

SALES AND USE TAX

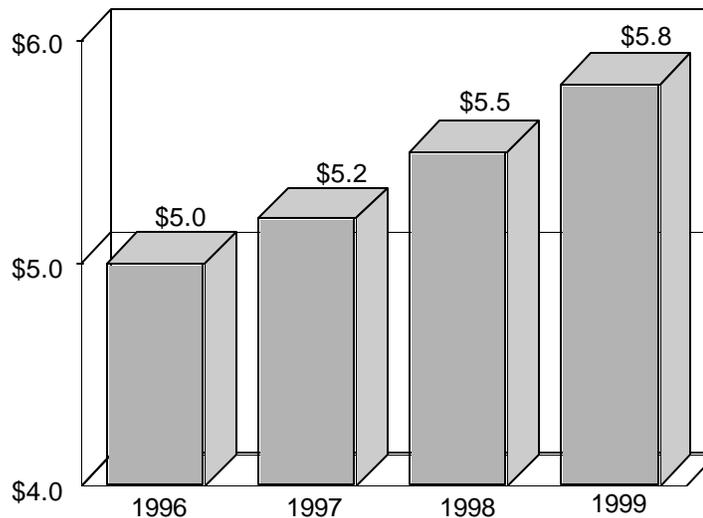
Note: Permissive sales and use tax information is reported on a calendar-year basis. This information was reported on a fiscal-year basis in annual reports prior to 1991.

The Ohio sales and use tax went into effect in January 1935. The sales tax rate was 3.0 percent until 1967, when a 4.0 percent rate was adopted. After imposing a temporary 5.0 percent sales tax during the period of January through June 1981, a permanent 5.0 percent rate was adopted in November 1981. The sales and use tax originally was restricted to the sale or rental of tangible personal property, but has been extended to a number of services (see **Exemption and Exceptions, Number 2**).

In 1967, the Ohio General Assembly authorized counties to levy a tax of 0.5 percent in addition to the state sales and use tax for the purpose of providing additional county general revenue. The tax is levied pursuant to a resolution of the county commissioners and is subject to repeal by majority vote of the county electorate. In January 1982, counties were given the option of levying a full 1.0 percent permissive tax. In 1986 the Ohio General Assembly further authorized counties to levy an additional 0.5 percent sales tax subject to voter approval for one or more of the following purposes: (1) payment of bonds issued for a convention facility; (2) revenue for a transit authority; (3) additional county general revenue; (4) revenue for permanent improvements; (5) implementation and operation of a 9-1-1 system. In July 1987, counties and transit authorities were authorized to levy the permissive tax in quarter percent increments. Then, in 1993, the Ohio General Assembly authorized counties to levy the sales tax to provide revenue for the operation and maintenance of a detention facility. As of December 31, 1998, all of the 88 counties in Ohio levied a county permissive tax. In calendar year 1998, the state collected \$975.3 million for county governments.

In 1974, the Ohio General Assembly authorized transit authorities to levy a tax to be collected in addition to the state sales and use tax and county permissive tax for the purpose of providing revenues for public mass transit systems. The tax is levied pursuant to a resolution of the

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transit authority and subsequent approval by a majority of the voters at a special or general election. The tax can be levied at a rate of up to 1.5 percent in quarter percent increments. As of December 31, 1998, the Greater Cleveland, Central Ohio, LakeTran, Miami Valley, Stark Area and Summit County Metro regional transit authorities levied a permissive sales and use tax. In calendar year 1998, the state collected \$242.9 million for the transit authorities.

The state collects the combined state and local tax and returns the local share directly to the counties and transit authorities. The same exemptions and exceptions, credits, and payment dates apply to the permissive taxes as to the state tax. The sales and use tax is the second largest revenue producer for the state, amounting to \$5.8 billion in fiscal year 1999.

TAX BASE (R.C. 5739.01, 5741.01):

The state, county, and transit authority sales and use taxes apply to all retail sales of tangible personal property that are not specifically exempt. Retail sales include the rental of tangible personal property, the rental of hotel rooms by transient guests, and the sales of specified services.

The county and transit authority use taxes apply to purchases made outside of the state and to purchases made from vendors located in an area which does not have the permissive sales and use tax, or levies it at a lower rate, when the property or service is used in an area that levies a permissive sales and use tax.

RATES (R.C. 5739.02, 5739.021, 5739.023, 5739.025, 5739.026, 5739.033, 5741.02, 5741.021, 5741.022, 5741.023):

The state sales and use tax rate is 5.0 percent. Counties and transit authorities are authorized to levy additional permissive taxes at rates of 0.25 percent to 1.5 percent in quarter percent increments. The applicable sales tax rate for most taxable sales is the location of the vendor. The applicable sales or use tax rate for computer services, telecommunications service, private investigation and security services, and lawn care and landscaping services is the location of the purchaser. The applicable use tax rate for all taxable sales is the location of the purchaser. Following are the number of jurisdictions at each tax rate as of December 31, 1998.

| State Rate | Local Rate | Total Rate | Number of Jurisdictions |
|------------|------------|------------|-------------------------|
| 5.0% | -- | 5.00% | 0 counties |
| 5.0 | 0.50% | 5.50 | 5 counties |
| 5.0 | 0.75 | 5.75 | 9 counties |
| 5.0 | 1.00 | 6.00 | 41 counties |
| 5.0 | 1.25 | 6.25 | 9 counties |
| 5.0 | 1.50 | 6.50 | 23 counties |
| 5.0 | 2.00 | 7.00 | 1 county |

A bracket system is specified in Section 5739.025 of the Revised Code for each of the above rates.

