

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5703-29-15

**Rule Type:** Amendment

**Rule Title/Tagline:** Highway transportation services - bright-line presence and situsing.

**Agency Name:** Department of Taxation

**Division:**

**Address:** 4485 Northland Ridge Blvd. Columbus OH 43229

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 7/23/2024
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 33 - 135  
- Jay Edwards
3. **What statute is this rule being promulgated under?** 119
4. **What statute(s) grant rule writing authority?** 5703.05
5. **What statute(s) does the rule implement or amplify?** 5751.01(I)
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule was reviewed as part of the five year rule review process.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This regulation provides the test that ODT uses to evaluate whether the provider of transportation services has established nexus with the state pursuant to the commercial activity tax's bright-line presence standard and describes how much taxpayers should situs the gross receipts from their activities to Ohio. The proposed changes remove regulatory restrictions.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0

Not Applicable.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

### III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? No

18. Does this rule have an adverse impact on business? No

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

- A. How many new regulatory restrictions do you propose adding to this rule? 0
- B. How many existing regulatory restrictions do you propose removing from this rule? 2

5703-29-15(D)(1): Even if a person has bright-line presence, however, that person must also have at least one hundred fifty thousand dollars in taxable gross receipts in order to be a taxpayer for purposes of the commercial activity tax. ("must" to "needs to").

5703-29-15(D): If ABC is a combined taxpayer, the entire group must add its taxable gross receipts together to determine if the group reaches the one hundred fifty thousand dollar threshold amount. ("must add" to "adds").

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable