



HANDBOOK

Ohio County Commissioners

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CHAPTER 18

COUNTY PERMISSIVE SALES AND USE TAXES

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18.01 INTRODUCTION

In 1967 the General Assembly granted counties the authority to enact a permissive sales and use tax. At the same time counties were also authorized to enact a permissive utilities service tax, a real property transfer tax and a permissive motor vehicle license tax.

Since the original county permissive tax package was enacted the General Assembly has granted counties two new permissive tax options. In 1980, the Legislature authorized a county permissive lodging tax. The primary purpose of this tax is to fund the operations of convention and visitors bureaus operating in the county. In 1986, authority was granted to enact a permissive liquor and cigarette tax for the purpose of financing the construction and operation of a sport facility for major league professional sports.

The other permissive taxes will be discussed in other Chapters of this *Handbook*. For a general overview of permissive taxes refer to Chapter 17. In addition the following Chapters discuss other county permissive taxes in detail: Chapter 19, the *Permissive Real and Manufactured Home Transfer Tax*, Chapter 20, the *Permissive Motor Vehicle License Tax*, and Chapter 21, the *Permissive Lodging Tax*.

The enactment of permissive tax options significantly changed the manner in which counties could fund the services they provide. The law, at the time, provided that

county commissioners could enact the taxes by resolution subject to referendum. The permissive sales and use tax can be used for the general fund and a series of specific uses that will be explained in more detail in this Chapter. All of the taxes with the exception of the motor vehicle license tax are to be used for general fund purposes and for the administration of the tax. The motor vehicle license tax is to be used for highway purposes.

Since the original enactment of the county permissive tax package various changes have been made to the law, especially as it relates to the sales and use tax, which is a primary source of revenue for most counties. The county permissive sales and use tax law has undergone numerous changes concerning the rate of taxation, enactment and repeal options, and various other technicalities of the law. The major changes in the sales and use tax law are summarized in Table 18-1 at the end of this Chapter.

The permissive sales and use tax is the single largest source of revenue to the county general fund in most counties. Current information on the county permissive sales and use tax is available on the web site of the [Ohio Department of Taxation](#). This link will allow readers to view a map that shows current county rates and shows a recent history of collections for both counties and regional transit authorities.

The balance of this Chapter will discuss the sales and use taxes and methods of implementation.

18.02 PERMISSIVE SALES AND USE TAXES

Counties may enact a permissive sales and use tax of not more than 1½%. Actually, there are two different authorities in this regard. There is the sales and use tax authorized pursuant to ORC Sections 5739.021 and 5741.021. For the purpose of this Chapter this tax, which may not exceed 1%, is simply referred to as the *sales and use tax*. The other sales and use tax, which may be enacted at a rate of not more than ½%, is authorized by ORC Sections 5739.026 and 5741.023, and will be referred to as the *additional sales and use tax*.

The sales and use taxes are enacted together. The sales tax applies to retail sales subject to the state sales tax, and the use tax applies to the use, storage, or consumption of motor vehicles, watercraft, and outboard motors that must be titled. The use tax also applies to tangible personal property and services subject to the state sales and use tax and to tangible personal property and services purchased in another county in Ohio or in another state. The use tax also applies to remote sales of goods and services such as purchases made by telephone or the internet where the seller does not have a physical presence and the sales tax has not been collected in Ohio. Remote sales are the subject of the Streamlined Sales and Use Tax Agreement which is discussed in Section 18.22 of this Chapter.

In addition, county commissioners who have established a county transit board (ORC 306.01) and a regional transit authority (ORC 306.32) may also enact up to an additional 1½% transit tax. All of these taxes will be explained in later sections of this Chapter. Table 18-2 contains the basic statutory references for permissive sales and use taxes, and Table 18-3 summarizes important information about these taxes.

18.03 SALES AND USE TAX

The purpose of the permissive *sales and use tax* authorized by ORC Sections 5739.021 and 5741.021 is to provide additional monies for the general fund, to support criminal and administrative justice services, and to administer the tax. The tax may be levied at the rates of ¼%, ½%, ¾%, or 1%. The tax can be levied for a specified number of years or for a continuing period of time. County commissioners also may reduce this tax to a lower authorized rate after its enactment and they may repeal the tax. Methods of enactment and repeal are discussed later in this Chapter. The enactment of the *sales and use tax* to support criminal and administrative justice services is discussed in Section 18.04 of this Chapter.

18.04 ENACTMENT OF ALL OR PART OF A SALES AND USE TAX TO SUPPORT CRIMINAL AND ADMINISTRATIVE JUSTICE SERVICES

The law permits the enactment of the *sales and use tax* in any one of three combinations:

1. Commissioners enacting the ORC Section 5739.021 *sales and use tax* may enact the tax exclusively to provide additional general revenues and for administration of the tax. In such a situation the resolution should specifically list these two purposes.
2. Commissioners enacting the *sales and use tax* may enact it exclusively to support criminal and administrative justice services and for administration of the tax. In this situation the resolution should state that the purpose will be to support criminal and administrative justice services as defined in ORC Section 5739.021 (I) and for administration of the tax.
3. If the *sales and use tax* is to be enacted to provide both additional general revenues and to support criminal and administrative justice services, then the resolution should state that the purpose is to provide additional general revenues, to support criminal and administrative justice services as defined in ORC Section 5739.021 (I), and for administration of the tax.

If a portion of the *sales and use tax* is to be used for additional general revenues and a portion is to be used to support criminal and administrative justice services, then the resolution must state the “rate or amount of the tax to be apportioned to each such

purpose.” The rate or amount may be different in each year, but the rates or amounts must be adhered to in each year the tax is in effect. Rate means ¼%, ½%, ¾%, or 1%. Amount means some specified dollar amount. Commissioners have the flexibility to use either rates or amounts and these rates or amounts may vary for each year the tax is in effect. Commissioners may enact the tax for a continuing period of time, but the resolution must still specify the rate or amount that will be used each year for the two purposes.

For example, the commissioners could enact a ½% tax for both purposes and then specify in the resolution that a ¼% would be deposited in the general fund and ¼% would be deposited in a special revenue fund to support criminal and administrative justice services.

Alternatively, the commissioners could enact a ½% tax for both purposes and specify a certain dollar amount for the county general fund and any amount in excess of the previously specified dollar amount to be credited to a special fund to support criminal and administrative justice services. The options are virtually unlimited as to how the proceeds from the tax may be divided between the two purposes.

Counties should note that the law provides that commissioners must specify the “rate or amount” if the tax is to be used for both purposes. This is different than the language that is used in the *additional sales and use tax* (ORC 5739.026) law where that tax may be used for multiple authorized purposes. The language in the *additional sales and use tax* law provides that the commissioners must specify the “amount or proportion” if the tax is to be used for more than one purpose. This is a significant difference because under the *additional sales and use tax* the commissioners could specify, for example, that 80% of the proceeds could be used for one of the authorized purposes and 20% could be used for another authorized purpose. The language in the *sales and use tax* law (ORC 5739.021) does not allow this type of percentage allocation.

Following are two examples of how a *sales and use tax* enacted for both additional general revenues and to support criminal and administrative justice services could be apportioned between the two authorized purposes.

Example # 1 – A 1% TAX FOR A PERIOD OF 10 YEARS

Year #	RATE TO GENERAL FUND	RATE TO CRIMINAL & ADMINISTRATIVE JUSTICE SERVICES
1	½%	½%
2	½%	½%
3	½%	½%
4	¼%	¾%
5	¼%	¾%

6	1/4%	3/4%
7	1/4%	3/4%
8	1/4%	3/4%
9	0%	1%
10	0%	1%

Example # 2 – A 1% TAX FOR A PERIOD OF 10 YEARS

YEAR #	AMOUNT TO CRIMINAL & ADMINISTRATIVE JUSTICE SERVICE	AMOUNTY TO GENERAL FUND
1	First \$500,000	Any amount over \$500,000
2	First \$500,000	Any amount over \$500,000
3	First \$500,000	Any amount over \$500,000
4	First \$600,000	Any amount over \$600,000
5	First \$600,000	Any amount over \$600,000
6	First \$750,000	Any amount over \$750,000
7	First \$750,000	Any amount over \$750,000
8	First \$750,000	Any amount over \$750,000
9	First \$750,000	Any amount over \$750,000
10	First \$750,000	Any amount over \$750,000

Any county enacting all or any portion of the *sales and use tax* for criminal and administrative justice services may use the funds for any or all of the following purposes:

1. The exercise of all powers and duties of the sheriff.
2. The exercise of all powers and duties of the prosecutor.
3. The exercise of all powers and duties vested in any court in the county.
4. The exercise by any clerk of a municipal court with countywide jurisdiction, the clerk of any county court, and the clerk of the court of common pleas of all powers and duties vested in the clerk, except, in the case of the clerk of the court of common pleas, the title bureau.
5. The exercise of all powers and duties of the coroner.
6. Payments to other public agencies and private non-profit agencies if the purpose of the agency includes diversion, adjudication, detention, or rehabilitation of criminal or juvenile offenders.