EXEMPTIONS AND EXCEPTIONS (R.C. 5709.25, 5709.50, 5739.01, 5739.011, 5739.02, 5741.02, 6111.31, 6121.16, 6123.041):

1. Copyrighted motion picture films unless solely used for advertising;
2. Service transactions in which tangible personal property is an inconsequential element for which no separate charge is made except for the following taxable services:
 - Repair costs, installation costs;

- Washing, cleaning, waxing, polishing, and painting of a motor vehicle;
 - Cleaning of towels, linens, and clothing used in business;
 - Automatic data processing, computer services and electronic information services used in business;
 - Telecommunication service;
 - Lawn care and landscaping;
 - Private investigation and security;
 - Building maintenance and janitorial services;
 - Employment placement services;
 - Exterminating services;
 - Physical fitness facility services;
 - Recreation and sports club services;
3. The value of motor vehicles traded-in on new motor vehicles sold by licensed new motor vehicle dealers;
 4. Tangible personal property to be resold in the form received;
 5. The refundable deposit paid on returnable beverage containers, cartons, and cases;
 6. Tangible personal property used or consumed in commercial fishing;
 7. Direct use exceptions:
 - a) Material incorporated as a component part of tangible personal property produced for sale by manufacturing, assembling, processing or refining;
 - b) Material used or consumed directly in the production of tangible personal property by mining, farming, agriculture, horticulture, floriculture, or used in the production of and exploration for crude oil and natural gas;
 - c) Tangible personal property used directly in rendering a public utility service;
 - d) Tangible personal property used or consumed in the preparation for sale of printed and other reproduced material and of magazines distributed as controlled circulation publications;
 - e) Certain property used in making retail sales including: advertising material or catalogues used or consumed in making retail sales that price and describe property; preliminary materials sold to direct marketing vendors that will be used in printing advertising material; printed matter that offers free merchandise or chances to win sweepstakes prizes and includes advertising material;

- equipment primarily used to accept orders for direct marketing retail sales; and certain automatic food vending machines;
8. Tangible personal property used primarily in a manufacturing operation to produce a product for sale. The primary use exception includes, but is not necessarily limited to the following items:
 - a) Production machinery and equipment that act upon the product;
 - b) Handling and transportation equipment (except licensed motor vehicles) used in moving property in or between plants during the production process;
 - c) Property used in producing property that is used or consumed in the production of a final product (use on use);
 - d) Electricity, coke, gas, water, steam, and similar substances used in the manufacturing operation;
 - e) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and are an integral part of the manufacturing operation;
 - f) Property that is used to control, physically support, or is otherwise necessary for functioning of machinery and equipment and continuation of the manufacturing operation;
 9. Tangible personal property used or consumed in the surface reclamation of mined land;
 10. Sales to U.S. Government agencies;
 11. Sales to the state or any of its political subdivisions;
 12. Food for human consumption off the premises where sold;
 13. Food sold to students in a dormitory, cafeteria, fraternity, or sorority;
 14. Newspapers;
 15. Magazine subscriptions sent by second class mail or distributed as controlled circulation publications;
 16. Motor vehicle fuel subject to the state motor fuel excise tax;
 17. Gas, water, steam, and electricity delivered through pipes, conduits or wires by a utility company;
 18. Communication services by local telephone and telegraph companies (including cable television);
 19. WATS, 800 numbers, and other selected telecommunications services provided by long distance or local service companies;
 20. Casual sales except for motor vehicles and manufactured housing, titled watercraft and outboard motors, snowmobiles, and all purpose vehicles;
 21. Sales by churches, non-profit organizations (excluding motor vehicles and manufactured housing) provided that the number of sales does not exceed six days each year;
 22. Transportation of persons or property;
 23. Sales to churches, non-profit organizations included under Internal Revenue Code 501 (c)(3), non-profit scientific research organizations, and to other non-profit charitable organizations;
 24. Sales to non-profit hospitals and to those privately held homes for the aged and hospital facilities that are financed with public hospital bonds;
 25. Building and construction material sold to contractors for incorporation into real property constructed for federal, state or local governments; for religious and certain other non-profit charitable institutions; for horticulture and livestock industries; and for other specified organizations and industries;
 26. Ships and rail rolling stock used in interstate or foreign commerce and material used for repair, alteration, or propelling such vessels;
 27. Material, machinery, equipment, and other items used in packaging property to be sold at retail;
 28. Drugs prescribed by a licensed practitioner and dispensed by a registered pharmacist; insulin and injection materials used by diabetics; urine and blood testing materials used by diabetics or persons with hypoglycemia; oxygen and oxygen equipment for personal use; hospital beds for personal use; prosthetic devices; ostomy and orthopedic devices; hearing aids; crutches; wheelchairs and wheelchair lifts; and epoetin alfa, used in end stage renal disease;
 29. Emergency and fire protection vehicles used exclusively by non-profit organizations in providing emergency and fire protection services for political subdivisions;
 30. Sales to non-profit community centers and to producers offering presentations in music, dramatics, the arts, and related fields to foster public interest and education;
 31. Motor vehicles sold in Ohio to nonresidents for titling and use outside the state;
 32. Property used in the preparation of eggs for sale;
 33. Sales of property for use in agricultural production;

34. Property manufactured in Ohio and immediately shipped outside the state for use in retail business, if sold by the manufacturer to the retailer and shipped in vehicles owned by the retailer;
35. Sales to noncommercial, educational broadcasting stations;
36. Sales of animals by non-profit animal shelters and county humane societies;
37. Items used in preserving, preparing, or serving food, or material used in maintaining or cleaning these items in a commercial food service operation;
38. Tangible personal property used in air, noise, or water pollution control facilities by holders of pollution control certificates issued by the Tax Commissioner or the Director of the Ohio Environmental Protection Agency;
39. Bulk water for residential use;
40. Tangible personal property incorporated into an energy conversion facility, solid waste energy conversion facility, or thermal efficiency improvement facility certified by the Tax Commissioner;
41. Sales of equipment used in qualified research and development;
42. Sales and installation of agricultural land tile and the sale and installation of portable grain bins to farmers;
43. Fees paid for the inspection of emission control equipment on motor vehicles;
44. Sales, leases, repairs and maintenance of motor vehicles used primarily in providing transportation for hire;
45. Sales to state headquarters of veterans organizations chartered by Congress or recognized by the Veterans Administration (Department of Veterans Affairs);
46. Normally taxable food items sold to persons using food stamps;
47. Sales of tangible personal property used directly in providing a telecommunication service;
48. Investment metal bullion and investment coins;
49. Trade-ins on purchases of new or used watercraft or outboard motors sold by licensed boat dealers;
50. Property and labor used to fulfill a warranty or service contract;
51. Property used to store and handle purchased sales inventory in a warehouse or similar facility when the inventory is primarily distributed outside Ohio to retail stores of the person who owns or controls the warehouse, to retail stores of an affiliated group of which the owner of the warehouse is a member, or by means of direct marketing.
52. Certain motor vehicles used in ride sharing arrangements when the vendor is selling the vehicle pursuant to a contract with the Department of Transportation.
53. Sales of computer equipment used for educational purposes made to qualifying certified teachers.
54. Sales of certain tangible personal property made to qualified motor racing teams.
55. 25% sales tax refund for qualified computer purchases for providers of electronic information service.

