

As Reported by the House Ways and Means Committee

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Sub. H. B. No. 429

Representative Gibbs

**Cosponsors: Representatives Schindel, Bolon, Foley, Hagan, J., Letson,
Patton**

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A B I L L

To amend sections 5739.033, 5739.034, and 5739.24 of 1
the Revised Code and later to repeal sections 2
5739.035, 5739.213, 5739.24, and 5741.10 of the 3
Revised Code to require vendors to utilize 4
origin-based sourcing for intrastate sales 5
beginning January 1, 2010, to discontinue 6
compensation of impacted counties for sales tax 7
losses incurred under destination-based sourcing, 8
and to authorize the Tax Commissioner to 9
compensate vendors required to convert from 10
destination-based sourcing to origin-based 11
sourcing. 12

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

Section 1. That sections 5739.033, 5739.034, and 5739.24 of 13
the Revised Code be amended to read as follows: 14

Sec. 5739.033. (A) ~~Except as provided in division (B) of this~~ 15
~~section, divisions (C) to (I) of this section apply to sales made~~ 16
~~on and after January 1, 2008. Any vendor previously required to~~ 17
~~comply with divisions (C) to (I) of this section and any vendor~~ 18

~~that irrevocably elects to comply with divisions (C) to (I) of
this section for all of the vendor's sales and places of business
in this state shall continue to source its sales under those
divisions.~~

The amount of tax due pursuant to sections 5739.02, 5739.021,
5739.023, and 5739.026 of the Revised Code is the sum of the taxes
imposed pursuant to those sections at the sourcing location of the
sale as determined under this section or, if applicable, under
division (C) of section 5739.031 or section 5739.034 of the
Revised Code, ~~or at the situs of the sale as determined under
section 5739.035 of the Revised Code.~~ This section applies only to
a vendor's or seller's obligation to collect and remit sales taxes
under section 5739.02, 5739.021, 5739.023, or 5739.026 of the
Revised Code or use taxes under section 5741.02, 5741.021,
5741.022, or 5741.023 of the Revised Code. Division (A) of this
section does not apply in determining the jurisdiction for which
sellers are required to collect the use tax under section 5741.05
of the Revised Code. This section does not affect the obligation
of a consumer to remit use taxes on the storage, use, or other
consumption of tangible personal property or on the benefit
realized of any service provided, to the jurisdiction of that
storage, use, or consumption, or benefit realized.

~~(B)(1) As used in this division:~~

~~(a) "Delivery sale" means the taxable sale of tangible
personal property or a service that is received by a consumer, or
a donee designated by the consumer, in a taxing jurisdiction that
is not the taxing jurisdiction in which the vendor has a fixed
place of business.~~

~~(b) "Agreement" has the same meaning as in section 5740.01 of
the Revised Code.~~

~~(c) "Governing board" has the same meaning as in section~~

~~5740.02 of the Revised Code.~~ 50

~~(2) If the tax commissioner does not make the certification 51
under section 5740.10 of the Revised Code, a vendor that is not 52
required by division (A) of this section to situs sales under 53
divisions (C) to (I) of this section on the date of the 54
commissioner's certification may continue after that date to situs 55
its sales under section 5739.035 of the Revised Code unless it is 56
required, under division (B)(5) of this section, to situs its 57
sales under divisions (C) to (I) of this section. 58~~

~~(3) Except as otherwise provided in divisions (B)(4) and (5) 59
of this section, a vendor with total delivery sales within this 60
state in prior calendar years, beginning with calendar year 2007, 61
of less than five hundred thousand dollars may situs its sales 62
under section 5739.035 of the Revised Code. 63~~

~~(4) Once a vendor has total delivery sales in this state of 64
five hundred thousand dollars or more for a prior calendar year, 65
the vendor shall source its sales under divisions (C) to (I) of 66
this section and shall continue to source its sales under those 67
divisions regardless of the amount of the vendor's total delivery 68
sales in future years. 69~~