7. The operation and maintenance of a detention facility as defined in ORC Section 2921.01.
8. The construction, acquisition, equipping or repair of a detention facility, including debt service.

The statutory definition of criminal and administrative justice services does not include public defenders or indigent defense costs. These costs are not permissible expenses unless the prosecutor rules that indigent defense costs are allowable under the provision of law allowing the funds to be used by any court in the county. Under this scenario, the commissioners would include assigned counsel costs within the budgets of the various courts and not as a separate line item apart from the court budget.

Any county proposing to enact all or a portion of a *sales and use tax* for criminal and administrative justice services must prepare a statement and preliminary plan for the use of the funds. The statement and preliminary plan must be available at the first public hearing on the proposed tax. The written document must contain the following information:

1. A statement of the amount of expenditures made from the general fund for criminal and administrative justice services for last two fiscal years.
2. A statement that estimates the amount of expenditures from the general fund that will be made during the current fiscal year for criminal and administrative justice services.
3. A preliminary plan for each of the next two years after the resolution is adopted showing the amount of monies from the general fund that will be used for criminal and administrative justice services. This preliminary plan must show the proposed expenditures from the general fund both ways, first assuming the proposed tax is imposed, and second, assuming the tax is not imposed.
4. A preliminary plan for each of the next two years after the resolution is adopted showing the amount of monies that will be used for criminal and administrative justice services from the special revenue fund if the proposed tax is imposed.

At the end of the Chapter as Table 18-4 is a suggested format that could be used as a model for the purpose of preparing the required statement and preliminary plan. Commissioners are urged to work with the auditor and prosecutor in preparing the statement and preliminary plan. The statement and preliminary plan should be adopted by resolution.

The statement and preliminary plan must be prepared using the best information available when it is prepared. The law also provides that neither the statement nor the

preliminary plan can be used as a basis to challenge the validity of the tax in court. The statement and preliminary plan do not limit the authority of the commissioners subsequently to appropriate an amount different from that specified in the preliminary plan.

18.05 ADDITIONAL SALES AND USE TAXES

In addition to the *sales and use taxes* described in Section 18.03, counties may enact an *additional sales and use tax* of $\frac{1}{4}\%$ or $\frac{1}{2}\%$ pursuant to ORC Sections 5739.026 and 5741.023. This gives commissioners the authority to enact sales and use taxes of up to $1\frac{1}{2}\%$. It can be levied for a specified number of years or for a continuing period of time. If the tax is levied exclusively for the general fund, county commissioners may reduce this tax to a lower authorized rate (i.e. reduction from $\frac{1}{2}\%$ to $\frac{1}{4}\%$), and may repeal the entire tax. The *additional sales and use tax* may be used for one or more of the following specific uses:

1. To provide revenue for bonds or notes issued by a convention facilities authority and to provide operating revenues for the authority. For more information on the establishment of a convention facilities authority refer to Section 18.20.
2. To provide revenues for a county transit board or regional transit authority.
3. To provide additional revenue for the county general fund.
4. To provide revenues for permanent improvements distributed by a community improvements board and to retire bonds for such improvements. For more information on the establishment of a community improvements board refer to Section 18.21.
5. To provide revenue for any specific permanent improvement or class or group of permanent improvements enumerated in the resolution enacting the tax and to retire bonds for such improvements. County commissioners of a county that is joined in a joint recreation district may levy the *additional sales and use tax* under ORC Section 5739.026 (A) (5) and under the provisions of the uniform bond law (ORC 133.07(C)(15) and the joint recreation district law (ORC 755.171) for the purpose of repaying debt issued to finance the construction of joint recreation district facilities.
6. To provide revenue for the implementation and operation of a 911 phone system.
7. To provide revenue for the operation or maintenance of a detention facility.
8. To provide revenue to finance the construction or renovation of a sports facility.

9. To provide revenue for the acquisition of agricultural easements.
10. To provide revenue for the provision of ambulance, paramedic, or other emergency medical services.

If the county proposes to use the tax revenues for more than one of these purposes, the county commissioners must establish the method which will be used to determine either the amount or the proportion of the tax revenue which will be allocated during each year the tax is in effect for each of the authorized purposes. The allocation need not be the same for each year the tax is in effect, but the resolution must clearly state the method which will be used each year.

This allocation methodology is difficult to change. It may be amended for any year after a public hearing if the proposed amendment is approved by each governing board whose allocation would be reduced. Under no circumstances may the allocation methodology be reduced before the sixth year if the tax was enacted for a continuing period of time. It should be noted that the change in the allocation methodology was originally intended to apply to when an additional sales and use tax was enacted pursuant to ORC Section 5739.026 (A)(5) that allows for the enactment of the tax for distribution by a community improvements board. The language, however, may apply in other situations. Guidance from the prosecutor in these cases may be needed.

In addition, no amendment is allowed as long as bonds are outstanding if the tax was enacted for a convention facilities authority, a community improvements board, permanent improvements, agricultural easements, or for regional transit purposes.

Provisions for the enactment and repeal of the *additional sales and use taxes* will be discussed later in this Chapter.

18.06 SPECIAL PROVISIONS FOR ADDITIONAL SALES AND USE TAX FOR 911

Commissioners may enact all or part of the *additional sales and use tax* for the implementation and operation of a 911 phone system at the rate of either ¼% or ½%. The following guidelines apply to the use of this tax for 911 purposes:

1. If the tax is enacted exclusively for the purpose of 911, it may not be levied for more than five years.
2. The revenues derived from a tax enacted exclusively for 911 must be deposited in a special fund. At the end of the five year period any monies remaining can only be used for 911 purposes and cannot be transferred to another fund. The commissioners also may not petition the court of common pleas to transfer any remaining funds, and the tax commissioner may not approve any such transfer request.

3. If the commissioners want to levy the tax for 911 for more than five years, it must be enacted in conjunction with one or more of the nine other authorized purposes for which the *additional sales and use tax* may be enacted. The commissioners must also prescribe the method by which it will allocate the tax among the eligible purposes for each year the tax is collected.

In all cases where any part of the *additional sales and use tax* is to be levied for 911, the tax must be submitted to the electors for approval.

18.07 SALES AND USE TAX ENACTMENT OPTIONS

There are four options available to commissioners in enacting the *sales and use tax* or an *additional sales and use tax* as follows:

1. **REGULAR METHOD** - This method involves the adoption of a resolution by the commissioners and is subject to referendum. For 30 days following adoption of the resolution a referendum can be requested. If a referendum is requested the tax cannot go into effect until approved by the electors at the next primary or general election. If a referendum is not requested during this 30 day period, the tax is not subject to a referendum or an initiative petition to repeal in the future.
2. **EMERGENCY METHOD** - This method involves the adoption of a resolution by the commissioners as an emergency measure. Such a resolution is not subject to a referendum, but is subject to an initiative or an election to repeal at any subsequent general election. The commissioners must act unanimously and must state the reasons for the emergency.
3. **ELECTORATE METHOD** - This method allows county commissioners to adopt a resolution directing the board of elections to submit the question to the electors at the next general or primary election. This resolution must be adopted and certified to the board of elections at least 90 days before the election.
4. **EMERGENCY/ELECTORATE METHOD** - This method allows the commissioners to adopt the sales tax resolution as an emergency as specified above, and at the same time direct the board of elections to submit the question of the tax or the increase of the tax to the electors at the next general election. Where a tax has been enacted by this method and approved by the electors, the tax is subject to an initiative petition to repeal at any subsequent general election. The question on the ballot at the general election is whether the tax will be retained.

