

As Introduced

**129th General Assembly
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H. B. No. 394

Representative Maag

Cosponsors: Representatives Boose, Adams, J., Brenner, Combs, Letson

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A B I L L

To amend section 5739.02 of the Revised Code to 1
exempt from sales and use taxes the sale or use of 2
investment metal bullion and coins. 3

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

Section 1. That section 5739.02 of the Revised Code be 4
amended to read as follows: 5

Sec. 5739.02. For the purpose of providing revenue with which 6
to meet the needs of the state, for the use of the general revenue 7
fund of the state, for the purpose of securing a thorough and 8
efficient system of common schools throughout the state, for the 9
purpose of affording revenues, in addition to those from general 10
property taxes, permitted under constitutional limitations, and 11
from other sources, for the support of local governmental 12
functions, and for the purpose of reimbursing the state for the 13
expense of administering this chapter, an excise tax is hereby 14
levied on each retail sale made in this state. 15

(A)(1) The tax shall be collected as provided in section 16
5739.025 of the Revised Code. The rate of the tax shall be five 17
and one-half per cent. The tax applies and is collectible when the 18
sale is made, regardless of the time when the price is paid or 19

delivered. 20

(2) In the case of the lease or rental, with a fixed term of 21
more than thirty days or an indefinite term with a minimum period 22
of more than thirty days, of any motor vehicles designed by the 23
manufacturer to carry a load of not more than one ton, watercraft, 24
outboard motor, or aircraft, or of any tangible personal property, 25
other than motor vehicles designed by the manufacturer to carry a 26
load of more than one ton, to be used by the lessee or renter 27
primarily for business purposes, the tax shall be collected by the 28
vendor at the time the lease or rental is consummated and shall be 29
calculated by the vendor on the basis of the total amount to be 30
paid by the lessee or renter under the lease agreement. If the 31
total amount of the consideration for the lease or rental includes 32
amounts that are not calculated at the time the lease or rental is 33
executed, the tax shall be calculated and collected by the vendor 34
at the time such amounts are billed to the lessee or renter. In 35
the case of an open-end lease or rental, the tax shall be 36
calculated by the vendor on the basis of the total amount to be 37
paid during the initial fixed term of the lease or rental, and for 38
each subsequent renewal period as it comes due. As used in this 39
division, "motor vehicle" has the same meaning as in section 40
4501.01 of the Revised Code, and "watercraft" includes an outdrive 41
unit attached to the watercraft. 42

A lease with a renewal clause and a termination penalty or 43
similar provision that applies if the renewal clause is not 44
exercised is presumed to be a sham transaction. In such a case, 45
the tax shall be calculated and paid on the basis of the entire 46
length of the lease period, including any renewal periods, until 47
the termination penalty or similar provision no longer applies. 48
The taxpayer shall bear the burden, by a preponderance of the 49
evidence, that the transaction or series of transactions is not a 50
sham transaction. 51

(3) Except as provided in division (A)(2) of this section, in 52
the case of a sale, the price of which consists in whole or in 53
part of the lease or rental of tangible personal property, the tax 54
shall be measured by the installments of that lease or rental. 55

(4) In the case of a sale of a physical fitness facility 56
service or recreation and sports club service, the price of which 57
consists in whole or in part of a membership for the receipt of 58
the benefit of the service, the tax applicable to the sale shall 59
be measured by the installments thereof. 60

(B) The tax does not apply to the following: 61

(1) Sales to the state or any of its political subdivisions, 62
or to any other state or its political subdivisions if the laws of 63
that state exempt from taxation sales made to this state and its 64
political subdivisions; 65

(2) Sales of food for human consumption off the premises 66
where sold; 67

(3) Sales of food sold to students only in a cafeteria, 68
dormitory, fraternity, or sorority maintained in a private, 69
public, or parochial school, college, or university; 70

(4) Sales of newspapers and of magazine subscriptions and 71
sales or transfers of magazines distributed as controlled 72
circulation publications; 73