~~(5) A vendor permitted under division (B)(3) of this section 70
to situs its sales under section 5739.035 of the Revised Code that 71
fails to provide, absent a clerical error, the notices required 72
under division (I)(1) of section 5739.035 of the Revised Code 73
shall situs all subsequent sales as required under divisions (C) 74
to (I) of this section Beginning January 1, 2010, the situs of 75
retail sales, excluding lease or rental, of tangible personal 76
property or digital goods shall be sourced to the location where 77
the vendor receives the order if: 78~~

~~(a) The vendor receives the order in the same state in which 79
the consumer receives the property or goods; 80~~

(b) The location where the consumer receives the property or goods is determined under division (C)(2), (3), or (4) of this section; and 81
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(c) The record-keeping system used by the vendor to calculate the tax imposed captures the location where the order is received at the time the order is received. 84
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(2) A consumer has no additional liability to this state for tax, penalty, or interest on a sale for which the consumer remits tax to the vendor in the amount invoiced by the vendor if the invoice amount is calculated at either the rate applicable to the location where the consumer receives the product or digital good or at the rate applicable to the location where the order is received by the vendor. A consumer may rely on a written representation by the vendor as to the location where the order for the sale was received by the vendor. If the consumer does not have a written representation by the vendor as to the location where the order was received by the vendor, the consumer may use a location indicated by a business address for the vendor that is available from records that are maintained in the ordinary course of the consumer's business to determine the rate applicable to the location where the order was received. 87
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(3) For the purposes of division (B) of this section, the location where an order is received by or on behalf of a vendor means the physical location of the vendor or a third party such as an established outlet, office location, or automated order receipt system operated by or on behalf of the vendor, where an order is initially received by or on behalf of the vendor, and not where the order may be subsequently accepted, completed, or fulfilled. An order is received when all necessary information to determine whether the order can be accepted has been received by or on behalf of the vendor. The location from which a product is shipped shall not be used to determine the location where the order is 102
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received by the vendor. 113

(4) For the purposes of division (B) of this section, if 114
services subject to taxation under this chapter or Chapter 5741. 115
of the Revised Code are sold with tangible personal property or 116
digital goods pursuant to a single contract or in the same 117
transaction, the services are billed on the same billing statement 118
or invoice, and, because of the application of this section, the 119
transaction would be sourced to more than one jurisdiction, the 120
situs of the transaction shall be the location where the order is 121
received by or on behalf of the vendor. 122

(C) Except for sales, other than leases, of titled motor 123
vehicles, titled watercraft, or titled outboard motors as provided 124
in section 5741.05 of the Revised Code, or as otherwise provided 125
in this section and section 5739.034 of the Revised Code, all 126
sales shall be sourced as follows: 127

(1) If the consumer or a donee designated by the consumer 128
receives tangible personal property or a service at a vendor's 129
place of business, the sale shall be sourced to that place of 130
business. 131

(2) When the tangible personal property or service is not 132
received at a vendor's place of business, the sale shall be 133
sourced to the location known to the vendor where the consumer or 134
the donee designated by the consumer receives the tangible 135
personal property or service, including the location indicated by 136
instructions for delivery to the consumer or the consumer's donee. 137

(3) If divisions (C)(1) and (2) of this section do not apply, 138
the sale shall be sourced to the location indicated by an address 139
for the consumer that is available from the vendor's business 140
records that are maintained in the ordinary course of the vendor's 141
business, when use of that address does not constitute bad faith. 142

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

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

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

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this section, a business consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases a digital good, computer software, except computer software received in person by a business consumer at a vendor's place of business, or a service, and that knows at the time of purchase that such digital good, software, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase an exemption certificate claiming multiple points of use, or shall meet the requirements of division (D)(2) of this section. On receipt of the exemption certificate claiming multiple points of use, the vendor is relieved of its obligation to collect, pay, or remit the tax due, and the business consumer must pay the tax directly to the state.

(b) A business consumer that delivers the exemption 176
certificate claiming multiple points of use to a vendor may use 177
any reasonable, consistent, and uniform method of apportioning the 178
tax due on the digital good, computer software, or service that is 179
supported by the consumer's business records as they existed at 180
the time of the sale. The business consumer shall report and pay 181
the appropriate tax to each jurisdiction where concurrent use 182
occurs. The tax due shall be calculated as if the apportioned 183
amount of the digital good, computer software, or service had been 184
delivered to each jurisdiction to which the sale is apportioned 185
under this division. 186

(c) The exemption certificate claiming multiple points of use 187
shall remain in effect for all future sales by the vendor to the 188
business consumer until it is revoked in writing by the business 189
consumer, except as to the business consumer's specific 190
apportionment of a subsequent sale under division (D)(1)(b) of 191
this section and the facts existing at the time of the sale. 192

(2) When the vendor knows that a digital good, computer 193
software, or service sold will be concurrently available for use 194
by the business consumer in more than one jurisdiction, but the 195
business consumer does not provide an exemption certificate 196
claiming multiple points of use as required by division (D)(1) of 197
this section, the vendor may work with the business consumer to 198
produce the correct apportionment. Governed by the principles of 199
division (D)(1)(b) of this section, the vendor and business 200
consumer may use any reasonable, but consistent and uniform, 201
method of apportionment that is supported by the vendor's and 202
business consumer's books and records as they exist at the time 203
the sale is reported for purposes of the taxes levied under this 204
chapter. If the business consumer certifies to the accuracy of the 205
apportionment and the vendor accepts the certification, the vendor 206
shall collect and remit the tax accordingly. In the absence of bad 207

faith, the vendor is relieved of any further obligation to collect 208
tax on any transaction where the vendor has collected tax pursuant 209
to the information certified by the business consumer. 210

(3) When the vendor knows that the digital good, computer 211
software, or service will be concurrently available for use in 212
more than one jurisdiction, and the business consumer does not 213
have a direct pay permit and does not provide to the vendor an 214
exemption certificate claiming multiple points of use as required 215
in division (D)(1) of this section, or certification pursuant to 216
division (D)(2) of this section, the vendor shall collect and 217
remit the tax based on division (C) of this section. 218

(4) Nothing in this section shall limit a person's obligation 219
for sales or use tax to any state in which a digital good, 220
computer software, or service is concurrently available for use, 221
nor limit a person's ability under local, state, or federal law, 222
to claim a credit for sales or use taxes legally due and paid to 223
other jurisdictions. 224

(E) A person who holds a direct payment permit issued under 225
section 5739.031 of the Revised Code is not required to deliver an 226
exemption certificate claiming multiple points of use to a vendor. 227
But such permit holder shall comply with division (D)(2) of this 228
section in apportioning the tax due on a digital good, computer 229
software, or a service for use in business that will be 230
concurrently available for use in more than one taxing 231
jurisdiction. 232

(F)(1) Notwithstanding divisions (C)(1) to (5) of this 233
section, the consumer of direct mail that is not a holder of a 234
direct payment permit shall provide to the vendor in conjunction 235
with the sale either an exemption certificate claiming direct mail 236
prescribed by the tax commissioner, or information to show the 237
jurisdictions to which the direct mail is delivered to recipients. 238

(2) Upon receipt of such exemption certificate, the vendor is 239
relieved of all obligations to collect, pay, or remit the 240
applicable tax and the consumer is obligated to pay that tax on a 241
direct pay basis. An exemption certificate claiming direct mail 242
shall remain in effect for all future sales of direct mail by the 243
vendor to the consumer until it is revoked in writing. 244

(3) Upon receipt of information from the consumer showing the 245
jurisdictions to which the direct mail is delivered to recipients, 246
the vendor shall collect the tax according to the delivery 247
information provided by the consumer. In the absence of bad faith, 248
the vendor is relieved of any further obligation to collect tax on 249
any transaction where the vendor has collected tax pursuant to the 250
delivery information provided by the consumer. 251

(4) If the consumer of direct mail does not have a direct 252
payment permit and does not provide the vendor with either an 253
exemption certificate claiming direct mail or delivery information 254
as required by division (F)(1) of this section, the vendor shall 255
collect the tax according to division (C)(5) of this section. 256
Nothing in division (F)(4) of this section shall limit a 257
consumer's obligation to pay sales or use tax to any state to 258
which the direct mail is delivered. 259

(5) If a consumer of direct mail provides the vendor with 260
documentation of direct payment authority, the consumer shall not 261
be required to provide an exemption certificate claiming direct 262
mail or delivery information to the vendor. 263

(G) If the vendor provides lodging to transient guests as 264
specified in division (B)(2) of section 5739.01 of the Revised 265
Code, the sale shall be sourced to the location where the lodging 266
is located. 267

(H)(1) As used in this division and division (I) of this 268
section, "transportation equipment" means any of the following: 269

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.	270 271
(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.	272 273 274 275 276 277 278 279
(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.	280 281 282 283
(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (H)(1)(a), (b), or (c) of this section.	284 285 286
(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (C) of this section.	287 288
(I)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (C) of this section.	289 290 291
(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:	292 293
(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, or an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced as follows:	294 295 296 297
(i) An accelerated tax payment on a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code	298 299

shall be sourced to the primary property location at the time the 300
lease or rental is consummated. Any subsequent taxable charges on 301
the lease or rental shall be sourced to the primary property 302
location for the period in which the charges are incurred. 303

(ii) For a lease or rental taxed pursuant to division (A)(3) 304
of section 5739.02 of the Revised Code, each lease or rental 305
installment shall be sourced to the primary property location for 306
the period covered by the installment. 307

(b) In the case of a lease or rental of all other tangible 308
personal property, other than transportation equipment, such lease 309
or rental shall be sourced as follows: 310

(i) An accelerated tax payment on a lease or rental that is 311
taxed pursuant to division (A)(2) of section 5739.02 of the 312
Revised Code shall be sourced pursuant to division (C) of this 313
section at the time the lease or rental is consummated. Any 314
subsequent taxable charges on the lease or rental shall be sourced 315
to the primary property location for the period in which the 316
charges are incurred. 317

(ii) For a lease or rental that is taxed pursuant to division 318
(A)(3) of section 5739.02 of the Revised Code, the initial lease 319
or rental installment shall be sourced pursuant to division (C) of 320
this section. Each subsequent installment shall be sourced to the 321
primary property location for the period covered by the 322
installment. 323

(3) As used in division (I) of this section, "primary 324
property location" means an address for tangible personal property 325
provided by the lessee or renter that is available to the lessor 326
or owner from its records maintained in the ordinary course of 327
business, when use of that address does not constitute bad faith. 328

Sec. 5739.034. (A) As used in this section: 329

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

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

(3) "Customer" means the person or entity that contracts with a seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or of mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(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.

(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.

(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.

(7) "Post-paid calling service" means the telecommunications

service obtained by making a payment on a call-by-call basis 361
either through the use of a credit card or payment mechanism such 362
as a bank card, travel card, credit card, or debit card, or by 363
charge made to a telephone number that is not associated with the 364
origination or termination of the telecommunications service. 365
"Post-paid calling service" includes a telecommunications service, 366
except a prepaid wireless calling service, that would be a prepaid 367
calling service, but for the fact that it is not exclusively a 368
telecommunications service. 369

(8) "Prepaid calling service" and "prepaid wireless calling 370
service" have the same meanings as in section 5739.01 of the 371
Revised Code. 372

(9) "Service address" means: 373

(a) The location of the telecommunications equipment to which 374
a customer's call is charged and from which the call originates or 375
terminates, regardless of where the call is billed or paid. 376