18.08 LIMITATION ON EMERGENCY ENACTMENTS OF SALES TAX

There is one significant limitation placed upon county commissioners' authority to enact

sales and use tax as an emergency measure. The enactment of the *sales and use tax* as an emergency is not allowed in the following situations:

1. If a tax was rejected at an election held as a result of a referendum petition, then emergency enactment is not possible for at least one year after the date of the previous election.
2. If an emergency tax enacted after January 1, 1982 has been repealed as a result of an initiative petition or because the county commissioners enacted the tax as an emergency measure and directed the board of elections to submit it to the voters at the next general election, then the commissioners cannot enact the tax as an emergency for at least one year after the previous election.

It should be noted that this limitation only applies to the 1% *sales and use tax* (ORC 5739.021) and not to the *additional sales and use tax* (ORC 5739.026). This means that the *additional sales and use tax* can be enacted as an emergency for general fund purposes at any time, because the restriction only applies to the ORC Section 5739.021 tax.

In addition, the one year restriction does not prohibit the commissioners from placing either the *sales and use tax* or the *additional sales and use tax* on the ballot or enacting either tax subject to a referendum. Finally, where the *sales and use tax* has been submitted to the electors and rejected, the one year restriction against an emergency enactment does not apply.

18.09 PUBLIC HEARINGS AND NOTICE REQUIREMENTS

Public hearings and notices are generally required when enacting the permissive sales and use tax with a few exceptions that will be explained later in this section. The following public hearing and notice requirements generally apply to both permissive sales and use taxes.

1. Two public hearings must be held before the adoption of the tax resolution.
2. The second hearing must be no less than three nor more than 10 days after the first hearing.
3. Notice of the date, time, and place of the hearings must be published in a newspaper of general circulation in the county once a week, on the same day of the week, for two consecutive weeks prior to the hearing. The second notice must be no less than 10 or more than 30 days before the hearing.

In lieu of providing two full published notices, the law (ORC 7.16) permits the use of one full public notice and a second abbreviated public notice, provided the first notice is

published on the state public notice website and other requirements of this section are met. For additional information, refer to [County Advisory Bulletin 2012-01](#) Public Notice Reform.

However, it should be noted that if the *additional sales and use tax* is being enacted exclusively for general fund purposes public hearings and notice requirements apply. If, however, the *additional sales and use tax* is being proposed for any of the other authorized purposes which necessitate the submission of the question to the voters, hearings and notice are not required. It should be stressed that public hearings are required when the *additional sales and use tax* (ORC 5739.026) is being proposed exclusively for the general fund even if the commissioners are placing the question on the ballot. The *sales and use tax* (ORC 5739.021) must always follow the hearing and notice requirements.

18.10 EFFECTIVE DATES AND NOTIFICATION FOR SALES AND USE TAXES

The effective date of any change in the *sales and use tax* or the *additional sales and use tax* is always the first day of a calendar quarter 65 days after the tax commissioner has been notified by the county commissioners or the board of elections of adoption of the tax. A county sales and use tax may only take effect on the first day of January, April, July, and October. The purpose of the extended advance notice is to give the tax commissioner time to notify vendors and to harmonize Ohio law with the provisions of the Streamlined Sales Tax Agreement that generally requires sales taxes in each participating state to conform to certain guidelines.

The tax commissioner must be notified in writing by the county commissioners of all sales tax questions which are submitted to the voters at the same time that the question is certified to the board of elections.

If a sales tax is enacted by the regular method, the tax becomes effective no sooner than the first day of the calendar quarter after the tax commissioner has been notified by personal service or certified mail. If a referendum petition is filed the county auditor must notify the county commissioners and the tax commissioner within five days by certified mail. If the auditor then declares the petition invalid, notice must again be sent by certified mail to both parties. If the auditor invalidates a referendum petition the tax then takes effect on the first day of the calendar quarter 65 days after the auditor declares the petition invalid.

If the sales tax is enacted as an emergency, the tax goes into effect on the first day of the calendar quarter not later than 65 days after the county commissioners have delivered a certified copy of the resolution to the tax commissioner. If an election to repeal a tax enacted as an emergency is initiated, the board of elections must notify the tax commissioner when it is determined that the petition is valid. If the tax is repealed, the board of elections must notify the county commissioners and the tax commissioner

immediately after the result has been declared. The tax is repealed or the increased rate of the tax is reduced on the first day of the calendar quarter 65 days after the tax commissioner and the county commissioners have been notified. This is April 1 of the following year.

If the sales tax is submitted to the electors the commissioners must notify the tax commissioner in writing that the tax will be submitted to the electors when they transmit the resolution enacting the tax to the board of elections. If the tax is approved by the electors, the board of elections then notifies the tax commissioner and the tax is effective on the first day of the calendar quarter 65 days after the tax commissioner has been notified of the vote.

If the tax is enacted as an emergency and at the same time the commissioners direct the board of elections to place the issue on the ballot at the next general election, the commissioners must notify the tax commissioner of the emergency enactment and the tax then goes into effect on the first day of the calendar quarter 65 days after the tax commissioner is notified. The commissioners must also notify the tax commissioner of the sales tax question when they transmit the resolution to the board of elections directing that the question be voted on at the next general election. The board of elections must immediately notify the county commissioners and the tax commissioner of the result of the election. If the tax is repealed or reduced the repeal or reduced rate takes effect on the first day of the calendar quarter 65 days after the tax commissioner and county commissioners are notified. This is April 1 of the following year.

18.11 REMOVAL OF PERMISSIVE SALES & USE TAXES

There are four separate ways by which both permissive sales and use taxes may be removed or repealed.

1. The county commissioners may repeal the taxes.
2. If the permissive tax is enacted by the regular method, a petition for referendum can be filed within 30 days of adopting the permissive tax resolution. In the case where the *sales and use tax* (ORC 5739.021) was rejected at any election irrespective of method of enactment during the preceding year, petitioners have a 45 day period to submit the petition. It must be stressed that this 45 day provision does not apply to the *additional sales and use tax* (ORC 5739.026). If a valid petition is filed, the tax does not become effective unless approved by the electorate.
3. If the permissive tax was adopted as an emergency, it is not subject to referendum. An election to repeal, however, can be initiated in any subsequent year by filing a petition 90 days before the general election.

4. If the permissive tax is enacted as an emergency and at the same time the commissioners direct the board of elections to submit the tax to the electors at the next general election, the electors then vote to retain the tax that was previously adopted as an emergency.

18.12 REFERENDUM ON A PERMISSIVE TAX ENACTED UNDER THE REGULAR METHOD

After the adoption of a resolution enacting a permissive tax under the regular method described above, it does not become effective for a 30 day period. During that period, a referendum petition may be circulated requesting the resolution be submitted to the electors. Such questions can be submitted to the voters at either a general or primary election. The procedures for filing the referendum petition are governed by ORC Sections 305.31-305.41 and the petition must also comply with requirements specified in ORC Section 3501.38.

The petition must be signed by 10% of those that voted for the Governor in the most recent gubernatorial election. The text of the petition for a referendum must request that the resolution levying the permissive tax be submitted to the electors of the county for their approval or rejection.

The petition must be filed with the county auditor within 30 days after the adoption of the resolution by the commissioners. After a petition has been filed with the county auditor it must be kept open for public inspection for 10 days.

Prior to circulating a referendum petition those seeking the referendum must file a certified copy of the permissive tax resolution with the county auditor and with the county board of elections. The board of county commissioners must make a certified copy of the resolution available as soon as the resolution is adopted. A certified copy includes a written statement attesting that it is a true and exact reproduction of the original resolution and is usually attested to by the commissioners' clerk. Commissioners may charge a fee for the cost of copying the resolution.

Those petitioning for a referendum may designate a committee of not less than three persons who is considered as filing the petition. The circulator of a referendum petition also must, within five days after the petition is filed with the county auditor, file a statement with the county auditor, made under penalty of election falsification, showing:

1. All moneys or things of value paid, given, or promised for circulating the petition;
2. Full names and addresses of all persons to whom such payments or promises were made;

3. Full names and addresses of all persons who contributed anything of value to be used in circulating the petitions;
4. Time spent and salaries earned while circulating or soliciting petition signatures by persons who were regular salaried employees of a person who authorized them to solicit signatures or circulate the petition as a part of their regular duties.