DISCOUNT (R.C. 5739.12, 5741.12):

Payment on or before the date a return is required to be filed entitles the vendor to a discount of 0.75 percent of the amount due. (Example: \$5,000 tax due - \$37.50 discount = \$4,962.50 net tax due.)

SPECIAL PROVISIONS:

1. ***Cumulative Filing (Rule 5703-9-09):*** Vendors who have two or more places of business in Ohio may, upon approval by the Tax Commissioner, file a single monthly consolidated return reporting on one form the information that normally is required to be reported from each location.
2. ***Prearranged Agreements (R.C. 5739.05):*** Vendors, such as fast food outlets, whose business is of a nature that keeping records of which sales are taxable and which exempt would impose an unreasonable burden, may be authorized by the Tax Commissioner to pay an amount based on a test check conducted to determine the proportion of taxable sales to total sales. Businesses electing this method of payment still collect the tax from customers at the time of purchase.
3. ***Prepayment (R.C. 5739.05 and Rule 5703-9-08):*** Vendors, such as coin operated vending machine operators, whose business is of a nature that the collection of the tax from consumers would impose an unreasonable burden, may be authorized by the Tax Commissioner to prepay the tax at a rate based on an analysis of sales and prices.
4. ***Construction Contractors (R.C. 5739.01):*** Construction contractors are considered to be the consumers of property incorporated into the construction of or improvement to real property and, thus, responsible for paying the tax on such property.

5. **Resort Area Tax (R.C. 5739.101 - 5739.105):** Qualified municipal corporations or townships are authorized to levy a tax at the rate of 0.5 percent, 1.0 percent, or 1.5 percent on gross receipts from general sales or intrastate transportation primarily provided to and from the resort area. Receipts from this tax are for the general revenue of the township or municipality. The tax is administered by the Department of Taxation.
6. **Lodging Tax (R.C. 351.021, 5739.02, and 5739.024):** In addition to the state sales tax, municipal corporations, townships, and counties may levy an excise tax on hotel and motel room rentals at a rate not exceeding 3.0 percent. Total combined local levies cannot exceed 6.0 percent. In certain cases, a portion of the receipts are earmarked for convention centers and visitor bureaus. County Convention Facility Authorities were permitted between June 29, 1988 and December 31, 1988 to enact an additional 4.0 percent lodging tax for convention facility or sports center construction. This tax is in addition to the combined maximum 6.0 percent rate for county, township or municipal lodging taxes, thereby allowing a combined local rate of 10.0 percent.
3. **County Additional Permissive Sales and Use Tax (R.C. 5739.21, 5741.023):**
 - a) One percent credited to the Local Sales Tax Administrative Fund for the use of the Tax Commissioner in defraying costs of administration;
 - b) Remainder to the special purpose fund for which the additional tax is levied.
4. **Transit Authority Sales and Use Tax (R.C. 306.31, 5739.21, 5741.03):**
 - a) One percent credited to the Local Sales Tax Administrative Fund for the use of the Tax Commissioner in defraying costs of administration;
 - b) Remainder to the general revenue of the transit authority for the purpose of acquiring, constructing, operating, maintaining, replacing, improving, and extending transit facilities.
5. **Resort Area Tax (R.C. 5739.102):**
 - a) One percent credited to the state General Revenue Fund for the cost of administering the tax;
 - b) Remainder to the appropriate taxing entity.

OHIO REVISED CODE CITATIONS:

Chapters 306, 5709, 5739, 5741, 6111.

TAXPAYER (R.C. 5739.01, 5739.03, 5739.031, 5739.17, 5741.01):

Any person, retailer, business, organization, etc. making retail sales or making taxable purchases on which the tax has not been paid is required to file a return and remit the tax due.

DISPOSITION OF REVENUE:

1. **State Sales and Use Tax (R.C. 5739.21, R.C. 5741.03):**
The Local Government Fund receives 4.2 percent, the Local Government Revenue Assistance Fund 0.6 percent, and the General Revenue Fund 95.2 percent of sales and use tax collections.
2. **County Permissive Sales and Use Tax (R.C. 5739.21, 5741.03):**
 - a) One percent credited to the Local Sales Tax Administrative Fund for the use of the Tax Commissioner in defraying costs of administration;
 - b) Remainder to the county general fund.

RECENT LEGISLATION:

House Bill 657; Effective March 30 1999.

RC 505.94 - Changes the law that authorizes regulation of the activities of certain transient vendors by boards of township trustees and other local governing bodies.

Senate Bill 142; Effective March 30 1999.

RC 5739.02 and 5741.02 - The sales of used manufactured and mobile homes in Ohio made on or after January 1, 2000 are not subject to the sales and use tax. Also, for the purposes of the sales and use tax, sales of a new manufactured or mobile home on or after January 1, 2000 are not considered a motor vehicle sale.

House Bill 173; Effective March 30 1999.

RC 5739.01 - Pre-paid authorization numbers used to make phone calls or pre-paid calling cards are subject to sales tax at the point of sale. Telephone service paid for using pre-paid authorization numbers or pre-paid calling cards are not subject to sales tax. These changes are effective January 1, 2000.

DESCRIPTION OF TAXPAYERS (R.C. 5739.17):

