



Ohio Legislative Service Commission

Bill Analysis

Mackenzie Damon

H.B. 466*

131st General Assembly
(As Reported by S. Ways & Means)

Reps. R. Smith, Schaffer, Dever, Hambley, Rogers, Amstutz, Anielski, Antani, Antonio, Arndt, Baker, Blessing, Boccieri, Boose, Boyce, Brenner, Brown, Buchy, Burkley, Celebrezze, Conditt, Craig, Cupp, Derickson, DeVitis, Duffey, Fedor, Green, Grossman, Hayes, Henne, T. Johnson, Leland, Lepore-Hagan, Manning, McClain, McColley, M. O'Brien, S. O'Brien, Patterson, Pelanda, Perales, Reece, Reineke, Retherford, Roegner, Romanchuk, Ruhl, Ryan, Schuring, Sears, Sheehy, Sprague, Strahorn, Sweeney, Terhar, Thompson, Young, Rosenberger

BILL SUMMARY

- Specifically exempts from sales and use tax digital advertising services and certain taxable electronic services that might be provided incidentally or supplementally to digital advertising services.

CONTENT AND OPERATION

Digital advertising exemptions

The bill exempts digital advertising services from sales and use tax.¹ As defined by the bill, these services involve accessing computer equipment, via a telecommunications system, to review, add, delete, or otherwise manipulate computer data in order to electronically display or deliver advertisements to potential customers.² The bill also exempts business-related automatic data processing, computer services, and electronic information services (hereafter referred to collectively as "taxable electronic services") from sales and use tax if those services are provided in conjunction with digital advertising services but are merely incidental or supplemental to the

* This analysis was prepared before the report of the Senate Ways & Means Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 5739.01(Y)(2).

² R.C. 5739.01(RRR).

advertising service.³ The bill's exemptions apply beginning on the first day of the first month that begins at least 30 days following the bill's effective date.⁴

Digital advertising services exemption

Under current law, digital advertising as defined by the bill is, under certain circumstances, considered an electronic information service that is a taxable electronic service if used for business purposes, according to a recently updated Department of Taxation information release.⁵ Continuing law, unchanged by the bill, distinguishes between taxable electronic information services and "personal and professional services." Although some services satisfying the bill's definition of digital advertising services may currently qualify as a personal or professional service, the bill explicitly classifies all digital advertising services as a personal or professional service, effectively exempting all digital advertising services from sales and use tax.⁶

Incidental taxable electronic services exemption

Under continuing law, a "mixed" transaction involving both taxable electronic services and some other kind of service (i.e., a personal or professional service) in the same transaction is not taxable if the purchaser's "true object" is to receive the benefit of the other service and if the electronic service is only incidental or supplemental to the purchaser's receipt of the other service.

By classifying digital advertising services as a personal or professional service, the bill exempts otherwise taxable electronic services that are furnished incidentally or supplementally as part of a transaction for digital advertising services to the extent those services could be distinguished from and would not otherwise qualify as a digital advertising service.⁷

³ R.C. 5739.01(B)(3)(e).

⁴ Section 3.

⁵ "On-line Services and Internet Access," ST 1999-04, Department of Taxation (issued Jan. 1999, updated Dec. 2015), available at http://www.tax.ohio.gov/sales_and_use/information_releases/index_sales.aspx.

⁶ R.C. 5739.01(B)(3)(e) and (Y).

⁷ R.C. 5739.01(B)(3)(e).



HISTORY

ACTION	DATE
Introduced	02-16-16
Reported, H. Ways & Means	05-03-16
Passed House (96-0)	05-04-16
Reported, S. Ways & Means	---

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