This statement is open to public inspection for a period of one year.

After the conclusion of the 10 day public inspection period the county auditor transmits the petition and a certified copy of the permissive tax resolution to the board of elections. This transmittal must be not later than the 90th day before the election. The board of elections examines all signatures on the petition to determine the number of electors of the county who signed the petition. The board of elections returns the petition to the county auditor within 10 days with a statement attesting to the number of electors who signed the petition.

The board of elections then submits the resolution to the electors of the county, for their approval or rejection, at the next general election held in the county in any year, or on the day of the next primary election in even-numbered years that occurs 90 days after the county auditor certifies the sufficiency and validity of the petition to the board of elections.

Permissive sales and use tax resolutions receiving an affirmative majority vote become effective on the first day of the calendar quarter after the expiration of 65 days from the date the tax commissioner received notice from the board of elections of the affirmative vote.

18.13 OTHER PROVISIONS RELATING TO PETITIONS

The law specifies a series of other requirements relating to referendum petitions, including:

1. Each signer must be a registered elector of the county in which the election is to be held. The facts of qualification shall be determined as of the date when the petition is filed. The signer must include the date of signing and the location of the signer's voting residence on the petition after the signer's name. The location must include the street and number if in a municipal corporation or the rural route number, post office address, or township if outside a municipal corporation. The voting address given must be the address shown on voting registration records at the board of elections.
2. Signatures must be in ink. A signer may also print his/her name in addition to signing in order to clearly identify the signature. No person can write a name

other than their own name nor may anyone authorize another to sign on their behalf. The procedure for an “attorney-in-fact” signing for disabled voters is an exception to this prohibition as specified in ORC Section 3501.382. If a petition contains the same elector’s signature more than once only the first signature is counted.

3. A referendum petition may be presented in separate petition papers, but each petition paper must contain a full and correct copy of the title and text of the resolution enacting the permissive tax. All separate petition papers must be filed at the same time, as one instrument.
4. At the top of each part of the petition the following words must be printed in red:
NOTICE
Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter is liable to prosecution.
5. No person can knowingly sign a referendum petition more than once, sign a name other than his or her own, or sign when not a legal voter. The procedure for an “attorney-in-fact” signing for disabled voters is an exception to this prohibition as specified in ORC Section 3501.382.
6. No person can accept anything of value for signing a referendum petition.
7. No person can, directly or indirectly, by intimidation or threats, influence or seek to influence any person to sign or abstain from signing, or to solicit signatures to or abstain from soliciting signatures to a referendum petition.
8. On each petition paper the circulator must indicate the number of signatures contained thereon and must sign a statement made under penalty of election falsification that he witnessed the affixing of every signature, that all signers were to the best of his knowledge and belief qualified to sign, and that every signature is to the best of his knowledge and belief the signature of the person whose signature it purports to be or of an attorney-in-fact acting for a disabled voter pursuant to ORC Section 3501.382.
9. The circulator of a petition may, before filing it with the county auditor, strike from it any signature he does not wish to present as a part of his petition.
10. Any signer of a petition or an “attorney-in-fact” acting on behalf of a disabled voter pursuant to ORC Section 3501.382 may remove his or her signature from a petition at any time before the petition is filed with the county auditor by striking his name on the petition. No signature, however, may be removed after the

petition is filed with the county auditor. Likewise, no alterations, corrections, or additions may be made to the petition after it is filed with the county auditor.

11. The petition papers must contain the following statement in bold face capital letters:

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

12. If a circulator knowingly permits an unqualified person to sign a petition paper or permits a person to write a name other than the person's own on a petition paper, that entire petition paper is invalid; otherwise, the signature of a person not qualified to sign shall be rejected but shall not invalidate the other valid signatures on the paper. The procedure for an "attorney-in-fact" signing for disabled voters is an exception to this prohibition as specified in ORC Section 3501.382.

18.14 ELECTION TO REPEAL EMERGENCY PERMISSIVE TAX

To initiate the repeal of a permissive sales and use tax enacted as an emergency measure, a petition must be filed with the board of elections 90 days before a general election in any year. The petition must be signed by 10% of those voting for Governor in the last gubernatorial election. The petition requirements are the same as for a referendum petition as specified in Sections 18.12 and 18.13 of this Chapter.

If the petitions are valid, the board of elections must submit the question to the voters at the next general election. Notice of the election must be published in a newspaper of general circulation in the county at least once a week for two consecutive weeks before the election.

As an alternative to these publication requirements, the county may use the procedures specified in ORC Section 7.16. Under this procedure, an abbreviated second publication may be made if the first notice is posted on the state public notice website and other requirements of this section are met. For additional information, refer to [County Advisory Bulletin 2012-01](#) which is available at the CCAO website at www.ccao.org.

If the tax is repealed at such an election, it will be collected until April 1 of the following year. The question that appears on the ballot is whether the tax will be retained.

18.15 INSIDE MILLAGE ROLLBACK

In conjunction with the enactment of a *sales and use tax* or an *additional sales and use tax*, or at any time after the county commissioners have adopted a resolution to levy or

increase the rate of a sales tax, the county commissioners may adopt a resolution reducing inside property tax millage.

When this authority was originally enacted, the amount of the reduction had to equal one-half of the revenue that would have been generated from a ½% tax. The law also originally required the commissioners to adopt the resolution reducing the inside millage in conjunction with the resolution to levy or increase the rate of the sales tax. The law now authorizes commissioners to reduce any number of mills as long as the reduction does not exceed the estimated amount that the sales tax increase will yield. The commissioners may adopt a resolution at any time reducing the inside millage for any year or years that the sales tax is in effect.

No other taxing unit may levy any portion of the reduced millage, except as may be required by the budget commission to provide for the payment of debt charges of a subdivision or taxing unit. The county commissioners may, at any time, reimpose the millage that had been reduced. The resolution reducing the millage may specify the number of years the reduction will be in effect.

18.16 VENDORS CASH REGISTER PAYMENTS BY COUNTY

Any county or transit authority that enacts or increases the rate of a sales and use tax may be required to reimburse vendors for costs associated with changing cash registers so that they are capable of correctly computing the tax on sales.

The reimbursement to vendors is not automatic and an application must be filed with the county auditor. Following are the procedures relative to these payments:

1. The request for payment must be made within six months after the tax goes into effect.
2. The application must be on a form prescribed by rule of the tax commissioner.
3. The auditor must make payments to vendors within nine months from the filing of the application.
4. The amount of the payment to the vendor is as follows:
 - a. If the establishment has one cash register the reimbursement is the actual cost, but may not exceed \$100.
 - b. If the establishment has more than one cash register the reimbursement is the actual cost, but may not exceed \$50 per register.

18.17 THE REGIONAL TRANSIT PERMISSIVE SALES AND USE TAX (ORC 306.70, 306.71, 5739.023, 5741.022)

County commissioners and regional transit authorities were granted the power to enact permissive sales and use taxes for transit purposes in 1974. This permissive tax differs from other permissive sales taxes in the following respects:

1. The taxing authority may be either the county commissioners for a county transit board or the board of trustees of a regional transit authority.
2. The levy does not go into effect until it is submitted to the electors residing within the county or within the territorial boundaries of the transit authority.

The tax may be levied at the rate of $\frac{1}{4}\%$, $\frac{1}{2}\%$, $\frac{3}{4}\%$, 1%, $1\frac{1}{4}\%$ and $1\frac{1}{2}\%$. A certified copy of the resolution of the taxing authority must be delivered to the board of elections not later than the 90th day before the election at which it is to be voted upon. The resolution must specify the number of years which the tax will be in effect or that the tax is for a continuing period of time. The question may be submitted at a general election or at a special election on a day specified in the resolution.

Notice of the election must be published in one or more newspapers which in the aggregate are of general circulation in the territory of the county or of the regional transit authority once a week for two consecutive weeks prior to the election or as provided in ORC Section 7.16. If the board of elections maintains a website, notice of the election must be posted on the website for 30 days prior to the election. The notice must state the type, rate and purpose of the tax to be levied, the length of time and place of the election.