(5) The furnishing, preparing, or serving of meals without 74
charge by an employer to an employee provided the employer records 75
the meals as part compensation for services performed or work 76
done; 77

(6) Sales of motor fuel upon receipt, use, distribution, or 78
sale of which in this state a tax is imposed by the law of this 79
state, but this exemption shall not apply to the sale of motor 80
fuel on which a refund of the tax is allowable under division (A) 81

of section 5735.14 of the Revised Code; and the tax commissioner 82
may deduct the amount of tax levied by this section applicable to 83
the price of motor fuel when granting a refund of motor fuel tax 84
pursuant to division (A) of section 5735.14 of the Revised Code 85
and shall cause the amount deducted to be paid into the general 86
revenue fund of this state; 87

(7) Sales of natural gas by a natural gas company, of water 88
by a water-works company, or of steam by a heating company, if in 89
each case the thing sold is delivered to consumers through pipes 90
or conduits, and all sales of communications services by a 91
telegraph company, all terms as defined in section 5727.01 of the 92
Revised Code, and sales of electricity delivered through wires; 93

(8) Casual sales by a person, or auctioneer employed directly 94
by the person to conduct such sales, except as to such sales of 95
motor vehicles, watercraft or outboard motors required to be 96
titled under section 1548.06 of the Revised Code, watercraft 97
documented with the United States coast guard, snowmobiles, and 98
all-purpose vehicles as defined in section 4519.01 of the Revised 99
Code; 100

(9)(a) Sales of services or tangible personal property, other 101
than motor vehicles, mobile homes, and manufactured homes, by 102
churches, organizations exempt from taxation under section 103
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 104
organizations operated exclusively for charitable purposes as 105
defined in division (B)(12) of this section, provided that the 106
number of days on which such tangible personal property or 107
services, other than items never subject to the tax, are sold does 108
not exceed six in any calendar year, except as otherwise provided 109
in division (B)(9)(b) of this section. If the number of days on 110
which such sales are made exceeds six in any calendar year, the 111
church or organization shall be considered to be engaged in 112
business and all subsequent sales by it shall be subject to the 113

tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

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

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

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

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

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or 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 145
improvement of health through the alleviation of illness, disease, 146
or injury; the operation of an organization exclusively for the 147
provision of professional, laundry, printing, and purchasing 148
services to hospitals or charitable institutions; the operation of 149
a home for the aged, as defined in section 5701.13 of the Revised 150
Code; the operation of a radio or television broadcasting station 151
that is licensed by the federal communications commission as a 152
noncommercial educational radio or television station; the 153
operation of a nonprofit animal adoption service or a county 154
humane society; the promotion of education by an institution of 155
learning that maintains a faculty of qualified instructors, 156
teaches regular continuous courses of study, and confers a 157
recognized diploma upon completion of a specific curriculum; the 158
operation of a parent-teacher association, booster group, or 159
similar organization primarily engaged in the promotion and 160
support of the curricular or extracurricular activities of a 161
primary or secondary school; the operation of a community or area 162
center in which presentations in music, dramatics, the arts, and 163
related fields are made in order to foster public interest and 164
education therein; the production of performances in music, 165
dramatics, and the arts; or the promotion of education by an 166
organization engaged in carrying on research in, or the 167
dissemination of, scientific and technological knowledge and 168
information primarily for the public. 169

Nothing in this division shall be deemed to exempt sales to 170
any organization for use in the operation or carrying on of a 171
trade or business, or sales to a home for the aged for use in the 172
operation of independent living facilities as defined in division 173
(A) of section 5709.12 of the Revised Code. 174

