Information Release

CAT 2005-06 - Situsing Rules for Certain Services – Issued September, 2005; Revised April, 2006; Revised October, 2006; Revised December, 2006

This release contains a rule for situsing certain services for purposes of the commercial activity tax (CAT). ***This rule is now final and effective***. Please direct any questions regarding this or any rule to the CAT Division of the Ohio Department Taxation at 1-888-722-8829.

Rule 5703-29-17 Situsing of certain services for purposes of the commercial activity tax.

(A) In general, gross receipts from services are sitused to Ohio in the proportion that the purchaser's benefit in Ohio with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased. Except as otherwise set forth in this rule, the physical location where the purchaser ultimately uses or receives the benefit of what was purchased is paramount in determining the proportion of the benefit received in Ohio. The tax commissioner will not require taxpayers to upgrade their systems in order to comply with the general provisions of this rule as long as the taxpayer makes a good faith effort to situs receipts from services in a reasonable, consistent, and uniform method that is supported by the taxpayer's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(B)(1) For purposes of this proposed rule, "a purchaser only located in Ohio" for an individual means a resident of Ohio having no business locations outside Ohio. "A purchaser only located in Ohio" for any other entity means that both of the following apply:

(a) The entity's headquarters/commercial domicile (which may be different from the state of incorporation or state of organization) is in Ohio; and

(b) The entity has no physical locations outside Ohio.

(2)(a) For those enumerated services that allow for the situsing of gross receipts using a reasonable, consistent, and uniform method supportable by the service provider's business records, the primary focus must be on the location where the purchaser ultimately uses or receives the benefit.

(b) In the event the commissioner disagrees with a taxpayer's reasonable, consistent, and uniform method of situsing its gross receipts, a penalty will not be imposed if the situsing was found to be made in good faith. While different methods may be used for different types of services, the same method must be consistently used for all types of similar services

(C) The following is a list of various services and the situsing method to be used for commercial activity tax purposes. This list is not meant to be comprehensive, but provides guidance on how to source each service listed. If a service is not specifically listed in this rule, the situsing provisions for a similar service may provide guidance. Situations which arise that do not

match the examples provided may need to be handled on a case by case basis. The department of taxation reserves the right to review and adjust any apportionment of gross receipts made by a taxpayer.

(1) Accounting Services

(a) If accounting services are performed for a purchaser only located in Ohio, one hundred percent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, a Kentucky sole proprietor with only one retail store in Kentucky engages the services of an Ohio accountant to prepare its financial statements. The gross receipts from this service are sitused to Kentucky.

(b) If accounting services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are of benefit to specific operations located in Ohio.

For example, a national retailer hires an Ohio accounting firm to address an inventory problem that exists at its Ohio stores. The gross receipts from this service are sitused to Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, accounting services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual and such individual has no business locations outside of Ohio, at the individual's residence. The term "principal place of business" for those other than individuals refers to the location where the business unit being provided the service primarily maintains its operations. In determining the "principal place of business" of a purchaser, the following measures, if known, shall be considered in sequential order:

(i) The branch, division, or other unit where the client primarily receives the benefit of the accounting service;

For example, the New York division of a large, multi-national corporation with operations in Ohio pays an Ohio accountant accounting fees associated with the division's product liability suit. Receipts from this service are sitused to New York, because the accounting services were primarily received by the New York division.

(ii) The primary location of the management operations of the purchaser's business unit; and

For example, an accounting firm provides valuation services for the sale of one product line of a large, multi-state manufacturer. The product line being sold has locations in several states, but the management of the product line is located in Ohio. The gross receipts would be sitused to Ohio since the first default, i.e., the

location where the purchaser primarily receives the services, would not be applicable, and the business unit's management operations are in Ohio.

(iii) The billing address, acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

For example, an accounting firm provides valuation services for the sale of one product line of a large, multi-state manufacturer. The product line being sold has locations in several states, with management of the product line located in most of the locations. The billing address may be used to situs the gross receipts as long as the address is associated with an operation of the manufacturer.

(d) If accounting services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(2) Advertising Services

This provision only applies to those providing advertising services and not those actually receiving advertising revenue for allowing an advertisement to be placed in a newspaper, magazine, radio, television or similar media.

(a) If advertising services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

(b) If advertising services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, advertising services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the advertising service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If advertising services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(3) Agents/Managers of Athletes/Entertainers

(a) If an agent/manager represents an athlete in negotiating a contract to play for an Ohio-based team, or for an individual to appear at an Ohio-based sporting event, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the negotiations occur.

For example, an agent negotiates a contract for an athlete (regardless of athlete's residence) to play on a sports team in Cincinnati, Ohio. One hundred per cent of the agent's fee is a taxable gross receipt.

As another example, an agent negotiates a contract for an athlete who resides in Ohio, but will play for a team based outside Ohio. None of the agent's fee is sitused to Ohio.

(b) If an agent/manager represents an entertainer in negotiating a contract to perform at an Ohio-based event, one hundred per cent of the gross receipts related to that event are sitused to Ohio regardless of where the negotiations occur.

For example, an agent books a performer for a three-day concert in Marietta, Ohio. The agent's fee for that work is one hundred per cent sitused to Ohio.

(c) If an agent/manager represents an entertainer in negotiating a contract to perform at an Ohio location and locations outside of Ohio, the gross receipts are sitused to Ohio based on the number of known Ohio events compared to all known events.

For example, an agent books ten performances, two of which are at Ohio locations and eight of which are at non-Ohio locations. The agent's fee is twenty per cent sitused to Ohio.

(d) If the agent's/manager's services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(e) If an agent/manager represents an athlete or entertainer in negotiating a contract to endorse some thing or some one in Ohio, the gross receipts are sitused to Ohio based on the number of known Ohio events compared to all known events. If no event locations are known, the gross receipts are sitused to where the athlete or entertainer resides.

For example, an agent receives a fee for a national endorsement for a golfer who is contracted to appear at a total of twenty known events, two of which are known to be in Ohio events. The agent's fee is ten per cent sitused to Ohio.

(4) Agency – Other

(a) If agency services are performed for a purchaser only located in Ohio, one hundred percent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, a Kentucky sole proprietor with only one retail store in Kentucky engages the services of an Ohio agent to facilitate the purchase of merchandise from an Ohio manufacturer. The gross receipts from this service are sitused to Kentucky.

(b) If agency services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are of benefit to specific operations located in Ohio.

For example, a national retailer hires an Ohio agency to develop an advertising campaign targeting its Ohio stores. The gross receipts from this service are sitused to Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, agency services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the "principal place of business" of a purchaser, the following measures, if known, shall be considered in sequential order:

(i) The branch, division, or other unit where the purchaser (customer) primarily receives the benefit of the agency service;

For example, the New York division of a large, multi-national corporation with operations in Ohio pays an Ohio agent fees associated with the division's life insurance policy. Receipts from this service are sitused to New York, because the agency services were primarily received by the New York division.

(ii) The primary location of the management operations of the purchaser's business unit; and

For example, an advertising agency works with a multi-state manufacturer to develop an advertising campaign for its customers. The company has locations in several states, but the management of the company is located in Ohio. The gross receipts would be sitused to Ohio since the first default, i.e., the location where the purchaser primarily receives the services would not be applicable, and the business unit's management operations are in Ohio.

(iii) The purchaser's (customer's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

For example, an advertising agency provides magazine advertising services for one product line of a large, multi-state manufacturer. The product line being sold is located in several states, and the management of the product line is located in most of the locations. The billing address may be used to situs the gross receipts as long as the address is associated with an operation of the manufacturer.

(d) If agency services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(5) Appraisal Services

(a) If the appraised property is located wholly in Ohio (regardless of where the purchaser is located), one hundred per cent of the gross receipts are sitused to Ohio.

For example, a local appraisal firm values three Ohio business properties and no properties outside of Ohio. The gross receipts from the appraisal services are sitused one hundred per cent to Ohio.

(b) If the appraised property is within and without Ohio, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter. As a default, the value of the appraised property in Ohio compared to the total value of the appraised property everywhere will be accepted.

For Example, if forty per cent of the valuation is for Ohio properties and sixty per cent is for non-Ohio properties, only forty per cent of the gross receipts received for that service are sitused to Ohio.

(6) Architecture Services (including Drafting Services)

(a) If architectural services are performed for a purchaser and the property being designed is to be located wholly in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, architectural services are performed for a property to be built in Youngstown, Ohio; one hundred per cent of the gross receipts for that service are sitused to Ohio.

(b) If architectural services are performed for property that will be located within and without Ohio, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter. As a default, the number of properties anticipated to be built in Ohio compared to everywhere will be accepted. If the services are not for standardized buildings, square footage may be used as a method of apportionment unless it creates a distortion.

For example, architectural services are performed for ten properties, three of which are in Ohio and seven of which are at non-Ohio locations. The architect's fee is thirty per cent sitused to Ohio.

(7) Athletes (including Owners of Animals Used in Sporting Events)

(a) If an athlete receives remuneration for participating in or obtaining prize monies from an Ohio based event, one hundred per cent of the gross receipts are sitused to Ohio. Remuneration includes, but is not limited to, money, fair market value of property, or fair market value of services.

For example, an owner receives ten thousand dollars for a horse that shows (places third) at a race conducted in Ohio. That receipt is one hundred per cent sitused to Ohio.

(b) If an athlete is paid for appearing at an Ohio-based event, one hundred per cent of the gross receipts are sitused to Ohio.

For example, a person is paid to attend a home and garden show in Ohio, one hundred per cent of that gross receipt is sitused to Ohio.

(c) If an athlete is paid for endorsing a thing or a person in Ohio, the gross receipts are sitused to Ohio based on the number of known Ohio events compared to all known events. If no event locations are known, the gross receipts are sitused where the athlete resides. In dealing with national endorsements, in general, four and one-tenth per cent (4.1%) will be accepted in accordance with Ohio's population.

For example, a basketball player receives a fee from a soft drink company and is contracted to appear at a total of eighty known events, forty of which are in Ohio. The basketball player's fee is fifty per cent sitused to Ohio.

(d) If the athlete's services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(8) Barbershop/Beauty Salon/Spa Services

If barbershop, beauty salon, or spa services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

For example, a resident of Indiana receives a hair cut in Dayton, Ohio. One hundred per cent of that service is sitused to Ohio.

(9) Cable/Satellite Services

(a) Gross receipts from cable/satellite are sitused to Ohio, in general, if the purchaser's (subscriber's) place of primary use is in Ohio, regardless of where the cable and satellite services originate. In general, the purchaser's (subscriber's) billing address will be accepted as the primary use location unless the seller of the service knows the purchaser (subscriber) is using the service in multiple locations.

For example, a satellite radio service has one million dollars in gross receipts from addresses billed to Ohio customers. The one million dollars in receipts are one hundred per cent sitused to Ohio.

(b) If the cable/satellite service provider knows that the purchaser (subscriber) is using the service in multiple locations inside and outside Ohio, the gross receipts are sitused to Ohio based on the number of properties in Ohio where the purchaser (subscriber) receives these cable/satellite services compared to everywhere.

(c) If cable/satellite services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(d) Gross receipts from providing billing and other ancillary services for cable/satellite service providers shall be sitused to Ohio based on the location of the purchaser's (cable/satellite service provider's) customers. If not known, the location(s) of the purchaser may be used.

(10) Call Center Services

(a) Gross receipts from providing call center services on a fixed cost basis shall be sitused based on the location of the purchaser. Gross receipts from providing call

center services on a variable (or per call) cost basis shall be sitused to Ohio based on the location of the purchaser's customers. In determining the location of the purchaser and/or the purchaser's customers, the following, if known, apply in sequential order:

(i) The location (e.g. home, branch, division, or other business unit) where the purchaser and/or purchaser's customer primarily receives the benefit of the service;

(ii) The primary location of the management operations of the purchaser's and/or purchaser's customers business units; and

(iii) The purchaser's and/or purchaser's customers' billing address is acceptable if provided in good faith. To determine the purchaser's and/or purchaser's customer's billing address, a provider of call center services may rely on the area code and/or zip code of the purchaser and/or purchaser's customer.

(b) If call center services relate to various operations both within and within Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(11) Child Care (Day Care or Education) Services

If child care services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

For example, a West Virginia resident obtains day care services in Gallipolis, Ohio. One hundred per cent of the gross receipts are sitused to Ohio.

(12) Collection Agency Services (including Repossession Services)

(a) If collection services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, a Pennsylvania repossession agency that receives one hundred per cent of its gross receipts from an automobile finance company whose business location is in Ohio, will situs all of its gross receipts to Ohio.

(b) If collection services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, collection services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of

business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the client primarily receives the benefit of the collection service;

(ii) The primary location of the management operations of the client's business unit; and

(iii) The client's billing address is acceptable if provided in good faith. The billing address must be the site where the client has some actual operations, and not just a post office box.

(d) If collection services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(13) Computer Programming Services

(a) If computer programming services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio, regardless of where the service provider is located.

(b) If computer programming services are performed for a purchaser that will use the computer programming within and without Ohio, the gross receipts are sitused to Ohio if either of the following apply:

(i) The services performed are related to a purchaser's specific operations located in Ohio; or

(ii) The services are performed that do not relate to a purchaser's specific operation. The services are sitused to Ohio based on the purchaser's number of users in Ohio compared with the number of users everywhere.

(c) If computer programming services relate to various locations both within and without Ohio, the gross receipts may be sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(14) Construction Contractors

(a) If construction contracting services are performed for a purchaser and the property being constructed is located wholly in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, if construction contracting services are performed for property to be built in Youngstown, Ohio, one hundred per cent of the gross receipts for that service is sitused to Ohio.

(b) If construction contracting services are performed for property that will be located within and without Ohio and there is no separation of costs per location, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter. As a default, the number of properties anticipated to be built in Ohio compared to everywhere will be accepted. If the services are not for standardized buildings, square footage may be used as a method of apportionment unless it creates a distortion.

For example, construction contracting services are performed for ten properties, three of which are in Ohio and seven of which are at non-Ohio locations. The contractor's fee is thirty per cent sitused to Ohio.

(15) Contract Manufacturing Services

(a) For purposes of this rule, contract manufacturing includes a person who provides manufacturing services on a piece of property that the contract manufacturer does not own. Contract manufacturing should be sitused the same as the sale or delivery of tangible personal property under division (E) of section 5751.033 of the Revised Code.

(b) If the purchaser does not provide the location outside of this state (i.e. a minimum of city and state) where the product is to be shipped, the gross receipts in this situation are sitused to the location where the contract manufacturing is performed.

For example, a New York company ships metal tools both inside and outside Ohio. Gross receipts from contract manufacturing performed on tools shipped inside Ohio are sitused to Ohio as a taxable gross receipt. Gross receipts from contract manufacturing performed on tools shipped outside of Ohio are not Ohio taxable gross receipts.

As another example, a New York contract manufacturer makes an item that a seller located in Pennsylvania purchases from the contract manufacturer to sell to an Ohio customer. Upon completion of the contract manufacturing, the Pennsylvania seller instructs the contract manufacturer to ship the product directly to its customer in Ohio. Both the New York contract manufacturer's gross receipts and the Pennsylvania seller's gross receipts are sitused to Ohio and, accordingly, are Ohio taxable gross receipts.

(16) Data Processing Services

(a) If data processing services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, an Indiana vendor provides data processing services for a business that is located only in Ohio. The gross receipts received from that Ohio business are sitused to Ohio.

(b) If data processing services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

For example, an Indiana vendor converts the sales invoices of an Ohio business into an electronic format. The Ohio business has a manufacturing plant in Indiana and has its sales operation in Ohio. The gross receipts received from that Ohio business are sitused to Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, data processing services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the data processing service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If data processing services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(17) Directors' Fees

Fees received by a director of a corporation for the performance of his/her duties are sitused to the headquarters of the corporation. Remuneration includes, but is not limited to, money, stock, fair market value of property, or fair market value of services.

(18) Electricity (including electric transmission and distribution services)

Electricity (including electric transmission and distribution services) must be sitused according to section 5733.059 of the Revised Code.

(19) Employment Services

Employment services are sitused to Ohio if the employee is assigned to a post of duty (i.e., where employee primarily works) located in Ohio.

For example, if an employment services company based in Kentucky provides employment services for a company with a post of duty in Cincinnati, Ohio, the gross receipts are one hundred per cent sitused to Ohio.

(20) Engineering Services

(a) If engineering services are performed for a purchaser and the property is located wholly in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, engineering services are performed for a property to be built in Youngstown, Ohio; one hundred per cent of the gross receipts for that service are sitused to Ohio.

(b) If engineering services are performed for property that is located within and without Ohio, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter. As a default, the number of properties located in Ohio compared to everywhere will be accepted.

For example, engineering services are performed for ten properties, three of which are in Ohio and seven of which are at non-Ohio locations. The engineer's fee is thirty per cent sitused to Ohio.

(21) Entertainer Services

(a) If an entertainer receives remuneration for participating at an Ohio based event, one hundred per cent of the gross receipts are sitused to Ohio. Remuneration includes, but is not limited to, money, fair market value of property, or fair market value of services.

(b) If an entertainer receives an appearance fee for appearing at an Ohio based event, one hundred per cent of the gross receipts are sitused to Ohio.

(c) If an entertainer is paid for endorsing some thing or some one in Ohio, the gross receipts are sitused to Ohio based on the number of known Ohio events compared to

all known events. If no event locations are known, the gross receipts are sitused where the athlete resides. In dealing with national endorsements, in general, four and one-tenth per cent (4.1%) will be accepted in accordance with Ohio's population.

For example, an entertainer receives national advertisement for participating in an event. Four and one-tenth per cent of the gross receipts from the endorsement are sitused to Ohio based on Ohio's census population in 2006.

(d) If the entertainer's services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(22) Entertainment/Amusement Services

(a) If the entertainment services being purchased are to be performed wholly in Ohio, one hundred per cent of the gross receipts are sitused to Ohio, regardless of where the services are purchased.

(b) If the entertainment services being purchased are to be performed within and without Ohio and originate and terminate from a location in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the purchaser makes the purchase of the services.

For example, an evening riverboat cruise leaves from Cincinnati, Ohio and returns to Cincinnati, Ohio. One hundred per cent of the gross receipts are sitused to Ohio.

(c) In the case of gross receipts from the selling of admission passes that can be used at locations within and without Ohio, gross receipts are sitused to Ohio if the admission is to be primarily used at locations in Ohio.

For example, if an admission pass can be used at several locations inside and outside Ohio, the presumption is that the receipt is an Ohio taxable gross receipt if the purchaser will primarily use the pass at an Ohio location. In general, the primary use of the admission pass is the closest facility to the purchaser's location at time of purchase.