(b) If the location in division (A)(9)(a) of this section is 377
not known, "service address" means the origination point of the 378
signal of the telecommunications service first identified by 379
either the seller's telecommunications system or in information 380
received by the seller from its service provider, where the system 381
used to transport such signals is not that of the seller. 382

(c) If the locations in divisions (A)(9)(a) and (b) of this 383
section are not known, "service address" means the location of the 384
customer's place of primary use. 385

(10) "Private communication service" means a 386
telecommunications service that entitles a customer to exclusive 387
or priority use of a communications channel or group of channels 388
between or among termination points, regardless of the manner in 389
which the channel or channels are connected, and includes 390
switching capacity, extension lines, stations, and any other 391

associated services that are provided in connection with the use 392
of such channel or channels. 393

(B) The amount of tax due pursuant to sections 5739.02, 394
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 395
telecommunications service, information service, or mobile 396
telecommunications service, is the sum of the taxes imposed 397
pursuant to those sections at the sourcing location of the sale as 398
determined under this section. 399

(C) Except for the telecommunications services described in 400
division (E) of this section, the sale of telecommunications 401
service sold on a call-by-call basis shall be sourced to each 402
level of taxing jurisdiction where the call originates and 403
terminates in that jurisdiction, or each level of taxing 404
jurisdiction where the call either originates or terminates and in 405
which the service address also is located. 406

(D) Except for the telecommunications services described in 407
division (E) of this section, a sale of telecommunications 408
services sold on a basis other than a call-by-call basis shall be 409
sourced to the customer's place of primary use. 410

(E) The sale of the following telecommunications services 411
shall be sourced to each level of taxing jurisdiction, as follows: 412

(1) A sale of mobile telecommunications service, other than 413
air-to-ground radiotelephone service and prepaid calling service, 414
shall be sourced to the customer's place of primary use as 415
required by the Mobile Telecommunications Sourcing Act. 416

(2) A sale of post-paid calling service shall be sourced to 417
the origination point of the telecommunications signal as first 418
identified by the service provider's telecommunications system, or 419
information received by the seller from its service provider, 420
where the system used to transport such signals is not that of the 421
seller. 422

(3) A sale of prepaid calling service or prepaid wireless 423
calling service shall be sourced under division (C) of section 424
5739.033 of the Revised Code ~~or, if permitted by division (B) of~~ 425
~~that section, shall be situated under section 5739.035 of the~~ 426
~~Revised Code.~~ But in the case of prepaid wireless calling service, 427
in lieu of sourcing the sale of the service under division (C)(5) 428
of section 5739.033 of the Revised Code, the service provider may 429
elect to source the sale to the location associated with the 430
mobile telephone number. 431

(4) A sale of a private communication service shall be 432
sourced as follows: 433

(a) Service for a separate charge related to a customer 434
channel termination point shall be sourced to each level of 435
jurisdiction in which the customer channel termination point is 436
located; 437

(b) Service where all customer channel termination points are 438
located entirely within one jurisdiction or level of jurisdiction 439
shall be sourced in the jurisdiction in which the customer channel 440
termination points are located; 441

(c) Service for segments of a channel between two customer 442
channel termination points located in different jurisdictions and 443
which segments of a channel are separately charged shall be 444
sourced fifty per cent in each level of jurisdiction in which the 445
customer channel termination points are located; 446

(d) Service for segments of a channel located in more than 447
one jurisdiction or level of jurisdiction and which segments are 448
not separately billed shall be sourced in each jurisdiction based 449
on the percentage determined by dividing the number of customer 450
channel termination points in the jurisdiction by the total number 451
of customer channel termination points. 452

Sec. 5739.24. (A) As used in this section: 453

(1) "Destination-based sourcing requirements" has the same 454
meaning as in section 5739.123 of the Revised Code. 455

(2) "Impacted county" means a county having a population of 456
less than seventy-five thousand as of the decennial census of 2000 457
taken by the United States census bureau. 458

