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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 224
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 224's Bill Analysis](#)

Version: As Reported by Senate Ways and Means

Primary Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

Michael Kerr, Budget Analyst

Highlights

- The bill allows a delivery network company (DNC), acting as a marketplace facilitator, to apply for a waiver from the Ohio Tax Commissioner reassigning the obligation for the collection of sales and use tax on goods sold, from the DNC to local merchants (LMs). Following waiver approval, sales and use tax would be collected on all DNC transactions for their delivery network services (DNS).
- State and local governments are not expected to incur revenue loss from the bill, with minimal cost anticipated to the Ohio Department of Taxation from administrative processing requirements.

Detailed Analysis

The bill acts to separate the collection of sales and use tax on goods sold by a “local merchant,” from “delivery network services” sold by “delivery network companies” acting as marketplace facilitators, which transport goods directly to consumers. All three terms are newly defined by the bill. In general, under current law, delivery charges for the preparation and transportation of tangible personal property, if sold by the seller of that property, are included in the price of a sale and consequently assessed sales and use tax.¹ The exception to this is for delivery charges either not directly imposed by the seller of the purchased goods, or imposed on the transportation of nontaxable items, e.g., food.² In the latter case, sales and use tax may be apportioned so as to only collect tax on the share of the delivery charge allocated to the taxable

¹ R.C. 5739.01(H)(1).

² Ohio Administrative Code 5703-9-52.

property. The bill changes this for delivery network companies (DNCs) receiving a waiver, making all delivery charges imposed by their company, including those assessed on the transportation of nontaxable items, taxable.

Following receipt of a waiver by a DNC, local merchants (LMs) transacting with that DNC would be required to collect and remit sales and use tax on all taxable goods sold by the LM and delivered by the DNC. As a result, state and local governments are not expected to incur revenue losses from the bill, as the collection of sales and use tax would merely be shifted from the DNC, the marketplace facilitator, to the LM, the marketplace seller. Moreover, some delivery charges previously exempt from taxation, such as those imposed on the conveyance of food, would become taxable for DNCs obtaining a waiver; to the extent the DNCs receiving a waiver do not currently collect tax on the portion of their delivery fees that transport nontaxable items, this may increase tax revenue. Lastly, a minimal cost is anticipated for the Ohio Department of Taxation from administrative processing requirements.

Food & delivery services spending

Ohio households spend, on average, close to \$254 on food prepared and consumed at home and \$89 on food prepared outside the home or delivered, each week.³ And the sales of third-party delivery services are rising significantly, with leading online grocery companies across the nation generating tens of billions of dollars in e-commerce sales annually.⁴ This is not a trend isolated to Ohio, as market research and consulting firms continue to predict strong compound annual growth worldwide for online grocery⁵ and restaurant food delivery services.⁶ As the share of these services increase, the proportion of Ohio sales and use tax collected through third-party delivery services is expected to rise.

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³ [U.S. Census Bureau](#) Household Pulse Survey, Week 63.

⁴ [Statista](#) article entitled “Total grocery e-commerce sales of leading online grocery companies in the United States in 2023,” published March 25, 2024.

⁵ [McKinsey & Company](#) article entitled “The next S-curve of growth: Online grocery to 2030,” published March 31, 2022.

⁶ [Bloomberg Second Measure](#) article entitled “Which company is winning the restaurant food delivery war?” published April 15, 2024.