If the tax is levied for a continuing period of time, a proposal to decrease the rate of tax may be initiated by filing a petition with the appropriate board of elections prior to the 90th day before any general election. The petition must state the amount of the proposed decrease in the rate and must be signed by at least 10 percent of the number of qualified electors residing in the area who voted at the last general election.

Finally, special procedures apply when a county, township, or municipality is added to the jurisdiction of a regional transit authority that already has a transit sales and use tax in effect. While the process is complex, the jurisdictions being added to the authority will have the sales tax imposed unless a referendum is initiated within 60 days over the question of inclusion in the regional transit authority. Another option is to have an automatic election over the entire territory of the expanded transit authority where the question of the renewal of an existing tax, the increase of an existing tax, the renewal and increase or decrease of an existing tax or the imposition of an additional tax will appear on the ballot.

These procedures are complex and will not be detailed in this Chapter. For additional information refer to Chapter 34 of this *Handbook* and read ORC Sections 306.32, 306.70, 307.71, 5739.023 and 5741.022 with great care.

18.18 COLLECTION AND DISTRIBUTION OF THE TAX

The tax commissioner is responsible for administering the collection and distribution of the sales and use tax for the state, counties, and transit authorities. The state sales and use tax rate of 5.5% is collected with any county or transit authority permissive tax.

The filing payment date depends partly on the type of taxpayer and partly on the dollar amount of the tax payment due. For example, the clerk of courts makes weekly payments on Monday for taxes collected during the preceding week on the sale of motor vehicles, watercraft and outboard motors. The sales tax collected on the sale of spiritous liquor at state contracted liquor agency stores is paid on a semi-monthly basis. Taxpayers required to file monthly returns must pay by the 23rd day of the month following the close of the reporting period, which is the previous month. Taxpayers whose annual liability exceeds \$75,000 are required to pay by electronic funds transfer (EFT) and also are required to make accelerated payments during each month. Taxpayers with less than \$1200 of tax liability for a six month period may be authorized to file semi-annual payments on the 23rd day of the month following the close of each semi-annual period.

Vendors who make timely payment of their sales tax liability are entitled to a vendor discount equivalent to .75 percent of the amount due. For example, if a vendor's tax liability is \$1000 for the previous month, then the vendor would retain \$7.50 of the amount due as a discount for timely payment of the tax liability (ORC 5739.12, 5741.12).

Prior to the distribution of a county or transit authority permissive sales and use tax, the department of taxation credits one percent of the amount collected to the Local Sales Tax Administrative Fund for the use of the tax commissioner in defraying administrative costs. Ninety-nine percent of the revenue is distributed to the general fund or special revenue fund of the county or the general fund of the transit authority that levied the tax.

Most sales and use tax revenue is attributable to monthly filers who file their tax returns with the department by the 23rd day of the month following payment of the tax. Due to the time required to process tax returns and identify the proper tax amounts for each county and transit authority, the revenue from monthly collections is distributed to the counties and regional transit authorities in the second month following the collection month. For example, this means that sales made in January are reflected in February collections, which are distributed as revenue to counties and transit authorities in April.

18.19 OVERPAYMENTS AND REFUNDS

The law requires the tax commissioner to refund to any vendor or consumer the full amount of any illegal or erroneous taxes paid to either the treasurer of state or to the tax commissioner (ORC 5739.07). An application for refund must be filed within four years of the illegal or erroneous payment of the tax, unless the vendor or consumer waives the time limitation in which case the application period is extended by the same period as the waiver. ORC Section 5739.072 allows the tax commissioner to apply a refund to a taxpayer's outstanding tax debt. If the refund amount exceeds the debt, the balance will be refunded. If the refund amount is less than the debt, the entire refund amount may be applied to the debt.

The law establishes application refund procedures (ORC 5739.07). If the tax commissioner determines that the amount of the refund to which the applicant is entitled is less than the amount claimed in the application, the law provides the applicant, within 60 days from the date of mailed notice to provide additional information or request a hearing, or both. If the applicant does not request a hearing or provide additional information, then the tax commissioner's determination becomes final. The tax commissioner's determination may be appealed to the state board of tax appeals (ORC 5717.02).

Refunds are paid from the Tax Refund Fund created by ORC Section 5703.052. The tax commissioner certifies the amount of a refund to the state treasurer and then the certified amount is taken from the current receipts of the same tax source from which the refund is to be paid. If the current receipts from that tax source are inadequate for the purpose of covering the refund, then the refund amount is transferred from the current receipts of the state sales tax. When the state treasurer provides a refund of a tax not levied by the state, for example a county sales tax, then the tax commissioner is to recover that amount from the next distribution of that tax to the county or transit authority. If the refund exceeds 25% of the next distribution of the tax, the tax commissioner may spread the recovery over a period of no more than 24 months.

State law requires the payment of interest on any sales tax refund effective from the date of the overpayment (ORC 5739.132). The tax commissioner is required to determine the annual certified interest rate by October 15 of each year for the following calendar year. The interest rate is calculated by adding 3% to the federal short term rate rounded to the nearest percentage point that was in effect during July of the current year (ORC 5703.47).

18.20 ESTABLISHMENT OF CONVENTION FACILITIES AUTHORITY

If all or any part of an *additional sales and use tax* is to be used for convention facilities, the county commissioners must first establish a convention facilities authority under

ORC Section 351.02. In this situation, these funds are outside the direct control of county commissioners.

The composition of the convention facilities authority is as follows:

1. Six directors are appointed by the commissioners. One of these members must represent townships; one representing a major business trade association; and one representing the convention and visitors bureau. No more than three may be of the same political party.
2. Three directors appointed by the mayor or chief executive of the most populous municipality with the approval of the municipal legislative authority. No more than two of these members may be of the same political party.
3. Two directors appointed by agreement of the mayors or chief executives of the remaining municipalities in the county and of different political parties. Although the convention facilities authority must be established prior to adoption of the resolution enacting the tax, original appointments need not be made for 30 days. Terms must be initially staggered, but thereafter terms are for a period of four years.

18.21 ESTABLISHMENT OF COMMUNITY IMPROVEMENTS BOARD

If all or any part of an *additional sales and use tax* is to be used for permanent improvements under the jurisdiction of a community improvements board, the county commissioners must first establish the board pursuant to ORC Section 307.282. In this situation, these funds are outside the direct control of the county commissioners, except as specified in ORC Section 307.283.

The community improvements board is composed of the following members:

1. Three members appointed by the mayor or chief executive of the most populous municipal corporation in the county with the approval of the municipal legislative authority. No more than two of these members can be members of the same political party.
2. Six members appointed by the county commissioners. One of these members must be the mayor or chief executive of another municipality in the county; one must be a township trustee; and one must represent either a major business trade association, labor organization, or be the mayor or chief executive of another municipality or another township trustee.

The board must also be established before the adoption of the resolution enacting the tax, however, original appointments need not be made for 15 days after the tax resolution is adopted. Terms are for three years.

18.22 STREAMLINED SALES AND USE TAX AGREEMENT

The Streamlined Sales and Use Tax Agreement was launched by the National Governor's Association (NGA) and the National Conference of State Legislatures (NCSL) in the fall of 1999 to simplify sales tax collection. The sales tax represented 32 percent of state tax collections in 2007, second only to personal income taxes, and also is a major revenue source to local governments in a number of states, including counties and transit authorities in Ohio. The Streamlined Sales Tax Project is a multistate effort to create uniform laws and rules for the collection of sales and use taxes among states. The project has involved participation by state tax administrators, state legislators, business interests and representatives of local governments at national and state levels.

A primary goal of the Agreement is to minimize the cost and administrative burden to retailers that collect sales taxes, particularly retailers that operate in multiple states. By simplifying sales tax administration and encouraging uniform application of sales tax laws, the Agreement encourages remote sellers selling over the internet and by mail order to collect sales taxes in states that belong to the Agreement. Adoption of the Agreement by states promotes a level playing field for "bricks and mortar" retailers who must collect sales and use taxes while competing with internet, mail order, or telephone retailers who are not currently required by federal law to collect sales taxes unless they can be shown to have a physical presence in a state.

Another major goal of the Agreement is to encourage remote sellers to collect what is believed to be billions of dollars of state and local sales and use taxes that are uncollected throughout the United States. The U.S. Supreme Court ruled in the case of *Quill vs. North Dakota* (1992) that states cannot require sellers to collect and remit sales taxes unless the seller has a physical presence in the state. In the same decision the Supreme Court also ruled that only Congress under the Commerce Clause of the U.S. Constitution has the power to create a level playing field by authorizing states to collect sales taxes from remote sellers.

Thus, a third major goal of the Agreement is to have enough states pass conforming legislation to convince Congress to pass federal legislation authorizing individual states to collect sales and use taxes from remote sellers. According to the Streamlined Sales and Use Tax Agreement website, 24 states, including Ohio, representing roughly a third of the United States population had adopted legislation conforming individual state sales and use tax laws with the Agreement as of 2011. States belonging to the Agreement hope that as the number of states adopting conforming legislation continues to grow,

Congress will finally exercise its authority and pass legislation authorizing all states to collect sales and use taxes from remote sellers.

In December, 2007 at a meeting of the Governing Board of the Streamlined Sales and Use Tax Project, an amendment was adopted by the Governing Board that was intended to assist states including Ohio that had been prevented from full compliance with the Agreement due to a reliance on “origin based sourcing” for the collection of local and state sales taxes. Prior to the 2007 amendment to the Agreement, the Agreement required, as a condition for full membership, that a state’s sourcing rules be “destination based” where a sale was generally deemed to have occurred where the goods and services were received by the customer. Destination based sourcing rules stood in contrast to Ohio’s origin based sourcing system. Under origin based sourcing, a sale is generally deemed to occur where a vendor is located or an order is received. The amendment to the Agreement permits states with local taxing districts that receive sales tax collections to apply origin based sourcing to transactions that occur wholly within the state (for example, where an order for personal property is received by a vendor in the same state where the purchaser receives the property). Under the amendment, all interstate sales are sourced according to the destination rather than the origin of the sale. As of September, 2012 Ohio had not yet submitted its petition for full membership.

TABLE 18-1

SUMMARY OF SALES AND USE TAX LEGISLATIVE CHANGES

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
HB 153	9-29-11	Authorized county commissioners to use the state public notice website for publishing notice of hearings on sales tax resolutions. Permitted county commissioners to publish the second required notice in an abbreviated form if certain conditions specified in ORC Section 7.16 are met.
HB 48	7-2-10	Increased the deadline for filing sales and use tax resolutions with the board of elections from 75 days to 90 days before the election. Increased filing deadlines apply to sales tax issues submitted by the commissioners to the board of elections as well as ballot issues resulting from an initiative petition to repeal (ORC 5739.022) and a referendum petition (ORC 305.31).
HB 429	4-18-08	Required vendors to use origin based sourcing beginning in 2010 for sales occurring entirely within Ohio. Discontinued payments to impacted counties for sales tax losses due to destination-based sourcing, effective May 1, 2009. On or after July 1, 2009, provides for a one-time payment to vendors that have already implemented destination-based sourcing, but are now required to convert back to origin-based sourcing for all intrastate sales. The Act included an emergency clause allowing the bill to take effect immediately in order to prevent further loss of revenue by counties.
HB 530	3-30-06	Repealed the provisions of HB 66 relating to the effective date of an <i>additional county sales and use tax</i> adopted by majority vote of the commissioners and returned the effective date back to no later than 65 days prior to the start of a calendar quarter and notice to the tax commissioner.
HB 66	3-30-05	Changed the effective date of an increase in the rate of an <i>additional sales and use tax</i> when enacted by majority vote of the commissioners subject to referendum from 65 days prior to the start of a calendar quarter to 120 days prior to the effective date of the tax. <i>Additional sales and use taxes</i> enacted as an emergency or submitted to the voters remain subject to the 65 day advance notice provision.
HB 13	3-30-05	Authorized county commissioners, subject to voter approval, to enact an <i>additional sales and use tax</i> for the purpose of providing revenue for the provision of ambulance, paramedic, or other emergency medical services.

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
HB 95	1-1-04	Changed the effective date of an increase in the rate of a <i>sales and use tax</i> and an <i>additional sales and use tax</i> from no later than 60 to 65 days prior to the start of a calendar quarter and notice to the tax commissioner. Required the tax commissioner to notify sales tax vendors at least 60 days prior to the effective date of a county rate change.
SB 47	1-1-04	Delayed from July 1, 2003 to January 1, 2004 various provisions of SB 143 regarding when county sales taxes take effect (increase from 30 to 60 days at start of calendar quarter) and changed rules governing where a sale occurs for the purpose of determining whether the sale is taxable in Ohio and applying the appropriate sales tax rate.
HB 675	7-1-03	Harmonized provisions of SB 200 and SB 143. Clarified a rule specifying the proper county in which purchases by direct pay permit holders should be taxed.
SB 143	3-22-02	Generally changed the effective date of a change in the rate of the <i>sales and use tax</i> and the <i>additional sales and use tax</i> from the first day of the month no later than 30 days from the date of its adoption and notice to the tax commissioner to the first day of a calendar quarter no later than 60 days from the date of its adoption and notice to the tax commissioner. Authorized the tax commissioner and the legislature to participate with other states in meetings of the streamlined sales tax governing board and to enter into agreements and promote the purposes of the streamlined sales tax project.
SB 200	9-6-02	Authorized county commissioners to reduce from ½% to ¼% the rate of an <i>additional sales and use tax</i> enacted exclusively for the county general fund.
SB 223	4-5-99	Authorized county commissioners to enact the <i>additional sales and use tax</i> , subject to voter approval, to fund the acquisition of agricultural easements, to finance the issuance of bonds for such purposes, and to supervise and enforce agricultural easements held by the county.
SB 17	2-13-97	Authorized county commissioners to submit to the voters the question of enacting a <i>sales and use tax</i> or an <i>additional sales and use tax</i> at any special election held in any year provided the election is not held in February or August. Effectively authorized sales tax ballot submissions in odd year non-county primary election years.

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
SB 158	5-8-96	At any time that county commissioners are collecting <i>sales and use tax</i> or an <i>additional county sales and use tax</i> or when the commissioners adopt a resolution enacting a sales tax under either authority (ORC 5739.021 or 5739.026) the commissioners may adopt a resolution reducing the rate of any property tax that the county is levying within the ten mill limit. Prior law permitted such property tax reductions only in conjunction with a sales tax increase.
SB 61	11-19-96	Authorized county commissioners of a county that is joined in a joint recreation district to levy an <i>additional sales and use tax</i> under ORC Section 5739.026 (A)(5) for the purpose of repaying obligations issued to finance the construction of joint recreation district facilities.
SB 188	7-19-95	Authorized county commissioners to enact the <i>additional sales and use tax</i> to finance the construction or renovation of a major league sports facility. Defined "sports facility", "constructing" and "construction." Original law was narrowly drafted to apply only to Cuyahoga County. Subsequent enactments broadened the authority to enact the tax for this purpose to any county with major league sports facilities.
HB 677	4/21/94	Authorized county commissioners to enact the <i>sales and use tax</i> for the support of criminal and administrative justice services. If the tax is enacted for additional general revenues and criminal and administrative justice services, the resolution must state the rate or amount apportioned to each purpose for each year. If the resolution is adopted for criminal and administrative justice services, a budget statement and preliminary plan must be adopted prior to the first hearing on the proposed tax. Defined criminal and administrative justice services for purposes of the <i>sales and use tax</i> .
HB 277	10/29/93	Authorized county commissioners to enact the <i>additional sales and use tax</i> for the operation or maintenance of a detention facility. Eliminated the requirement that a county have a population under 175,000 in order to enact an <i>additional sales and use tax</i> for any specific permanent improvement or class or group of permanent improvements.
SB 131	5/15/92	Authorized county commissioners to enact the <i>additional sales and use tax</i> for 911 phone systems.