(d) If entertainment services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(23) Exterminating Services

(a) If exterminating services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

(b) If exterminating services are performed outside of Ohio, one hundred per cent of the gross receipts are sitused outside of Ohio.

(c) If exterminating services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time of the performance of the service or within a reasonable time thereafter.

(24) Facilities Management Services (including Landscaping Services)

(a) If the facility being managed is located wholly in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

(b) If the fee is not per location and the service is provided in Ohio and outside Ohio, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(c) As a default, the number of properties located in Ohio compared to everywhere will be accepted. If the services are not for standardized buildings, square footage may be used as a method of apportionment unless it creates a distortion.

(25) Financial Planning Services

(a) If financial planning services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, financial planning services are performed for an individual living in Youngstown, Ohio. One hundred per cent of the gross receipts for that service are sitused to Ohio.

(b) If financial planning services are performed for a business that is located within and without Ohio, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter. As a default, the number of locations in Ohio compared to everywhere will be accepted.

For example, financial planning services are performed for a business having ten locations, three of which are in Ohio and seven of which are outside of Ohio. The financial planner's fee is thirty per cent sitused to Ohio.

(26) Funeral Services

(a) Funeral services includes, but is not limited to, making arrangements for viewings, embalming, burying, interring, cremating, arranging transportation of the deceased, and all other services associated with providing funeral services.

(b) If all of the funeral services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

(c) In general, if portions of the funeral services are performed within and without Ohio, gross receipts from the funeral services are sitused to Ohio if the burial or cremation takes place in Ohio.

(27) Gambling Services

Winnings received from a wager placed at an Ohio location are sitused to Ohio.

For example, a Kentucky resident places a wager at an Ohio horse racing simulcast facility for a race outside of Ohio and that person wins one hundred sixty thousand dollars. The winnings are gross receipts sitused to Ohio.

(28) Healthcare Provider Services

If healthcare services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio. If a healthcare service is provided partly in this state and outside this state, a reasonable allocation for the services performed in Ohio must be made.

For example, a German resident comes to have a surgery performed at a hospital in Ohio. One hundred per cent of that gross receipt is an Ohio taxable gross receipt.

(29) Independent Writers/Artists Services

(a) If the writer/artist delivers the item to the purchaser in tangible or electronic format, the gross receipts are sitused to Ohio if the purchaser receives the item in Ohio.

(b) If the writer/artist does not know the location of the purchaser receiving the item, then gross receipts are sitused to Ohio if the purchaser's address to which the writer/artist sends the invoice is located in Ohio.

(c) If the writer's/artist's services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(30) Internet/Web Hosting Services

(a) If Internet or web hosting services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the web host is located.

(b) If Internet or web hosting services are performed for a purchaser only located outside Ohio, one hundred per cent of the gross receipts are sitused outside Ohio regardless of where the web host is located.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, Internet or web hosting services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the Internet or web hosting service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If Internet or web hosting services are performed for a purchaser located both within and without Ohio, the gross receipts are sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(31) Investigation Services

(a) If investigation services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

(b) If investigation services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) If investigation services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records

as they existed at the time the service was provided or within a reasonable time thereafter.

(32) Legal Services

(a) If legal services are performed that relate to Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, an attorney drafts a will in Ohio for a client residing in Kentucky. The gross receipts from the will are sitused to Kentucky since the services relate to a Kentucky estate. Similarly, if an attorney drafts a will in Kentucky for a client who resides in Ohio, the gross receipts from this service will be sitused to Ohio since the services relate to an Ohio estate.

As another example, a company located solely in Michigan sends its treasurer to Ohio for a meeting. The treasurer is involved in an accident on a highway in Ohio, and the company hires an Ohio law firm to represent the treasurer and the company in a proceeding in federal district court in Ohio. The gross receipts from this service will be sitused to Ohio since the services relate to an Ohio tort.

As another example, an attorney prepares a corporation's (client's) case at the Ohio Board of Tax Appeals. As part of the preparation, the attorney travels to the corporation's (client's) Tennessee location to interview the client's employees. The gross receipts received by the attorney for all services, including those services related to interviewing the client's employees in Tennessee, are sitused to Ohio.

(b) Except as provided in paragraph (C)(32)(a) of this rule, if legal services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, an attorney drafts a contract in Ohio for a purchaser (client) residing in Kentucky to settle the client's dispute with the federal government over an employment contract. The gross receipts are sitused to Kentucky. If the client resided in Ohio, the receipts would be sitused to Ohio even if the contract was drafted in Kentucky.

As another example, an attorney makes an appearance in the federal sixth circuit court of appeals in Cincinnati, Ohio for a client located solely in Tennessee concerning the client's federal income taxes. Receipts from this service are sitused to Tennessee.