(3) "Master account holder" means a person that holds more 459
than one vendor's license under division (A) of section 5739.17 of 460
the Revised Code, operates in multiple tax jurisdictions under the 461
same ownership, and files or is required to file a consolidated 462
return under section 5739.12 of the Revised Code. 463

(4) "Tax jurisdiction" means a county or, if applicable, the 464
portion of a county in which a transit authority has territory. 465

(B)(1) Beginning in 2006 and ending January 31, 2009, within 466
thirty days after the thirtieth day of June and the thirty-first 467
day of December of each year, a master account holder that makes a 468
sale that is subject to the destination-based sourcing 469
requirements shall file with the tax commissioner a report that 470
details the total taxable sales it made for the prior six-month 471
period in each tax jurisdiction and at each fixed place of 472
business for which the master account holder holds or should hold 473
a license, irrespective of where those sales were sourced under 474
those requirements. The commissioner may extend the time for 475
filing the report under this section. 476

(2) If the report required by division (B)(1) of this section 477
is not timely filed by a master account holder, the tax 478
commissioner shall mail notice of a delinquent report to the 479
holder. In addition to any other penalties or additional charges 480
imposed under this chapter, the commissioner may impose a penalty 481
of up to fifty dollars for each fixed place of business of the 482

master account holder. If the report is filed within fifteen days 483
after the commissioner mails the delinquency notice, the penalty 484
may be remitted in full or in part by the commissioner. But if the 485
master account holder fails to file the report within fifteen days 486
after the commissioner mails the notice, the commissioner shall 487
impose a penalty of up to one hundred dollars for each fixed place 488
of business of the master account holder. This penalty may not be 489
remitted in full by the commissioner. A penalty imposed under this 490
division is subject to collection and assessment in the same 491
manner as any tax levied under this chapter. 492

(C)(1) Beginning in 2006 and ending April 17, 2009, within 493
seventy-five days after the thirty-first day of July each year and 494
the thirty-first day of January of the following year, the tax 495
commissioner shall determine for each county both of the 496
following: 497

(a) The amount of taxes reported on returns filed by all 498
vendors licensed under division (A) of section 5739.17 of the 499
Revised Code that were levied by sections 5739.021 and 5739.026 of 500
the Revised Code and were reported as due in accordance with the 501
destination-based sourcing requirements; 502

(b) The amount of taxes levied by those sections that would 503
have been paid to the county by vendors licensed under division 504
(A) of section 5739.17 of the Revised Code if the taxes had been 505
collected in accordance with section 5739.035 of the Revised Code, 506
as that section exists when the determination is made. 507

The commissioner may make any adjustments that are necessary 508
to account for delinquent tax returns or reports. 509

(2) In making the determination required by division (C)(1) 510
of this section, the commissioner shall use the lesser of the 511
county's tax rate in effect as of January 1, 2006, or the actual 512
tax rate in effect for the six-month period for which the 513

compensation was calculated. 514

(3) The commissioner also shall calculate the percentage 515
difference between the amounts determined under divisions 516
(C)(1)(a) and (b) of this section by using a fraction, with the 517
amount determined under division (C)(1)(a) of this section in the 518
numerator, and the amount determined under division (C)(1)(b) of 519
this section in the denominator. 520

(D)(1) If the percentage difference calculated under division 521
(C)(3) of this section for a county is ninety-six per cent or 522
less, and the county is an impacted county under this section, the 523
county shall receive compensation. Beginning in 2006 and ending 524
May 1, 2009, within ninety days after the thirty-first day of July 525
each year and the thirty-first day of January of the following 526
year, the tax commissioner, in the next ensuing payment to be made 527
under division (B)(1) of section 5739.21 of the Revised Code, 528
shall in addition provide from the general revenue fund to such 529
county compensation in the amount of ninety-eight per cent of the 530
denominator calculated under division (C)(3) of this section, 531
minus the numerator calculated under division (C)(3) of this 532
section. 533