| Taxpayer | Cost of License | Description |
|----------------------------|---------------------------------------|--|
| Vendor | First year \$25; annual renewal \$10 | Each person or business establishment located in Ohio making retail sales. |
| Service vendor | First year \$25; annual renewal \$10 | Person or business that provides automatic data processing, computer services and electronic information services; telecommunications service; lawn care and landscaping services; private investigation, security services, building maintenance and janitorial services, employment placing services, and exterminating services; the license is valid throughout the state. |
| Transient vendor | First year \$100; annual renewal \$40 | Retailer who makes sales in any county in which they have no fixed place of business. The license is valid throughout the state. |
| Delivery vendor | First year \$25; annual renewal \$10 | Retailer who maintains no store, showroom, or similar place of business where merchandise is offered for sale, or who has no location where merchandise displayed in catalogs may be selected or picked up by customers. |
| Limited vendor | Each event \$5 | Retailer who makes sales at a temporary exhibition, show, flea market or other event. The license is valid only for the duration of the event or for 17 days, whichever is less. |
| Seller | No fee | Retailer located outside of Ohio who makes retail sales of property or services for storage, use, or consumption in Ohio. |
| Direct pay permit holder | No fee | Manufacturers or other consumers who purchase tangible personal property for which the taxable status cannot be determined at the time of purchase; these consumers are authorized to make sales and use tax payments directly to the state. |
| Clerks of Court | No fee | Dealers remit taxes collected on sales of motor vehicles, manufactured housing, water craft, and outboard motors to county Clerks of Court when a title is issued. Clerks of Court also collects the tax on casual sales of motor vehicles, and sales of watercraft and outboard motors required to be titled. Clerks of Court then remits these receipts to the State. |
| Division of Liquor Control | No fee | Collects and remits sales tax paid on alcoholic beverages sold in state controlled stores. |
| Consumers use tax account | No fee | Purchasers who have not paid the tax to a vendor or seller (in most cases for out-of-state transactions) make payments directly to the state. |

FILING AND PAYMENT DATES (R.C. 5739.031, 5739.12, 5739.17, 5741.12, RULE 5703-9-10):

| Type of Return | Taxpayer | Payment Date |
|-----------------------|--|---|
| Weekly | Clerks of Court | Payment on Monday for tax collected during the preceding week on motor vehicles titled. |
| Semi-monthly | Division of Liquor Control | By the 15th day of the month for the tax collected during the last 15 days of the previous month, and by the last day of the month for the tax collected during the first fifteen days of the month on alcoholic beverages sold in state control stores or agency stores. |
| Monthly | Vendors, sellers, service vendors, transient vendors, delivery vendors, direct pay permit holders, consumer use tax accounts | By the 23rd day of the month for the tax collected during the preceding month. |
| Quarterly | Direct pay permit holders, consumer use tax accounts | By the 23rd day of January, April, July, and October for their tax liability during the preceding three months; this method of payment may be authorized for accounts with less than \$5,000 in quarterly tax liability. |
| Semi-annual | Vendors, sellers | By the 23rd day of the month following the close of each semi-annual period (predetermined by filing schedule) for the tax collected during the preceding six-month period; this method of payment may be authorized for vendors and sellers whose tax liability is less than \$600 per six-month period. |
| Other | Limited vendors | By the 15th day following the close of an event for tax collected during the event; taxpayers whose annual liability exceeded \$600,000 will be required to pay by electronic funds transfer. |

House Bill 223; Effective June 24, 1999.

RC 5739.02 and 5739.11 - Changes laws pertaining to licensing of retail food establishments.

House Bill 283; Effective June 30, 1999 (Biennial Budget Bill).

RC 5741.02 - Use tax exemption for sellers of prescription drugs for drug samples distributed free of charge to doctors, dentists, and certain other medical practitioners, effective July 1, 2001.

RC 5739.31 - Prohibits suspended vendors from acquiring a new vendor's license from the Tax Commissioner.

Substitute Senate Bill 3; Effective October 3, 1999 (Electric Deregulation Bill).

RC 5739.011 and 5739.02 - Makes various changes to sales tax law to accommodate electric utility deregulation. Effective date of these changes is May 1, 2001.

RECENT SIGNIFICANT COURT DECISIONS:

Anheuser-Busch, Inc. v. Tracy (1999), 85 Ohio St. 3d 514. The Supreme Court affirmed the assessment of a bottle-drying system and a bottle coding system used by a beer manufacturer, as these items were neither used during the manufacturing process nor used in packaging and so were not excepted under either R.C. 5739.01(E)(2) nor R.C. 5739.02(B)(15).

D&A Rofael Enterprises, Inc. v. Tracy (1999), 85 Ohio St. 3d 118. Food court areas in malls were designated, on a non-exclusive basis, for use in conjunction with the taxpayer's restaurant business. Patrons who chose to be seated in the food court areas were therefore consuming their food on the taxpayer's "premises", and so those sales were subject to sales tax.

MIB Inc. v. Tracy (1998), 83 Ohio St. 3d 154. The Supreme Court affirmed the liability of a data processor which collected medical information on life/disability insurance applicants and made it available to insurers and others.

Schindler Elevator Corp. v. Tracy (1999) 84 Ohio St. 3d 496. The Supreme Court held that service of a sales tax assessment is controlled by R.C. 5739.13, which states that service is effective when the notice is delivered and properly received by an appropriate person at the residence of the vendor or consumer. The court rejected the contention that the requirements of **R.C. 5703.37**, which provide for service on "any officer or agent", must be met in effecting service of a sales tax assessment.

Sims Brothers Inc. v. Tracy (1998), 83 Ohio St. 3d 162. The Supreme Court affirmed the assessment of a crane used by a scrap metal processor primarily to separate scrap into piles, to load scrap into a baler or shear, to gather material together and to load trucks for delivery. These uses were not excepted under R.C. 5739.011 because they did not result in the materials becoming committed to the manufacturing process.

Stein, Inc. v. Tracy (1999), 84 Ohio St. 3d 501. Slag-aways, which transport molten slag and scrap from steel companies' plants to the taxpayer's reclamation area, were held taxable. Equipment provided by the taxpayer with its operators to steel companies for use in manufacturing steel was held exempt under former R.C. 5739.01(E)(2).

United Transportation Union Ins. Assn. v. Tracy (1998), 82 Ohio St. 3d 333. An insurance association contended that R.C. 3921.24, which provides that "funds" of insurance companies are exempt from taxation, barred sales / use tax on its purchases. The court held that the term "funds" includes only those amounts invested by insurance companies, not amounts used to purchase supplies.

Paul Jones v. Tracy (Sept. 23, 1998), Ct. of App. Case No. 98-AP-10. The Court of Appeals affirmed the finding of the BTA that the taxpayer, who sold games of chance to social clubs, was a retailer making taxable sales.

24 Hours, Inc. v. Tracy (May 21, 1999), BTA No. 97-1389. An agent of the Tax Commissioner audited the sales of a convenience store by comparing the purchased mix of goods with the reported exempt/taxable sales. Because the percentage of purchases which would be taxable when sold was significantly greater than the taxable percentage of sales reported, the taxpayer/store was assessed for under-reporting taxable sales. BTA affirmed the assessment, as the taxpayer did not provide credible and competent evidence to support its objection.

Advantage Services Inc. v. Tracy (Oct. 30, 1998), BTA No. 95-1391. The BTA rejected the contention made by the taxpayer that its temporary service employees were provided on a permanent basis under an oral contract of at least one year, as required for exception under R.C. 5739.01(JJ)(3).

Bellemar Parts Industries Inc. v. Tracy (Oct. 30, 1998), BTA No. 97-136. The BTA held that the benefit of temporary employment services is subject to the resale exception, R.C. 5739.01(E)(1), since the products produced by the services are resold. This case was appealed to the Supreme Court.

Continental Cablevision of Ohio, Inc. v. Tracy (July 10, 1998), BTA No. 96-6. Computer billing services and other services provided to a cable TV company were held to be sales of automatic data processing, but were excepted under R.C. 5739.01(E)(2) as sales used directly in the rendition of a public utility service. The exception did not apply, however, to the period August 1, 1991 - June 30, 1993, when the exception for such sales to cable TV companies was suspended.

Dannon Co. v. Tracy (Sept. 16, 1998), BTA No. 97-233. The BTA held that the taxpayer's clean-in-place equipment, used to clean yogurt-making equipment, was exempt manufacturing equipment under both the pre-7/1/90 and post-7/1/90 sales tax statute and rule. Milk storage tanks were found to be used prior to manufacturing, and so were taxable. The BTA rejected the taxpayer's contention that equipment used to cool yogurt after it had been placed in packages was used in manufacturing.

Forest Hills Supermarket, Inc. v. Tracy (Apr. 6, 1999), BTA No. 97-1508. The BTA affirmed an audit of sales based on a review of the retailer's purchases, when adequate primary records were unavailable.

Foxtrot Alpha, Inc. v. Tracy (Mar. 5, 1999), BTA 95-200. An aircraft sale/purchase which was brokered by an aircraft dealer was held not to be a casual sale.

Genlyte Group Inc. v. Tracy (Feb. 18, 1999), BTA 97-790. The BTA affirmed use tax assessed on purchases of product displays, boxes, cartons, shipping labels, pallets, handling equipment, layout and design services for packaging, and computer software, as the taxpayer failed to present evidence establishing exemption.

Genlyte Group Inc. v. Tracy (Sept. 25, 1998), BTA No. 96-532. An advertising firm which purchased artwork was held liable for use tax on the transactions, as the overriding purpose of the firm was to obtain the tangible personal property, not personal services.

Metropolitan Environmental, Inc. v. Tracy (Mar. 8, 1999), BTA No. 97-1693. Roll-off boxes which are carried on the back of trucks, dropped off at construction sites, filled with debris, then re-loaded and taken to a dump, are exempt under R.C. 5739.02(B)(33) as equipment used in highway transportation for hire.

Van Auken Properties Inc. v. Tracy (Aug. 21, 1998), BTA No. 96-1595. The BTA declined to hold unconstitutional R.C. 5739.101-105, the resort island gross receipts excise tax. The refund claim was denied.

Table 71
Sales and Use Tax -- Collections by Type of Payment,
Fiscal Years 1995-1999

| Type of Payment | 1995 | 1996 | 1997 | 1998 | 1999 |
|---|----------------------|------------------------|------------------------|------------------------|------------------------|
| Vendors Sales Tax | \$3,290,461,446 | \$3,466,823,516 | \$3,622,896,157 | \$3,792,397,760 | \$4,046,087,991 |
| Sellers Use Tax | 331,638,026 | 367,593,278 | 413,172,231 | 488,311,778 | 535,191,290 |
| Direct Payment Sales | 160,107,843 | 175,379,533 | 171,808,863 | 184,241,197 | 196,056,412 |
| Consumers Use Tax | 116,080,891 | 130,977,077 | 131,810,175 | 142,152,235 | 149,679,380 |
| Sales and Use Tax | | | | | |
| Assessments and Penalties | 96,184,734 | 84,435,788 | 115,641,053 | 100,653,475 | 45,551,707 |
| Attorney General Sales and Use Tax Collections | 25,142,892 | 21,944,423 | 26,693,961 | 32,133,003 | 18,932,551 |
| Liquor Sales by Division of Liquor Control | 14,677,412 | 14,863,457 | 15,446,292 | 16,036,456 | 16,625,627 |
| Tax on Watercraft and Outboard Motors | 14,451,830 | 14,045,853 | 14,547,188 | 16,032,925 | 18,198,999 |
| Tax on Motor Vehicles and Manufactured Housing | <u>690,789,860</u> | <u>702,528,563</u> | <u>707,684,262</u> | <u>759,249,434</u> | <u>798,745,689</u> |
| Total | \$4,739,534,936 | \$4,978,591,488 | \$5,219,700,182 | \$5,531,208,263 | \$5,825,069,646 |
| County and Regional Transit Authority Tax | <u>\$947,158,483</u> | <u>\$1,017,990,817</u> | <u>\$1,103,697,721</u> | <u>\$1,184,070,883</u> | <u>\$1,233,834,889</u> |
| Grand Total | \$5,686,693,419 | \$5,996,582,305 | \$6,323,397,903 | \$6,715,279,146 | \$7,058,904,535 |

SOURCE: Ohio Office of Budget and Management, Monthly Revenue Report.

Table 72
Sales and Use Tax -- Number of Accounts, by Type and Payment Schedule
(As of June 30, 1999)

| Accounts | P a y m e n t S c h e d u l e | | | |
|-------------------|---------------------------------|-------------|------------|------------|
| | Monthly | Semi-Annual | Quarterly | Total |
| Vendors | 113,754 | 118,967 | — | 232,721 |
| Sellers Use | 8,438 | 6,226 | — | 14,664 |
| Service Vendors | 18,207 | — | — | 18,207 |
| Transient Vendors | 4,865 | — | — | 4,865 |
| Delivery Vendors | 2,122 | — | — | 2,122 |
| Master Accounts | 2,120 | — | — | 2,120 |
| Consumers Use | 1,328 | — | 12,225 | 13,553 |
| Direct Pay | <u>520</u> | <u>—</u> | <u>267</u> | <u>787</u> |
| Total | 151,354 | 125,193 | 12,486 | 289,039 |

SOURCE: Department of Taxation.

Table 73
County and Transit Authority Permissive Sales Tax Collections,
Calendar Years 1994-1998

| County | Tax Rate 12/31/98 | A m o u n t o f T a x | | | | | Initial Enactment | Most Recent Enactment |
|------------|----------------------|-----------------------|-------------|-------------|-------------|-------------|----------------------|--------------------------|
| | | 1994 | 1995 | 1996 | 1997 | 1998 | | |
| Adams | 1.00 % | \$1,161,976 | \$1,260,875 | \$1,242,814 | \$1,413,524 | \$2,163,846 | June 1, 1991 | June 1, 1991 |
| Allen | 1.00 | 9,702,171 | 10,422,373 | 10,781,017 | 11,206,205 | 11,812,923 | May 1, 1970 | June 1, 1987 |
| Ashland | 1.25 | 2,827,000 | 3,691,809 | 3,932,279 | 3,530,121 | 4,543,182 | Mar. 1, 1971 | Jan. 1, 1997 |
| Ashtabula | 1.00 | 5,546,125 | 5,930,909 | 6,437,684 | 6,629,584 | 7,154,163 | Apr. 1, 1977 | July 1, 1985 |
| Athens | 1.25 | 3,650,496 | 3,967,435 | 3,969,046 | 4,294,437 | 4,487,932 | Feb. 1, 1982 | Jan. 1, 1994 |
| Auglaize | 1.50 | 2,760,480 | 2,963,649 | 3,760,771 | 5,000,697 | 5,263,802 | Nov. 1, 1973 | Jun. 1, 1996 |
| Belmont | 1.50 | 4,900,376 | 7,395,112 | 8,153,581 | 9,204,244 | 9,766,623 | May 1, 1985 | Jan. 1, 1995 |
| Brown | 1.25 | 1,983,722 | 2,214,834 | 2,053,425 | 2,093,146 | 2,401,378 | Aug. 1, 1979 | Jan. 1, 1996 |
| Butler | 0.50 | 2,185,557 | 8,703,125 | 11,639,281 | 12,166,559 | 13,140,269 | June 1, 1985 | Feb. 1, 1995 |
| Carroll | 1.00 | 1,132,899 | 1,117,043 | 726,060 | 1,292,024 | 1,364,596 | Sep. 1, 1985 | Jun. 1, 1996 |
| Champaign | 1.00 | 1,918,383 | 2,026,618 | 2,136,443 | 2,008,650 | 2,358,266 | Jan. 1, 1986 | Jan. 1, 1986 |
| Clark | 1.00 | 9,887,754 | 10,175,741 | 10,220,500 | 14,887,162 | 11,989,411 | Nov. 1, 1972 | Feb. 1, 1998 |
| Clermont | 1.00 | 11,733,359 | 12,911,513 | 14,013,611 | 14,878,578 | 15,627,874 | Aug. 1, 1979 | Oct. 1, 1983 |
| Clinton | 1.00 | 2,476,753 | 2,771,906 | 3,338,751 | 3,183,890 | 3,586,807 | May 1, 1972 | Nov. 1, 1988 |
| Columbiana | 1.00 | 5,281,746 | 5,651,713 | 6,157,617 | 6,141,227 | 6,719,847 | Aug. 1, 1985 | June 1, 1991 |
| Coshocton | 1.00 | 1,908,587 | 2,058,669 | 2,149,884 | 2,182,933 | 2,469,656 | June 1, 1971 | Mar. 1, 1985 |
| Crawford | 1.50 | 2,629,883 | 3,459,892 | 3,587,959 | 3,735,806 | 4,091,500 | May 1, 1978 | Jul. 1, 1994 |
| Cuyahoga | 1.00 | 117,930,930 | 127,585,181 | 131,551,234 | 138,518,444 | 146,122,594 | Sep. 1, 1969 | Oct. 1, 1987 |
| Darke | 1.00 | 3,122,292 | 3,344,040 | 3,517,003 | 3,579,533 | 3,757,174 | July 1, 1975 | Jan. 1, 1988 |
| Defiance | 1.00 | 2,796,491 | 3,070,232 | 3,427,759 | 3,640,686 | 3,947,756 | Feb. 1, 1987 | Feb. 1, 1987 |
| Delaware | 1.25 | 2,951,580 | 3,085,846 | 4,344,530 | 9,641,481 | 12,043,969 | Jan. 1, 1972 | Oct. 1, 1996 |
| Erie | 1.00 | 7,806,452 | 8,499,911 | 8,886,343 | 9,192,540 | 9,674,961 | Mar. 1, 1977 | May 1, 1993 |
| Fairfield | 0.75 | 3,950,186 | 5,040,290 | 6,843,590 | 7,211,971 | 7,941,612 | Sep. 1, 1981 | Aug. 1, 1995 |
| Fayette | 1.00 | 2,877,863 | 3,130,866 | 3,050,782 | 3,257,468 | 3,567,045 | Mar. 1, 1983 | July 1, 1988 |