(13) Building and construction materials and services sold to 175
construction contractors for incorporation into a structure or 176

improvement to real property under a construction contract with 177
this state or a political subdivision of this state, or with the 178
United States government or any of its agencies; building and 179
construction materials and services sold to construction 180
contractors for incorporation into a structure or improvement to 181
real property that are accepted for ownership by this state or any 182
of its political subdivisions, or by the United States government 183
or any of its agencies at the time of completion of the structures 184
or improvements; building and construction materials sold to 185
construction contractors for incorporation into a horticulture 186
structure or livestock structure for a person engaged in the 187
business of horticulture or producing livestock; building 188
materials and services sold to a construction contractor for 189
incorporation into a house of public worship or religious 190
education, or a building used exclusively for charitable purposes 191
under a construction contract with an organization whose purpose 192
is as described in division (B)(12) of this section; building 193
materials and services sold to a construction contractor for 194
incorporation into a building under a construction contract with 195
an organization exempt from taxation under section 501(c)(3) of 196
the Internal Revenue Code of 1986 when the building is to be used 197
exclusively for the organization's exempt purposes; building and 198
construction materials sold for incorporation into the original 199
construction of a sports facility under section 307.696 of the 200
Revised Code; building and construction materials and services 201
sold to a construction contractor for incorporation into real 202
property outside this state if such materials and services, when 203
sold to a construction contractor in the state in which the real 204
property is located for incorporation into real property in that 205
state, would be exempt from a tax on sales levied by that state; 206
and, until one calendar year after the construction of a 207
convention center that qualifies for property tax exemption under 208
section 5709.084 of the Revised Code is completed, building and 209

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

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

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

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

(17) Sales to persons engaged in farming, agriculture,

horticulture, or floriculture, of tangible personal property for 242
use or consumption primarily in the production by farming, 243
agriculture, horticulture, or floriculture of other tangible 244
personal property for use or consumption primarily in the 245
production of tangible personal property for sale by farming, 246
agriculture, horticulture, or floriculture; or material and parts 247
for incorporation into any such tangible personal property for use 248
or consumption in production; and of tangible personal property 249
for such use or consumption in the conditioning or holding of 250
products produced by and for such use, consumption, or sale by 251
persons engaged in farming, agriculture, horticulture, or 252
floriculture, except where such property is incorporated into real 253
property; 254

(18) Sales of drugs for a human being that may be dispensed 255
only pursuant to a prescription; insulin as recognized in the 256
official United States pharmacopoeia; urine and blood testing 257
materials when used by diabetics or persons with hypoglycemia to 258
test for glucose or acetone; hypodermic syringes and needles when 259
used by diabetics for insulin injections; epoetin alfa when 260
purchased for use in the treatment of persons with medical 261
disease; hospital beds when purchased by hospitals, nursing homes, 262
or other medical facilities; and medical oxygen and medical 263
oxygen-dispensing equipment when purchased by hospitals, nursing 264
homes, or other medical facilities; 265

(19) Sales of prosthetic devices, durable medical equipment 266
for home use, or mobility enhancing equipment, when made pursuant 267
to a prescription and when such devices or equipment are for use 268
by a human being. 269

(20) Sales of emergency and fire protection vehicles and 270
equipment to nonprofit organizations for use solely in providing 271
fire protection and emergency services, including trauma care and 272
emergency medical services, for political subdivisions of the 273

state;	274
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	275 276 277 278 279 280
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	281 282 283 284 285
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	286 287 288
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	289 290 291 292 293 294 295 296 297 298 299 300 301 302 303
(25)(a) Sales of water to a consumer for residential use,	304

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

Revised Code; 335

(32) The sale, lease, repair, and maintenance of, parts for, 336
or items attached to or incorporated in, motor vehicles that are 337
primarily used for transporting tangible personal property 338
belonging to others by a person engaged in highway transportation 339
for hire, except for packages and packaging used for the 340
transportation of tangible personal property; 341

(33) Sales to the state headquarters of any veterans' 342
organization in this state that is either incorporated and issued 343
a charter by the congress of the United States or is recognized by 344
the United States veterans administration, for use by the 345
headquarters; 346

