



H.B. 80

124th General Assembly
(As Introduced)

**Reps. Jerse, Flannery, D. Miller, Hartnett, Redfern, DePiero, Willamowski,
Jones, Allen, Sullivan, Olman, Fedor, Boccieri, Latell, Woodard**

BILL SUMMARY

- Exempts the first \$2,000 of an individual's out-of-state purchases each year from the state and county use taxes, but does not exempt purchases of motor vehicles, aircraft, or watercraft that must be registered.

CONTENT AND OPERATION

Use taxes--generally

(Chapter 5741.)

The Ohio use tax is levied on the purchase of most personal property and many services that are purchased outside the state's borders. A person that purchases personal property outside Ohio is liable for the tax if the person uses, consumes, or stores the property in Ohio; a person that purchases a service outside Ohio is liable for the tax if the benefit of the service is realized in Ohio. A person making a purchase outside Ohio, is entitled to a credit against the use tax for any sales tax or similar tax paid to the other state.

The purpose of the use tax (besides raising revenue) is to tax all purchases the same regardless of where they are made. If a use tax was not imposed, consumers might have an incentive to make purchases outside Ohio. Then, not only would the state collect less revenue, but Ohio retailers would be placed at a competitive disadvantage as compared to their out-of-state counterparts. For similar reasons, a county use tax is levied in each county levying a sales tax.

For many years, a consumer's incentive to make out-of-state purchases may have been negligible since travel to the other state may have been necessary in order to consummate the transaction. In such a case, the consumer probably would have had to pay the other state's sales tax to the out-of-state seller anyway. But the recent growth of direct marketing--i.e., mail order and Internet retail

commerce--has expanded consumers' opportunities to purchase goods and services remotely and lowered the cost of making such purchases and of having goods shipped directly to the consumer. As long as an out-of-state seller does not have a substantial degree of "nexus" with Ohio--i.e., does not have some kind of physical presence here--the seller may not be compelled by the state of Ohio to collect tax from the consumer, as Ohio-based sellers are required to do.¹

Because Ohio cannot require out-of-state sellers lacking "nexus" with Ohio to collect the tax, it instead places responsibility for paying use taxes on consumers. They are required to file a use tax return and pay the tax due. To encourage greater compliance, the Department of Taxation added a line to the 2000 personal income tax returns on which taxpayers are asked to report taxable out-of-state purchases and to pay the use tax liability, either by adding it to their income tax liability or deducting it from their income tax refund.

Exemption for first \$2,000 in purchases

(sec. 5741.02(C)(8))

The bill exempts from use taxation the first \$2,000 in purchases made by an individual for non-business use during each calendar year. The exemption applies under both the state and county use taxes. The exemption does not apply to motor vehicles; aircraft; or watercraft or outboard motors that must be registered under Ohio law.² If an individual makes more than \$2,000 in purchases in a calendar year, only the amount of the purchases in excess of \$2,000 is taxable. Thus, if a consumer's purchases are more than \$2,000, at least one of a consumer's purchases may be partly taxable and partly exempt.

The exemption begins to apply on the first day of the second month that begins after the bill's effective date. The bill cannot take effect earlier than July 1, 2001.

¹ *On several occasions, the United States Supreme Court in effect has prohibited states from requiring out-of-state sellers lacking a minimum degree of physical presence in the taxing state from collecting the state's use tax.*

² *Watercraft 14 feet in length or longer and outboard motors having ten horsepower or more must be registered under Chapter 1548.*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-08-01	p. 151

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