



Ohio Legislative Service Commission

Bill Analysis

Mackenzie Damon

H.B. 466

131st General Assembly
(As Passed by the House)

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 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

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 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 electronic information services, which are taxable, and "personal or professional services," which are not taxable. 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

Continuing law exempts from sales and use tax transactions by which taxable electronic services are incidentally furnished, but whose true object is the provision of a nontaxable personal or professional service. By classifying digital advertising services as a personal or professional service, the bill exempts otherwise taxable electronic services furnished incidentally 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

HISTORY

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

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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).