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
HB 267	11/20/91	Authorized the reduction of inside millage in conjunction with the <i>additional sales and use tax</i> (ORC 5739.026). Under former law inside millage could only be reduced in conjunction with the <i>sales and use tax</i> authorized by ORC Section 5739.021.
HB 192	10/10/91	Made various changes concerning sales and use tax referendum procedures including requiring the board of elections, rather than the county auditor, to determine the number of qualified electors signing a referendum petition.
HB 841	4/5/91	<p>Allowed commissioners to enact an emergency <i>sales and use tax</i> and at the same time direct the board of elections to submit it to a vote at the next general election.</p> <p>Allowed <i>sales and use tax</i> (ORC 5739.021) to be for a specified number of years or for a continuing period of time.</p> <p>Required notification to the tax commissioner of pending elections on <i>sales and use taxes</i>.</p> <p>Established ballot language for a <i>sales and use tax</i> enacted as an emergency that was on the ballot. The question on the ballot is "shall the tax be retained?"</p> <p>Required public hearings and notice for the <i>additional sales and use tax</i> (ORC 5739.026) when it is to be used exclusively for general fund purposes and irrespective of how it is enacted.</p> <p>Included the requirement in sales tax law that the use tax be enacted in conjunction with a sales tax.</p>
HB 365	4/1/90	Provided that watercraft and outboard motors would be titled in the county of residence; a trade-in allowance permitted in calculating the use tax; and, made such purchases subject to the use tax instead of the sales tax.

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
HB 274	7/20/87	<p>Gave counties and transit authorities the power to levy the tax in ¼% increments.</p> <p>Authorized more flexibility in reducing inside millage in conjunction with the enactment of a <i>sales and use tax</i>.</p> <p>Authorized the <i>sales and use tax</i> (5739.021) to specify a later effective date than automatically provided in law.</p> <p>Increased from 10 to 30 days the required notice to the tax commissioner before an emergency <i>sales and use tax</i> could take effect and provided that if the <i>additional sales and use tax</i> is to be used exclusively for general fund purposes, it is effective the first day of the month after 30 days notice to tax commissioner.</p> <p>Authorized counties with a population under 175,000 to use the <i>additional sales and use tax</i> for specific permanent improvements.</p> <p>Authorized counties to enact the <i>additional sales and use tax</i> for general fund purposes subject to referendum, as an emergency, or by submitting it to the electors. Prior law required it, in all cases, to be submitted to the electors.</p> <p>Provided for the reimbursement to vendors for costs associated with changing cash registers.</p>
HB 3	3/6/86	<p>Eliminated the requirement that if a <i>sales and use tax</i> was repealed by referendum or initiative that the only way it could be re-enacted for two years was by a vote. The change limited such re-enactment to emergency enactments and reduced the time limitation to one year. Also gave petitioners 45 days to request a referendum where the tax had been repealed during the last year.</p>

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
HB 583	2/20/86	<p>Authorized counties to enact an <i>additional sales and use tax</i> at the rate of ½% making the total levy available 1½%</p> <p>This tax could be used for general fund, transit, convention facilities and permanent improvements.</p> <p>Required all taxes to be approved by the electors and authorized the establishment of community improvement boards and convention facilities authorities.</p>
HB 372	4/29/82	<p>Authorized counties to levy a permissive <i>sales and use tax</i> at the rate of either ½% or 1%. Under former law the limit was ½%.</p> <p>Provided that <u>if</u> the tax is enacted as an emergency, or is submitted to the electors, the tax commissioner must be given 10 days notice (before the first day of the following month) instead of the previous five day requirement.</p> <p>Contained technical language to assure that if a county increases its tax from ½% to 1%, any potential referendum petition will only apply to the newly enacted (second ½% tax not the total 1%.</p> <p>Provided that a county may reduce a 1% tax to ½% by adopting a resolution to that effect.</p> <p>Authorized commissioners to reduce the rate of inside millage by an amount so that the yield from the sales tax would equal only ¼% or ¾%. Specified that if the county so reduces its inside millage then no other political subdivision may utilize any portion of it. Counties may also, at any time, increase the amount of millage reduced or levy all of the previously reduced millage.</p> <p>Provided that any permissive <i>sales and use tax</i> adopted after January 1, 1982 that was repealed by the electors, could then, for the next two years, only be re-enacted by directly submitting the question to the electorate.</p>
HB 1360	12/11/78	<p>Corrected the use tax law as a result of a ruling by the Ohio Supreme Court and required counties to re-enact the tax within 30 days.</p>

BILL NO.	EFFECTIVE DATE	MAJOR PROVISIONS
SB 544	6/29/74	Authorized counties and regional transit authorities to enact a permissive transit sales and use tax not to exceed 1½%. County commissioners are the taxing authority for a county transit board and the board of trustees of a regional transit authority is the taxing authority for such an authority.
HB 855	5/1/70	Provided that motor vehicles would become subject to the permissive use tax instead of the permissive sales tax. Under former law the sales tax was collected at the point of sale. Under the change, the use tax was collected when the vehicle was titled and went to county of residence of purchaser. Enacted to prevent car buyers from going to a county without permissive tax to avoid paying the tax.
HB 531	8/18/69	Authorized counties to enact permissive taxes as emergency measures or submit them to the board of elections for a vote. Under prior law, the only option was to enact them subject to referendum.
HB 919	12/12/67	Authorized counties to enact the permissive <i>sales and use tax</i> , real property transfer, utilities, and motor vehicle license taxes subject to referendum.

TABLE 18-2**PRIMARY SALES AND USE TAX STATUTORY REFERENCES**

TOPIC	ORC SECTION
Procedures relating to tax referendum	305.31-305.42
Submission of transit tax to electors by county commissioners or regional transit authority	306.70
Submission of the question of reducing the rate of a transit tax to electors	306.71
Permissive "rollback" of inside millage in conjunction with a sales and use tax	5705.313
Authority to enact the 1% sales tax	5739.021
Procedures for an initiative election to repeal an emergency sales and use tax or the ½% additional sales and use tax	5739.022
Authority to enact the transit authority tax by commissioners or transit authority	5739.023
Authority to enact the ½% additional sales and use tax	5739.026
Requirements for payments to vendors for changing cash registers	5739.212
Authority to enact the 1% use tax	5741.021
Authority to enact the transit authority use tax by commissioners or transit authority	5741.022
Authority to enact the ½% additional use tax	5741.023

TABLE 18-3

SUMMARY OF LOCAL PERMISSIVE SALES AND USE TAX AUTHORITIES

ORC SECTION	TAXING AUTHORITY	RATE OPTIONS	PURPOSE USE	HEARINGS & NOTICE REQUIRED	ENACTMENT OPTIONS	REPEAL PROCEDURES (ORC SECTION)	EFFECTIVE DATE OF TAX	COMMENTS
5739.021 5741.021	County Commissioners	¼% ½% ¾% 1%	General fund Criminal and Administrative Justice Services Administration of tax	Yes	Regular	Resolution of county commissioners Referendum (305.31-305.42, 3501.38)	1st day of quarter 65 days after notice to tax commissioner by commissioners	1. May reduce inside millage when enacting tax, increasing rate or at any time tax is in effect (5705.313). 2. May reduce rate to authorized rate. 3. Cash register reimbursement required, if requested. 4. If tax is rejected by electors, by referendum or initiative, may not enact tax as an emergency for one year (5739.021(C)). 5. May specify a later effective date for tax in enacting resolution.
					Emergency	Resolution of county commissioners Initiative election to repeal (5739.022, 305.31-305.42, 3501.38)	1st day of quarter 65 days after notice to tax commissioner by commissioners	
					Submission to Electors (90 days) at general or primary	Resolution of county commissioners (5739.02(B)(2)(a))	1st day of quarter 65 days after notice to tax commissioner by board of elections	
					Emergency/ Submission to electors at general (90 days)	Resolution of county commissioners (5739.021(B)(2)(b)) Initiative election to repeal (5739.022, 305.31 - 305.42, 3501.38)	1st day of quarter 65 days after notice to tax commissioner by commissioners	