(c) If legal services are performed for a purchaser with operations in both Ohio and in another state or jurisdiction, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

For example, an international retailer with stores in Ohio hires an Ohio law firm with New York-licensed attorneys to address a New York workers compensation

claim. The gross receipts from this service are sitused to New York. If the retailer hires a New York law firm with Ohio-licensed attorneys to address an Ohio workers compensation claim, the gross receipts from this service are sitused to Ohio.

(d) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, legal services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the legal service;

For example, the Ohio division of a large, multi-national company incorporated in New York pays an attorney legal fees associated with the division's product liability suit. Receipts from this service can be sitused to Ohio, because the legal services were primarily received by the Ohio division.

(ii) The primary location of the management operations of the purchaser's business unit;

For example, a large, multi-national Ohio corporation hires an attorney to defend its federal income tax return. Because the service benefits the entire corporation, rather than a specific division or business location, receipts from this service can be sitused to Ohio based on its management's operations.

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(e) If legal services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(33) Linen/Uniform Supply/Dry Cleaning Services

If linen/uniform supply/dry cleaning services are delivered to or picked up at a location in Ohio, one hundred per cent of the gross receipts are sitused to Ohio. If the property is delivered to or picked up at a location outside of Ohio, one hundred per cent of the gross receipts are sitused outside Ohio.

(34) Magazines/Newspapers

Subscription and advertising gross receipts are to be sitused to Ohio based upon the proportion of the purchaser's (publication's) circulation located in Ohio over the total of the purchaser's (publication's) circulation located everywhere.

(35) Management Consulting Services

(a) If management consulting services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

(b) If management consulting services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) At the election of the management consulting service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, such services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the management consulting service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If management consulting services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(36) Market Research Services

(a) If market research services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

(b) If market research services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, market research services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the market research service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If market research services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(37) Membership Fees

(a) If the membership fees being paid are for the right to participate in events at a specific location or specific locations only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio, regardless of where the fees are paid.

For example, a golf course in Cincinnati, Ohio receives membership dues from an individual who resides in Kentucky. Since the membership to that Cincinnati course allows the Kentucky individual to golf at that resort, the gross receipts shall be sitused to Ohio, even though the individual resides outside of Ohio.

(b) In the case of gross receipts from the selling of admission passes that can be used at locations within and without Ohio, gross receipts are sitused to Ohio if the admission is to be primarily used at locations in Ohio.

For example, if an admission pass can be used at several locations inside and outside Ohio, the presumption is that the receipt is an Ohio taxable gross receipt if the purchaser will primarily use the pass at an Ohio location. In general, the primary use

of the admission pass is the closest facility to the purchaser's location at time of purchase.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, membership fees may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the "principal place of business" of a purchaser, the following measures, if known, shall be considered in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily uses the membership for which the fee was paid;

(ii) The purchaser's (client's) primary location of the management operations of the purchaser's (client's) business unit; and

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If the membership fees relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the fees were paid or within a reasonable time thereafter.

(38) Money Order/Wire Transfer Services

If money order/wire transfer services are delivered to or picked up at a location in Ohio, one hundred per cent of the fee for such services are sitused to Ohio, regardless of where the money order/wire transfer service originates.

(39) Moving/Storage Services

(a) If the moving service destination is to a location in Ohio, one hundred per cent of the gross receipts are sitused to Ohio. Fees for incidental storage during a moving service are not sitused to Ohio if both of the following apply:

(i) The storage does not occur in Ohio; and

(ii) The storage fee is separately billed from the moving service.

(b) Fees for packing and/or unpacking services shall be sitused based upon where such services are provided.

(c) Fees for storage services shall be sitused to Ohio to the extent the storage took place in Ohio.

(d) If moving, packing or unpacking, or storage services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(40) Payroll Services

(a) If payroll services are performed for a purchaser with its employees only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio, regardless of where the services are performed.

(b) If payroll services are performed for a purchaser with employees within and without Ohio and the payroll services are provided for more than one state including Ohio, the gross receipts are sitused to Ohio based on the purchaser's number of employees (covered by the services) located in Ohio to the number of employees everywhere.

(41) Promoters of Arts/Sports/Similar Event Services

(a) If a promoter promotes an Ohio-based event, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the promoting services are performed.

(b) If a promoter promotes an event that will be held within and without Ohio, the gross receipts are sitused to Ohio based on the number of known events in Ohio compared to all known events. If no event locations are known, the gross receipts are sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(42) Radio/Television Broadcasting/Internet Advertising Services

Broadcasting and Internet advertising gross receipts (including receipts from commercials and pay-per-click advertisements) are to be sitused to Ohio based upon the proportion of the television or radio station's audience or Internet provider's subscribers located in Ohio over the total of the television or radio station's audience or Internet provider's subscribers located everywhere.

(43) Real Estate Broker Services

If real estate sold by a real estate broker is located in Ohio, the gross receipts earned by the real estate broker are sitused to Ohio, regardless of where the broker's services were performed. See division (F)(3) of section 5751.01 of the Revised Code to see which gross receipts of a real estate broker can be excluded.