(34) Sales to a telecommunications service vendor, mobile 347
telecommunications service vendor, or satellite broadcasting 348
service vendor of tangible personal property and services used 349
directly and primarily in transmitting, receiving, switching, or 350
recording any interactive, one- or two-way electromagnetic 351
communications, including voice, image, data, and information, 352
through the use of any medium, including, but not limited to, 353
poles, wires, cables, switching equipment, computers, and record 354
storage devices and media, and component parts for the tangible 355
personal property. The exemption provided in this division shall 356
be in lieu of all other exemptions under division (B)(42)(a) or 357
(n) of this section to which the vendor may otherwise be entitled, 358
based upon the use of the thing purchased in providing the 359
telecommunications, mobile telecommunications, or satellite 360
broadcasting service. 361

(35)(a) Sales where the purpose of the consumer is to use or 362
consume the things transferred in making retail sales and 363
consisting of newspaper inserts, catalogues, coupons, flyers, gift 364
certificates, or other advertising material that prices and 365
describes tangible personal property offered for retail sale. 366

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

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

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

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

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

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

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;	398
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	399 400 401 402 403 404 405 406
(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	407 408 409
(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.	410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427
(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible	428 429

personal property and services used directly and primarily in 430
providing taxable services under that section. 431

(42) Sales where the purpose of the purchaser is to do any of 432
the following: 433

(a) To incorporate the thing transferred as a material or a 434
part into tangible personal property to be produced for sale by 435
manufacturing, assembling, processing, or refining; or to use or 436
consume the thing transferred directly in producing tangible 437
personal property for sale by mining, including, without 438
limitation, the extraction from the earth of all substances that 439
are classed geologically as minerals, production of crude oil and 440
natural gas, or directly in the rendition of a public utility 441
service, except that the sales tax levied by this section shall be 442
collected upon all meals, drinks, and food for human consumption 443
sold when transporting persons. Persons engaged in rendering 444
services in the exploration for, and production of, crude oil and 445
natural gas for others are deemed engaged directly in the 446
exploration for, and production of, crude oil and natural gas. 447
This paragraph does not exempt from "retail sale" or "sales at 448
retail" the sale of tangible personal property that is to be 449
incorporated into a structure or improvement to real property. 450

(b) To hold the thing transferred as security for the 451
performance of an obligation of the vendor; 452

(c) To resell, hold, use, or consume the thing transferred as 453
evidence of a contract of insurance; 454

(d) To use or consume the thing directly in commercial 455
fishing; 456

(e) To incorporate the thing transferred as a material or a 457
part into, or to use or consume the thing transferred directly in 458
the production of, magazines distributed as controlled circulation 459
publications; 460

(f) To use or consume the thing transferred in the production 461
and preparation in suitable condition for market and sale of 462
printed, imprinted, overprinted, lithographic, multilithic, 463
blueprinted, photostatic, or other productions or reproductions of 464
written or graphic matter; 465

(g) To use the thing transferred, as described in section 466
5739.011 of the Revised Code, primarily in a manufacturing 467
operation to produce tangible personal property for sale; 468

(h) To use the benefit of a warranty, maintenance or service 469
contract, or similar agreement, as described in division (B)(7) of 470
section 5739.01 of the Revised Code, to repair or maintain 471
tangible personal property, if all of the property that is the 472
subject of the warranty, contract, or agreement would not be 473
subject to the tax imposed by this section; 474

(i) To use the thing transferred as qualified research and 475
development equipment; 476

(j) To use or consume the thing transferred primarily in 477
storing, transporting, mailing, or otherwise handling purchased 478
sales inventory in a warehouse, distribution center, or similar 479
facility when the inventory is primarily distributed outside this 480
state to retail stores of the person who owns or controls the 481
warehouse, distribution center, or similar facility, to retail 482
stores of an affiliated group of which that person is a member, or 483
by means of direct marketing. This division does not apply to 484
motor vehicles registered for operation on the public highways. As 485
used in this division, "affiliated group" has the same meaning as 486
in division (B)(3)(e) of section 5739.01 of the Revised Code and 487
"direct marketing" has the same meaning as in division (B)(35) of 488
this section. 489