| Franklin | 0.50 | 55,182,307 | 60,689,821 | 63,684,379 | 68,560,345 | 72,262,490 | Sep. 1, 1985 | Sep. 1, 1985 |
| Fulton | 1.00 | 2,546,139 | 2,679,261 | 3,274,350 | 3,116,970 | 3,416,180 | May 1, 1972 | Feb. 1, 1987 |
| Gallia | 1.25 | 1,936,026 | 2,397,029 | 2,494,713 | 2,763,770 | 3,086,185 | Dec. 1, 1981 | Feb. 1, 1995 |
| Geauga | 0.50 | 3,916,207 | 4,214,298 | 4,596,233 | 4,873,533 | 3,794,817 | Aug. 1, 1987 | Feb. 1, 1998 |
| Greene | 1.00 | 10,387,507 | 12,054,992 | 12,910,887 | 13,516,983 | 14,462,120 | Mar. 1, 1971 | Feb. 1, 1987 |
| Guernsey | 1.50 | 3,535,475 | 3,711,687 | 3,939,686 | 4,244,131 | 4,395,688 | Feb. 1, 1971 | Aug. 1, 1993 |
| Hamilton | 1.00 | 47,172,131 | 48,985,918 | 76,692,926 | 107,312,289 | 112,601,389 | June 1, 1970 | June 1, 1996 |
| Hancock | 0.50 | 3,304,128 | 3,524,369 | 3,763,423 | 3,892,526 | 4,334,591 | Feb. 1, 1979 | Apr. 1, 1983 |
| Hardin | 1.00 | 1,326,987 | 1,493,823 | 1,523,909 | 1,645,421 | 2,310,259 | Oct. 1, 1985 | Mar. 1, 1990 |
| Harrison | 1.50 | 656,571 | 813,548 | 888,873 | 872,820 | 933,654 | Dec. 1, 1985 | Jan. 1, 1994 |
| Henry | 1.00 | 1,649,105 | 1,748,208 | 1,883,543 | 1,789,026 | 1,918,655 | Mar. 1, 1972 | June 1, 1986 |
| Highland | 1.00 | 1,812,756 | 2,071,486 | 2,160,582 | 2,397,948 | 2,472,251 | May 1, 1979 | Mar. 1, 1993 |
| Hocking | 1.25 | 1,019,673 | 1,193,257 | 1,270,189 | 1,400,919 | 1,725,376 | Apr. 1, 1979 | Nov. 1, 1987 |
| Holmes | 1.00 | 3,007,394 | 3,274,580 | 3,423,872 | 3,663,837 | 3,245,706 | July 1, 1977 | Jan. 1, 1998 |
| Huron | 1.50 | 3,476,734 | 3,693,237 | 5,572,093 | 5,875,584 | 6,194,310 | Feb. 1, 1978 | Jan. 1, 1996 |
| Jackson | 1.50 | 1,955,977 | 1,993,623 | 1,961,005 | 2,201,431 | 3,268,022 | Apr. 1, 1982 | Jan. 1, 1998 |
| Jefferson | 1.50 | 4,951,067 | 6,880,128 | 7,082,393 | 6,938,657 | 7,550,738 | June 1, 1973 | Nov. 1, 1994 |
| Knox | 1.00 | 2,674,189 | 3,036,660 | 3,152,081 | 3,388,716 | 3,585,887 | May 1, 1971 | Feb. 1, 1994 |
| Lake | 0.50 | 10,061,506 | 10,933,345 | 11,322,117 | 11,899,750 | 13,446,963 | July 1, 1969 | Aug. 1, 1988 |
| Lawrence | 1.50 | 3,009,551 | 3,379,365 | 3,486,572 | 3,595,027 | 4,567,930 | June 1, 1986 | June 1, 1998 |
| Licking | 1.00 | 9,581,378 | 9,796,659 | 10,380,040 | 11,140,768 | 11,925,092 | Feb. 1, 1971 | Feb. 1, 1984 |
| Logan | 1.50 | 2,772,449 | 3,184,423 | 3,471,051 | 4,408,968 | 5,866,233 | Jan. 1, 1974 | Jul. 1, 1997 |
| Lorain | 0.75 | 9,292,671 | 11,855,332 | 15,230,079 | 15,590,022 | 16,384,424 | July 1, 1985 | Jul. 1, 1995 |
| Lucas | 1.25 | 51,040,798 | 54,081,470 | 55,883,230 | 59,478,972 | 61,791,354 | Feb. 1, 1971 | Jan. 1, 1993 |
| Madison | 1.00 | 1,835,976 | 2,040,244 | 2,108,427 | 2,352,627 | 2,442,148 | Mar. 1, 1983 | Mar. 1, 1983 |
| Mahoning | 0.50 | 19,215,266 | 20,691,623 | 21,110,822 | 17,031,998 | 13,166,020 | Apr. 1, 1980 | Jan. 1, 1998 |
| Marion | 1.00 | 4,723,297 | 4,937,018 | 4,983,734 | 5,270,797 | 5,575,083 | Sep. 1, 1985 | Apr. 1, 1992 |
| Medina | 0.50 | 4,903,481 | 5,185,537 | 5,588,402 | 6,048,897 | 6,537,994 | Apr. 1, 1971 | Apr. 1, 1971 |

