



Ohio Legislative Service Commission

Final Analysis

Mackenzie Damon

H.B. 466

131st General Assembly
(As Passed by the General Assembly)

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

Sens. Jordan, Beagle, Balderson, Coley, Eklund, Faber, Hackett, Hottinger, Hughes, Oelslager, Patton, Peterson, Schiavoni, Seitz, Tavares, Uecker

Effective date: October 12, 2016

ACT 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 act exempts digital advertising services from sales and use tax.¹ As defined by the act, 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 act also exempts business-related automatic data processing, computer services,

* This version updates the effective date.

¹ R.C. 5739.01(Y)(2).

² R.C. 5739.01(RRR).

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 advertising service.³ The act's exemptions apply beginning December 1, 2016 (the first day of the month that begins at least 30 days following the act's effective date).⁴

Digital advertising services exemption

Under prior law, digital advertising as defined by the act was, under certain circumstances, considered an electronic information service that was a taxable electronic service if used for business purposes, according to a Department of Taxation information release update issued in December of 2015.⁵ Continuing law, unchanged by the act, distinguishes between taxable electronic information services and "personal and professional services." Although some services satisfying the act's definition of digital advertising services might have previously qualified as a personal or professional service, the act 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 act 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	05-25-16
Passed Senate (32-1)	05-25-16

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