not apply to any similar service that is not 533
otherwise a telecommunications service. 534

(48) Sales of natural gas, if the natural gas is delivered to 535
a consumer through pipes or conduits, and sales of propane. 536

(C) For the purpose of the proper administration of this 537
chapter, and to prevent the evasion of the tax, it is presumed 538
that all sales made in this state are subject to the tax until the 539
contrary is established. 540

(D) The levy of this tax on retail sales of recreation and 541
sports club service shall not prevent a municipal corporation from 542
levying any tax on recreation and sports club dues or on any 543
income generated by recreation and sports club dues. 544

(E) The tax collected by the vendor from the consumer under 545
this chapter is not part of the price, but is a tax collection for 546
the benefit of the state, and of counties levying an additional 547
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 548
Code and of transit authorities levying an additional sales tax 549
pursuant to section 5739.023 of the Revised Code. Except for the 550
discount authorized under section 5739.12 of the Revised Code and 551
the effects of any rounding pursuant to section 5703.055 of the 552

Revised Code, no person other than the state or such a county or 553
transit authority shall derive any benefit from the collection or 554
payment of the tax levied by this section or section 5739.021, 555
5739.023, or 5739.026 of the Revised Code. 556

Section 2. That existing section 5739.02 of the Revised Code 557
is hereby repealed. 558