(44) Repair/Maintenance/Installation Services

(a) If the property to be repaired, maintained, or installed is dropped off and picked up at the service provider's location in Ohio, the gross receipts are sitused to Ohio.

(b) If the property is shipped to the service provider's location in Ohio from outside of Ohio but is then picked up at the location in Ohio, the gross receipts are sitused to Ohio.

(c) If the property is dropped off or shipped to the service provider's location in Ohio and then shipped outside of Ohio, the gross receipts are sitused outside of Ohio.

(45) Security Services

(a) If security services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

(b) If security services are performed outside of Ohio, one hundred per cent of the gross receipts are sitused outside of Ohio.

(c) If security services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time of the performance of the service or within a reasonable time thereafter.

(46) Tax Preparation Services

(a) If tax preparation services are performed for a purchaser only located in Ohio, one hundred percent of the gross receipts are sitused to Ohio regardless of where the services are performed.

For example, the gross receipts from the preparation in Kentucky of a federal income tax return for a client residing in Ohio will are sitused to Ohio. Similarly, the gross receipts from the preparation in Ohio of a federal income tax return for a client residing in Kentucky will be sitused to Kentucky.

(b) If tax preparation services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, tax preparation services may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the tax preparation service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If tax preparation services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time the service was provided or within a reasonable time thereafter.

(47) Technical Assistance Services

(a) If technical assistance services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of where the services are performed.

(b) If technical assistance services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to specific operations located in Ohio.

(c) At the election of the service provider, and as long as it is applied in a reasonable, consistent, and uniform manner, technical assistance fees may be sitused according to the purchaser's "principal place of business" or, if the purchaser is an individual not engaged in a business, at the individual's residence. The term "principal place of business" refers to the location where the business unit being provided the service primarily maintains its operations. In determining the location of the purchaser's principal place of business, the following, if known, apply in sequential order:

(i) The branch, division, or other unit where the purchaser (client) primarily receives the benefit of the technical assistance service;

(ii) The primary location of the management operations of the purchaser's business unit; and

(iii) The purchaser's (client's) billing address is acceptable if provided in good faith. The billing address must be the site where the purchaser has some actual operations, and not just a post office box.

(d) If technical assistance services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business

records as they existed at the time the service was provided or within a reasonable time thereafter.

(48) Telecommunications Services (Including Ancillary Telecommunications Services)

(a) Except as provided in paragraphs (C)(48)(b) to (C)(48)(g) of this rule, gross receipts from the sale of telecommunications service or mobile telecommunications service shall be sitused to Ohio if the customer's place of primary use of the service is in this state. In general, the customer's "place of primary use" means the street address representing 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 service, such address is the place of primary use only if it is within the licensed service area of the customer's home service provider.

(b) Gross receipts from the sale of telecommunications service sold on an individual call-by-call basis shall be sitused to Ohio if either of the following applies:

(i) The call both originates and terminates in this state;

(ii) The call either originates or terminates in this state and the service address also is located in this state.

(c) Gross receipts from the sale of post-paid telecommunications service shall be sitused to Ohio if the origination point of the telecommunication signal, as first identified by the service provider's telecommunication system, or as identified by information received by the seller from its service provider where the system used to transport such signals is not that of the seller, is located in this state.

(d) Gross receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service shall be sitused to Ohio if the purchaser obtains the prepaid card or similar means of conveyance at a location in Ohio. Gross receipts from recharging a prepaid telecommunications service or mobile telecommunications service shall be sitused to Ohio if the purchaser's billing information indicates an Ohio location.

(e) Gross receipts from the sale of private communication services shall be sitused to Ohio as follows:

(i) One hundred per cent of the gross receipts from the sale of each channel termination point within this state;

(ii) One hundred per cent of the gross receipts from the sale of the total channel mileage between each termination point within this state;

(iii) The gross receipts from the sale of service segments for a channel between two customer channel termination points, one of which is located in this state and the other outside this state, and which segments are separately charged, shall be sitused fifty per cent to Ohio and fifty per cent to the other state or jurisdiction in which the customer channel termination points are located; or

(iv) The gross receipts from the sale of service for segments of a channel located in this state and in more than one other states or equivalent jurisdictions, and which segments are not separately billed, shall be sitused to Ohio based on the percentage determined by dividing the number of customer channel termination points in the state or equivalent jurisdiction by the total number of customer channel termination points.

(f) Gross receipts from the sale of billing services and ancillary services for telecommunications service shall be sitused to Ohio based on the location of the purchaser's customers. If not known, the location(s) of the purchaser may be used.