(k) To use or consume the thing transferred to fulfill a 490
contractual obligation incurred by a warrantor pursuant to a 491

warranty provided as a part of the price of the tangible personal 492
property sold or by a vendor of a warranty, maintenance or service 493
contract, or similar agreement the provision of which is defined 494
as a sale under division (B)(7) of section 5739.01 of the Revised 495
Code; 496

(l) To use or consume the thing transferred in the production 497
of a newspaper for distribution to the public; 498

(m) To use tangible personal property to perform a service 499
listed in division (B)(3) of section 5739.01 of the Revised Code, 500
if the property is or is to be permanently transferred to the 501
consumer of the service as an integral part of the performance of 502
the service; 503

(n) To use or consume the thing transferred primarily in 504
producing tangible personal property for sale by farming, 505
agriculture, horticulture, or floriculture. Persons engaged in 506
rendering farming, agriculture, horticulture, or floriculture 507
services for others are deemed engaged primarily in farming, 508
agriculture, horticulture, or floriculture. This paragraph does 509
not exempt from "retail sale" or "sales at retail" the sale of 510
tangible personal property that is to be incorporated into a 511
structure or improvement to real property. 512

(o) To use or consume the thing transferred in acquiring, 513
formatting, editing, storing, and disseminating data or 514
information by electronic publishing. 515

As used in division (B)(42) of this section, "thing" includes 516
all transactions included in divisions (B)(3)(a), (b), and (e) of 517
section 5739.01 of the Revised Code. 518

(43) Sales conducted through a coin operated device that 519
activates vacuum equipment or equipment that dispenses water, 520
whether or not in combination with soap or other cleaning agents 521
or wax, to the consumer for the consumer's use on the premises in 522

washing, cleaning, or waxing a motor vehicle, provided no other 523
personal property or personal service is provided as part of the 524
transaction. 525

(44) Sales of replacement and modification parts for engines, 526
airframes, instruments, and interiors in, and paint for, aircraft 527
used primarily in a fractional aircraft ownership program, and 528
sales of services for the repair, modification, and maintenance of 529
such aircraft, and machinery, equipment, and supplies primarily 530
used to provide those services. 531

(45) Sales of telecommunications service that is used 532
directly and primarily to perform the functions of a call center. 533
As used in this division, "call center" means any physical 534
location where telephone calls are placed or received in high 535
volume for the purpose of making sales, marketing, customer 536
service, technical support, or other specialized business 537
activity, and that employs at least fifty individuals that engage 538
in call center activities on a full-time basis, or sufficient 539
individuals to fill fifty full-time equivalent positions. 540

(46) Sales by a telecommunications service vendor of 900 541
service to a subscriber. This division does not apply to 542
information services, as defined in division (FF) of section 543
5739.01 of the Revised Code. 544

(47) Sales of value-added non-voice data service. This 545
division does not apply to any similar service that is not 546
otherwise a telecommunications service. 547

(48)(a) Sales of machinery, equipment, and software to a 548
qualified direct selling entity for use in a warehouse or 549
distribution center primarily for storing, transporting, or 550
otherwise handling inventory that is held for sale to independent 551
salespersons who operate as direct sellers and that is held 552
primarily for distribution outside this state; 553

(b) As used in division (B)(48)(a) of this section: 554

(i) "Direct seller" means a person selling consumer products 555
to individuals for personal or household use and not from a fixed 556
retail location, including selling such product at in-home product 557
demonstrations, parties, and other one-on-one selling. 558

(ii) "Qualified direct selling entity" means an entity 559
selling to direct sellers at the time the entity enters into a tax 560
credit agreement with the tax credit authority pursuant to section 561
122.17 of the Revised Code, provided that the agreement was 562
entered into on or after January 1, 2007. Neither contingencies 563
relevant to the granting of, nor later developments with respect 564
to, the tax credit shall impair the status of the qualified direct 565
selling entity under division (B)(48) of this section after 566
execution of the tax credit agreement by the tax credit authority. 567