(2) A county that is entitled to compensation under division 534
(D)(1) of this section may request an advance payment of that 535
compensation. The commissioner shall adopt rules that establish 536
the manner by which such county may make the request and the 537
method the commissioner will use to determine the amount of the 538
advance payment to be made to the county. Compensation provided 539
under division (D)(1) of this section shall be adjusted 540
accordingly to account for advance payments made under division 541
(D)(2) of this section. 542

(E) If, under division (C)(1) of this section, the tax 543
commissioner determines that a county received more taxes under 544
the destination-based sourcing requirements than it would have 545

received if taxes had been paid in accordance with section 546
5739.035 of the Revised Code, as that section existed when the 547
determination was made, the county is a windfall county under this 548
division. Beginning in 2006, within ninety days after the 549
thirty-first day of July each year and the thirty-first day of 550
January of the following year, the commissioner, in the next 551
ensuing payment to be made under division (B)(1) of section 552
5739.21 of the Revised Code, shall reduce the amount to be 553
returned to each windfall county by the total amount of excess 554
taxes that would have been received by all windfall counties in 555
proportion to the total amount needed to compensate counties under 556
division (D) of this section. 557

(F) The commissioner shall make available to the public the 558
determinations made under division (C) of this section, but any 559
data obtained from taxpayers under this section or that would 560
identify those taxpayers shall remain confidential. 561

(G) There is hereby created the county compensation tax study 562
committee. The committee shall consist of the following seven 563
members: the tax commissioner, three members of the senate 564
appointed by the president of the senate, and three members of the 565
house of representatives appointed by the speaker of the house of 566
representatives. The appointments shall be made not later than 567
January 31, 2007. The tax commissioner shall be the chairperson of 568
the committee and the department of taxation shall provide any 569
information and assistance that is required by the committee to 570
carry out its duties. The committee shall study the extent to 571
which each county has been impacted by the destination-based 572
sourcing requirements. Not later than June 30, 2007, the committee 573
shall issue a report of its findings and shall make 574
recommendations to the president of the senate and the speaker of 575
the house of representatives, at which time the committee shall 576
cease to exist. 577

Section 2. That existing sections 5739.033, 5739.034, and 578
5739.24 of the Revised Code are hereby repealed. 579

Section 3. That section 5739.24 of the Revised Code is hereby 580
repealed effective May 1, 2009. No payments or reductions in 581
payments required by division (D) of section 5739.24 of the 582
Revised Code shall be effected after May 1, 2009. No request for 583
an advance of the payment that, but for this act, would have been 584
made after May 1, 2009, shall be honored. 585

Section 4. That the amendment by this act of sections 586
5739.033 and 5739.034 of the Revised Code shall take effect 587
January 1, 2010. 588

Section 5. The Tax Commissioner is hereby authorized to 589
devise and implement, not later than January 1, 2010, a plan to 590
compensate vendors that are required to convert from 591
destination-based sourcing to origin-based sourcing for 592
transactions occurring within this state as provided under 593
division (B) of section 5739.033 of the Revised Code, as amended 594
by this act. 595

Section 6. That a vendor may source sales in the manner 596
prescribed by division (B)(1) of section 5739.033 of the Revised 597
Code, as amended by this act, before the effective date specified 598
in Section 4 of this act. Once a vendor sources sales in the 599
manner so prescribed the vendor shall continue to source all sales 600
described in that division as so prescribed. 601

Section 7. That sections 5739.035, 5739.213, and 5741.10 of 602
the Revised Code are hereby repealed effective January 1, 2010. 603

Section 8. Section 5739.034 of the Revised Code is presented 604

in this act as a composite of the section as amended by both Am. 605
Sub. H.B. 66 and Am. Sub. S.B. 26 of the 126th General Assembly. 606
The General Assembly, applying the principle stated in division 607
(B) of section 1.52 of the Revised Code that amendments are to be 608
harmonized if reasonably capable of simultaneous operation, finds 609
that the composite is the resulting version of the section in 610
effect prior to the effective date of the section as presented in 611
this act. 612