-Continued on Page 120

Table 73 (continued)
County and Transit Authority Permissive Sales Tax Collections,
Calendar Years 1994-1998

| County | Tax Rate 12/31/98 | A m o u n t o f T a x | | | | | Initial Enactment | Most Recent Enactment |
|--|----------------------|-----------------------|---------------|-----------------|-----------------|-----------------|----------------------|--------------------------|
| | | 1994 | 1995 | 1996 | 1997 | 1998 | | |
| Meigs | 1.00 | \$881,502 | \$973,001 | \$997,002 | \$1,029,520 | \$1,107,462 | Feb. 1, 1987 | Feb. 1, 1987 |
| Mercer | 1.00 | 2,493,599 | 2,525,876 | 2,616,465 | 2,731,718 | 2,921,555 | Nov. 1, 1971 | Jul. 1, 1987 |
| Miami | 1.25 | 7,143,965 | 9,634,765 | 9,786,063 | 10,347,642 | 10,787,022 | Dec. 1, 1969 | Nov. 1, 1994 |
| Monroe | 1.50 | 730,215 | 1,246,011 | 1,323,342 | 1,181,438 | 1,132,113 | Oct. 1, 1986 | Nov. 1, 1994 |
| Montgomery | 1.00 | 52,100,633 | 54,439,135 | 55,061,961 | 57,843,530 | 59,291,722 | Jan. 1, 1971 | Jul. 1, 1989 |
| Morgan | 1.50 | 773,812 | 805,520 | 866,304 | 908,705 | 946,914 | Feb. 1, 1972 | Apr. 1, 1990 |
| Morrow | 1.50 | 1,348,481 | 869,654 | 1,677,313 | 1,766,564 | 1,877,688 | July 1, 1971 | Jul. 1, 1995 |
| Muskingum | 1.50 | 9,138,029 | 9,885,323 | 10,290,305 | 10,936,702 | 11,729,991 | May 1, 1971 | Apr. 1, 1993 |
| Noble | 1.50 | 407,692 | 640,823 | 700,316 | 727,292 | 727,276 | Jan. 1, 1971 | Feb. 1, 1995 |
| Ottawa | 1.00 | 3,008,496 | 3,326,436 | 3,373,276 | 4,390,143 | 4,141,994 | Oct. 1, 1973 | Jan. 1, 1998 |
| Paulding | 1.50 | 1,110,622 | 1,194,892 | 1,283,070 | 1,359,136 | 1,436,320 | Apr. 1, 1984 | Nov. 1, 1991 |
| Perry | 1.00 | 1,066,415 | 1,130,244 | 1,178,447 | 1,256,215 | 1,355,682 | Mar. 1, 1971 | May 1, 1982 |
| Pickaway | 1.00 | 4,063,097 | 4,343,450 | 4,392,993 | 4,207,654 | 4,240,365 | Oct. 1, 1983 | Oct. 1, 1998 |
| Pike | 1.00 | 1,325,093 | 2,017,035 | 1,581,688 | 1,659,026 | 1,952,003 | May 1, 1988 | May 1, 1988 |
| Portage | 1.25 | 9,650,852 | 10,757,297 | 11,817,659 | 12,567,749 | 13,589,691 | Apr. 1, 1971 | Jan. 1, 1992 |
| Preamble | 1.50 | 2,540,261 | 3,152,197 | 3,169,901 | 3,506,551 | 3,435,149 | Nov. 1, 1979 | May 1, 1994 |
| Putnam | 1.00 | 1,549,708 | 1,659,019 | 1,766,734 | 2,017,394 | 2,254,047 | Jan. 1, 1974 | June 1, 1987 |
| Richland | 0.75 | 8,600,347 | 8,698,339 | 9,018,849 | 9,367,218 | 9,770,903 | June 1, 1979 | Jan. 1, 1994 |
| Ross | 1.50 | 7,048,458 | 7,697,917 | 8,240,819 | 8,792,844 | 9,034,923 | Jan. 1, 1980 | Oct. 1, 1993 |
| Sandusky | 1.00 | 5,894,254 | 5,332,603 | 4,392,838 | 4,621,062 | 4,987,986 | Aug. 1, 1979 | Aug. 1, 1995 |
| Scioto | 1.00 | 4,079,383 | 4,423,787 | 4,727,903 | 4,940,917 | 5,137,617 | May 1, 1979 | Apr. 1, 1987 |
| Seneca | 1.00 | 3,203,647 | 3,444,017 | 3,653,614 | 3,751,383 | 3,905,937 | Oct. 1, 1983 | July 1, 1988 |
| Shelby | 1.50 | 4,448,431 | 4,953,685 | 5,404,508 | 5,512,196 | 5,828,457 | Mar. 1, 1971 | Jan. 1, 1998 |
| Stark | 0.50 | 109,140 | 6,481,589 | 16,078,643 | 17,223,713 | 18,358,904 | Jan. 1, 1987 | Jul. 1, 1995 |
| Summit | 0.50 | 46,330,717 | 46,884,978 | 26,468,140 | 28,200,093 | 29,677,644 | Mar. 1, 1973 | Nov. 1, 1995 |
| Trumbull | 0.75 | 11,758,348 | 12,548,091 | 12,961,433 | 13,414,572 | 14,039,304 | June 1, 1985 | Apr. 1, 1993 |
| Tuscarawas | 1.00 | 8,582,502 | 8,582,396 | 8,760,511 | 9,114,475 | 8,911,794 | Apr. 1, 1971 | Jul. 1, 1998 |
| Union | 1.00 | 2,632,447 | 3,134,615 | 3,336,304 | 3,943,913 | 4,138,690 | Apr. 1, 1989 | Apr. 1, 1989 |
| Van Wert | 1.50 | 2,454,418 | 2,624,521 | 2,661,032 | 2,897,091 | 3,261,252 | Mar. 1, 1972 | Mar. 1, 1991 |
| Vinton | 1.50 | 474,491 | 531,746 | 565,072 | 601,133 | 640,150 | May 1, 1985 | Mar. 1, 1992 |
| Warren | 1.00 | 9,512,522 | 10,599,644 | 11,732,405 | 13,117,013 | 15,640,249 | Jan. 1, 1972 | Jan. 1, 1992 |
| Washington | 1.50 | 6,052,472 | 6,635,804 | 6,927,591 | 7,006,777 | 7,544,000 | Oct. 1, 1983 | Jan. 1, 1990 |
| Wayne | 0.75 | 5,220,970 | 5,728,867 | 5,921,452 | 6,216,043 | 6,874,245 | Mar. 1, 1971 | Jan. 1, 1992 |
| Williams | 1.00 | 2,329,546 | 2,542,433 | 2,653,625 | 2,823,337 | 2,987,960 | Dec. 1, 1977 | Apr. 1, 1986 |
| Wood | 1.00 | 8,315,495 | 8,921,641 | 9,328,180 | 10,273,209 | 10,906,264 | June 1, 1971 | Nov. 1, 1987 |
| Wyandot | 1.00 | 1,075,727 | 1,157,154 | 1,270,833 | 1,326,893 | 1,446,498 | Feb. 1, 1985 | Jan. 1, 1988 |
| County Total | | \$717,498,590 | \$790,545,028 | \$845,748,162 | \$925,744,502 | \$975,278,513 | | |
| Cleveland RTA (Cuyahoga County) | 1.00 | 118,086,789 | 127,771,200 | \$131,772,627 | \$138,654,205 | \$146,188,752 | Oct. 1, 1975 | Oct. 1, 1975 |
| Central Ohio TA (Franklin County) | 0.25 | 27,873,602 | 30,565,957 | 31,900,177 | 34,516,266 | 36,445,397 | Sep. 1, 1980 | Feb. 1, 1990 |
| LakeTran RTA (Lake County) | 0.25 | 5,020,712 | 5,453,031 | 5,648,412 | 5,923,447 | 6,718,866 | Aug. 1, 1988 | Aug. 1, 1988 |
| Miami Valley TA (Montgomery County) | 0.50 | 26,282,430 | 27,162,905 | 27,721,134 | 28,925,064 | 29,679,763 | July 1, 1980 | July 1, 1980 |
| Stark Area RTA (Stark County) | 0.25 | 0 | 0 | 0 | 3,600,305 | 9,071,557 | July 1, 1997 | July 1, 1997 |
| Metro TA (Summit County) | 0.25 | 11,910,769 | 12,731,595 | 13,133,804 | 13,977,569 | 14,800,821 | Feb. 1, 1991 | Feb. 1, 1991 |
| Transit Authority Total | | \$189,174,302 | \$203,684,687 | \$210,176,154 | \$225,596,856 | \$242,905,157 | | |
| GRAND TOTAL | | \$906,672,892 | \$994,229,715 | \$1,055,924,316 | \$1,151,341,358 | \$1,218,183,670 | | |

Note: Some counties and transit authorities have repealed and then re-enacted the tax, or have changed the tax rate since the first enactment.

SOURCE: Department of Taxation.