(g) Gross receipts from the sale of access fees, such as the carrier access charge paid by an interexchange carrier to connect to a local exchange network in Ohio, shall be sitused to Ohio as follows:

(i) Gross receipts from access fees attributable to intrastate telecommunications service that both originates and terminates in Ohio are sitused one hundred per cent to Ohio.

(ii) Gross receipts from access fees attributable to interstate telecommunications service are sourced fifty per cent to Ohio if the interstate call either originates or terminates in Ohio.

(iii) Gross receipts from interstate end user access line charges, such as the surcharge approved by the federal communications commission and levied pursuant to the Code of Federal Regulations, Title 47, Part 69, shall also be sourced one hundred per cent to Ohio if the customer's service address is in Ohio.

(h) All terms in this section are as defined in divisions (AA) and (VV) of section 5739.01 of the Revised Code.

(49) Testing Laboratories

(a) If testing services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

(b) If testing services are performed outside of Ohio, one hundred per cent of the gross receipts are sitused outside of Ohio.

(c) If testing services relate to various locations both within and without Ohio, the gross receipts may be sitused to Ohio using any reasonable, consistent, and uniform method

of apportionment that is supported by the service provider's business records as they existed at the time of the performance of the service or within a reasonable time thereafter.

(50) Towing Services

If the towing services originate from a location in Ohio, one hundred per cent of the gross receipts are sitused to Ohio regardless of the destination.

For example, a Pennsylvania resident's car breaks down in Ohio and is towed back to Pennsylvania. The receipts for the towing services are sitused to Ohio, since the towing service originated in Ohio.

(51) Transportation Services/Brokers /Logistics

(a) Gross receipts from transportation services are sitused to Ohio based on division (G) of section 5751.033 of the Revised Code. The provisions of paragraph (C)(51)(a) of this rule only apply to providers of transportation services. Sellers of tangible personal property itemizing transportations charges must situs such charges in the same manner as the tangible personal property.

(b)(i)For purposes of this rule, "broker" means a person who, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier; and "brokerage" or "brokerage services" means the arranging of transportation or the physical movement of a motor vehicle or of property. If consulting services are provided for logistics, please refer to Management Consulting Services, above.

(ii) Gross receipts received by a broker not providing any transportation services for the tangible personal property in question but arranging solely for the provision of transportation services shall be sitused to the location where the property is shipped.

(c) Logistics includes all the processes required to go from raw materials to end customer delivery, including purchasing, inventory management, warehousing, shipping, and customer returns, but does not include transportation or brokerage services.

(i) If the logistics services relate to shipping operations, the gross receipts shall be sitused based on the location where the product is shipped.

(ii) If the logistics services relate to inventory management and/or warehousing operations, the gross receipts shall be sitused based on the location of the inventory and/or warehouse.

(iii) If the logistics services relate to purchasing operations, the gross receipts shall be sitused to the location where the purchaser benefits from such service. In determining the location of the purchaser, the following, if known, apply in sequential order:

(a) The branch, division, or other unit where the purchaser primarily receives the benefit of the service;

(b) The primary location of the management operations of the purchaser's business unit; and

(c) The purchaser's billing address is acceptable if provided in good faith.

(d) For purposes of paragraph (C)(51)(c) of this rule, gross receipts from logistics services that relate to multiple types of logistics operations may be sitused using any reasonable, consistent, and uniform method of apportionment that is supported by the service provider's business records as they existed at the time of the performance of the service or within a reasonable time thereafter.

For example, a Wisconsin branch of a multi-national manufacturer contracts with an Ohio logistics company to both provide for improvements in its inventory management and for providing the shipment of its goods to the purchaser's customers. The logistic company's gross receipts are sitused in two different ways: the portion relating to inventory management is sitused according to the logistic services situsing provisions, in this case to the Wisconsin branch location; and the portion relating to the transportation services is sitused based on the company's miles traveled within Ohio to its miles traveled everywhere.

(52) Travel Arrangement Services

(a) If travel arrangement services are performed for a purchaser only located in Ohio, one hundred per cent of the gross receipts are sitused to Ohio, regardless of where the services are performed or the location of the travel destination.

(b) If travel arrangement services are performed for a purchaser with operations within and without Ohio, the gross receipts are sitused to Ohio if the services performed are related to a specific employee whose post of duty is in Ohio.

For example, a multi-national corporation has employees both within and without Ohio. The corporation uses one travel agent to arrange the travel plans for all of its nationwide employees. If the services are performed for an employee located in Ohio, the gross receipts from that service will be sitused to this state.

(53) Veterinarian Services

If veterinarian services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

(54) Waste Management Services

If waste management services are performed in Ohio, one hundred per cent of the gross receipts are sitused to Ohio.

For example, a waste hauler in New York ships refuse to an Ohio landfill. The gross receipts received by the Ohio landfill are sitused to Ohio, because the benefit of the purchaser (i.e. the waste hauler) is having the refuse delivered to this state.