ORC SECTION	TAXING AUTHORITY	RATE OPTIONS	PURPOSE USE	HEARINGS & NOTICE REQUIRED	ENACTMENT OPTIONS	REPEAL PROCEDURES (ORC SECTION)	EFFECTIVE DATE OF TAX	COMMENTS
5739.026 5741.023	County commissioners	¼% ½%	Convention Facilities (5739.026(A)(1)) Transit (5739.026(A)(2)) Community Improvement Board (CIB) Permanent Improvements (5739.026(A)(4)) Specific permanent improvements, construction of joint recreation district facilities (5739.026(A)(5)) For 911 phone systems (5739.026(A)(6)) Operation and maintenance of detention facility (5739.026(A)(7)) Finance construction or renovation of sports facility.	No	Submission to electors (90 days) at general or primary	Resolution of county commissioners	1st day of quarter 65 days after notice to tax commissioner by board of elections.	<p>1. May reduce inside millage when enacting tax, increasing rate, or at any time tax is in effect. (5705.313).</p> <p>2. May reduce rate of tax when tax is enacted for general fund.</p> <p>3. Cash register reimbursement required, if requested.</p> <p>4. May specify later effective date in enacting resolution.</p> <p>5. May use proceeds of tax for more than one purpose. In this case, must specify method to distribute tax among eligible purposes.</p> <p>6. A tax for general fund (5739.026(A)(3)) may also be included with other purposes.</p> <p>7. A tax for 9-1-1 may not be for longer than 5 years.</p> <p>8. There is <u>no</u> one year restriction upon re-enactment of this tax after previous repeal.</p>

ORC SECTION	TAXING AUTHORITY	RATE OPTIONS	PURPOSE USE	HEARINGS & NOTICE REQUIRED	ENACTMENT OPTIONS	REPEAL PROCEDURES (ORC SECTION)	EFFECTIVE DATE OF TAX	COMMENTS
			<p>(5739.026 (A)(8))</p> <p>Acquisition of agricultural easements. (5739.026(A)(9))</p> <p>Provision of ambulance, paramedic, or other emergency medical services. (5739.026(A)(10))</p> <p>Administration of tax</p>					

ORC SECTION	TAXING AUTHORITY	RATE OPTIONS	PURPOSE USE	HEARINGS & NOTICE REQUIRED	ENACTMENT OPTIONS	REPEAL PROCEDURES (ORC SECTION)	EFFECTIVE DATE OF TAX	COMMENTS
5739.026 (A)(3) 5741.023	County commissioners	¼% ½%	General fund Administration of tax	Yes	Regular	Resolution of county commissioners Referendum (305.31-305.42, 3501.38)	1st day of quarter 65 days after notice to tax commissioner by commissioners	<p>1. May reduce inside millage when enacting tax, increasing rate or at any time tax is in effect. (ORC 5705.313).</p> <p>2. May reduce rate of tax, when tax is for the general fund.</p> <p>3. Cash register reimbursement required, if requested.</p> <p>4. May specify later effective date in enacting resolution.</p> <p>5. May be included as a part of a tax for other authorized purposes pursuant to ORC 5739.026 (previous table), however, must then be submitted to electors.</p> <p>6. There is no one year restriction upon re-enactment of this tax after previous repeal.</p>
					Emergency	Resolution of county commissioners Initiative election to repeal (5739.022, 305.31-305.42, 3501.38)	1st day of quarter 65 days after notice to tax commissioner by commissioners	
					Submission to electors (90 days) at general or primary	Resolution of county commissioners (5739.026(D)(2)(a))	1st day of quarter 65 days after notice to tax commissioner by board of elections	
					Emergency/ Submission to electors at general (90 days)	Resolution of county commissioners (5739.026(D)(2)(b)) Initiative election to repeal (5739.022, 305.31-305.42, 3501.38)	1st day of quarter 65 days after notice to tax commissioner by commissioners	

ORC SECTION	TAXING AUTHORITY	RATE OPTIONS	PURPOSE USE	HEARINGS & NOTICE REQUIRED	ENACTMENT OPTIONS	REPEAL PROCEDURES (ORC SECTION)	EFFECTIVE DATE OF TAX	COMMENTS
5739.023 5741.022 306.32 306.70 306.71	County commissioners for county transit board (306.01, 5739.01(U)(V) or regional transit authority (306.31, 5739.01(U)(V)	¼% ½% ¾% 1% 1 ¼% 1 ½%	General revenue for transit Administration of tax	No	Submission to electors (90 days) at general or special	Resolution of county commissioners or regional transit authority board	1st day of quarter 65 days after notice to tax commissioner by board of elections.	<ol style="list-style-type: none"> 1. May <u>not</u> reduce inside millage when enacting or increasing rate. 2. May reduce rate to authorized rate. 3. May fix the rate of the tax up to the level authorized by voters by resolution. 4. Electors may petition for election to reduce rate (306.71). 5. Cash register reimbursement required, if requested. 6. May specify later effective date in enacting resolution. 7. Special provisions apply when enlarging the jurisdiction of a regional transit authority.

TABLE 18-4

SAMPLE STATEMENT AND PRELIMINARY PLAN

COUNTY OF _____

**STATEMENT AND PRELIMINARY PLAN FOR
CRIMINAL AND ADMINISTRATIVE JUSTICE SERVICES**

(This statement is prepared in compliance with ORC 5739.021 (G))

PART 1

Estimate of Board of County Commissioners of amount of expenditures made from the general fund during the preceding two fiscal years for criminal and administrative justice services.

PURPOSE	FIRST PRECEDING	SECOND PRECEDING
Sheriff (excluding detention facilities)		
Operation and maintenance detention facilities		
Construction, acquisition, equipping and repair of detention facilities, including debt service		
Payment to agencies for diversion, adjudication, detention or rehabilitation of criminal or juvenile offenders		
Prosecutor		
Coroner		
Common Pleas Courts		
County Courts		
Municipal Courts		
Court of Appeals		
Clerk of Municipal Court with Countywide jurisdiction		
Clerk of County Court		
Clerk of Court of Common Pleas, excluding title bureau		
TOTAL		

PART II

Estimate of Board of County Commissioners of amount of expenditures that will be made from the general fund during the **current fiscal year** for criminal and administrative justice services

PURPOSE	CURRENT
Sheriff (excluding detention facilities)	
Operation and maintenance detention facilities	
Construction, acquisition, equipping and repair of detention facilities, including debt service	
Payment to agencies for diversion, adjudication, detention or rehabilitation of criminal or juvenile offenders	
Prosecutor	
Coroner	
Common Pleas Courts	
County Courts	
Municipal Courts	
Court of Appeals	
Clerk of Municipal Court with Countywide jurisdiction	
Clerk of County Court	
Clerk of Court of Common Pleas, excluding title bureau	
TOTAL	

PART III

A preliminary plan of the Board of County Commissioners for expenditures for criminal and administrative justice services for the next two fiscal years from the general fund **assuming the tax is imposed** and **assuming the tax is not imposed**.

PROPOSED PRELIMINARY PLAN OF EXPENDITURES FROM THE GENERAL FUND

PURPOSE	TAX IMPOSED		TAX NOT IMPOSED	
	FIRST	SECOND	FIRST	SECOND
Sheriff (excluding detention facilities)				
Operation and maintenance detention facilities				
Construction, acquisition, equipping and repair of detention facilities, including debt				

service				
Payment to agencies for diversion, adjudication, detention or rehabilitation of criminal or juvenile offenders				
Prosecutor				
Coroner				
Common Pleas Courts				
County Courts				
Municipal Courts				
Court of Appeals				
Clerk of Municipal Court with Countywide jurisdiction				
Clerk of County Court				
Clerk of Court of Common Pleas, excluding title bureau				
TOTAL				

PART IV

A preliminary plan of the Board of County Commissioners for expenditures for criminal and administrative justice services for the **next two fiscal years from a special fund assuming tax is imposed**

PURPOSE	FIRST SUCCEEDING	SECOND SUCCEEDING
Sheriff (excluding detention facilities)		
Operation and maintenance detention facilities		
Construction, acquisition, equipping and repair of detention facilities, including debt service		
Payment to agencies for diversion, adjudication, detention or rehabilitation of criminal or juvenile offenders		
Prosecutor		
Coroner		
Common Pleas Courts		
County Courts		
Municipal Courts		
Court of Appeals		
Clerk of Municipal Court with		

Countywide jurisdiction		
Clerk of County Court		
Clerk of Court of Common Pleas, excluding title bureau		
TOTAL		

CERTIFICATION: We hereby certify that this statement and preliminary plan was prepared using the best information currently available and complies with ORC Section 5739.021(G)

BOARD OF COUNTY COMMISSIONERS OF _____ COUNTY

ATTEST: I hereby certify that this Statement and Preliminary Plan is a true and exact copy of the statement and Preliminary Plan adopted by resolution of the Board of County Commissioners on the _____ day of _____, 20_____