

5703-29-06

Transfers of property into the state.

- (A) This rule provides the circumstances when a taxpayer/purchaser will be required to include the value of property that is transferred into this state within one year from the receipt of the property outside of this state pursuant to section 5751.013 of the Revised Code.
- (B)
- (1) Subject to paragraph (B)(2) of this rule, the value of property brought into this state within one year after it is received outside this state does not have to be included as a taxable gross receipt by the purchaser. However, upon audit, the tax commissioner may require the value of such property to be included as a taxable gross receipt if the commissioner finds that such transfer within one year was intended in whole or in part to avoid the commercial activity tax.
 - (2) The commissioner may identify and post on the department of taxation's website one or more descriptions of transfers that the commissioner deems are intended to avoid the commercial activity tax. If a transfer is one so described, the taxpayer must include the value of the property transferred as a gross receipt for that tax period in which the transfer is made. The property shall be valued at its fair market value at the time of transfer. The taxpayer may file a refund claim if the taxpayer believes that it can show that the acquisition and subsequent transfer was not intended in whole or in part to avoid the commercial activity tax.
- (C) No penalty shall be imposed by the commissioner under paragraph (B)(1) of this rule. A penalty may be imposed by the commissioner under paragraph (B)(2) of this rule.