(c) Division (B)(48) of this section is limited to machinery, 568
equipment, and software first stored, used, or consumed in this 569
state within the period commencing June 24, 2008, and ending on 570
the date that is five years after that date. 571

(49) Sales of materials, parts, equipment, or engines used in 572
the repair or maintenance of aircraft or avionics systems of such 573
aircraft, and sales of repair, remodeling, replacement, or 574
maintenance services in this state performed on aircraft or on an 575
aircraft's avionics, engine, or component materials or parts. As 576
used in division (B)(49) of this section, "aircraft" means 577
aircraft of more than six thousand pounds maximum certified 578
takeoff weight or used exclusively in general aviation. 579

(50) Sales of full flight simulators that are used for pilot 580
or flight-crew training, sales of repair or replacement parts or 581
components, and sales of repair or maintenance services for such 582
full flight simulators. "Full flight simulator" means a replica of 583
a specific type, or make, model, and series of aircraft cockpit. 584

It includes the assemblage of equipment and computer programs 585
necessary to represent aircraft operations in ground and flight 586
conditions, a visual system providing an out-of-the-cockpit view, 587
and a system that provides cues at least equivalent to those of a 588
three-degree-of-freedom motion system, and has the full range of 589
capabilities of the systems installed in the device as described 590
in appendices A and B of part 60 of chapter 1 of title 14 of the 591
Code of Federal Regulations. 592

(51) Any transfer or lease of tangible personal property 593
between the state and a successful proposer in accordance with 594
sections 126.60 to 126.605 of the Revised Code, provided the 595
property is part of a project as defined in section 126.60 of the 596
Revised Code and the state retains ownership of the project or 597
part thereof that is being transferred or leased, between the 598
state and JobsOhio in accordance with section 4313.02 of the 599
Revised Code. 600

(52) Sales of investment metal bullion and investment coins. 601
"Investment metal bullion" means any elementary precious metal 602
that has been put through a process of smelting or refining, 603
including, but not limited to, gold, silver, platinum, and 604
palladium, and which is in such state or condition that its value 605
depends upon its content and not upon its form. "Investment metal 606
bullion" does not include fabricated precious metal that has been 607
processed or manufactured for one or more specific and customary 608
industrial, professional, or artistic uses. "Investment coins" 609
means numismatic coins or other forms of money and legal tender 610
manufactured of gold, silver, platinum, palladium, or other metal 611
under the laws of the United States or any foreign nation with a 612
fair market value greater than any statutory or nominal value of 613
such coins. 614

(C) For the purpose of the proper administration of this 615
chapter, and to prevent the evasion of the tax, it is presumed 616

that all sales made in this state are subject to the tax until the 617
contrary is established. 618

(D) The levy of this tax on retail sales of recreation and 619
sports club service shall not prevent a municipal corporation from 620
levying any tax on recreation and sports club dues or on any 621
income generated by recreation and sports club dues. 622

(E) The tax collected by the vendor from the consumer under 623
this chapter is not part of the price, but is a tax collection for 624
the benefit of the state, and of counties levying an additional 625
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 626
Code and of transit authorities levying an additional sales tax 627
pursuant to section 5739.023 of the Revised Code. Except for the 628
discount authorized under section 5739.12 of the Revised Code and 629
the effects of any rounding pursuant to section 5703.055 of the 630
Revised Code, no person other than the state or such a county or 631
transit authority shall derive any benefit from the collection or 632
payment of the tax levied by this section or section 5739.021, 633
5739.023, or 5739.026 of the Revised Code. 634

Section 2. That existing section 5739.02 of the Revised Code 635
is hereby repealed. 636

Section 3. That the amendment by this act of section 5739.02 637
of the Revised Code applies on and after the first day of the 638
first month that begins after the effective date of this act. 639