

H.R. OPTIONS, INC., APPELLEE, v. WILKINS, TAX COMM., APPELLANT.

[Cite as *H.R. Options, Inc. v. Wilkins*, 102 Ohio St.3d 1214, 2004-Ohio-2085.]

Taxation — Sales tax on company that provides third-party employment services for its clients — Exclusions — R.C. 5739.01(JJ)’s definition of an “employment service,” applied — Motion for clarification granted — Paragraph 17 of opinion clarified.

(No. 2002-1477 — Submitted March 30, 2004 — Decided May 12, 2004.)

ON MOTION FOR RECONSIDERATION OR CLARIFICATION.

{¶1} The motion for clarification of ¶ 17 of the opinion of January 7, 2004, found at 100 Ohio St.3d 373, 2004-Ohio-1, 800 N.E.2d 740, is granted.

{¶2} Paragraph 17 of the opinion currently reads: “Because R.C. 5739.01(JJ)(3) represents an exclusion from taxation, it must be construed most favorably to the taxpayer.” In granting the Tax Commissioner’s motion, this court directs that the sentence will read: “Because R.C. 5739.01(JJ)(3) represents an exclusion from taxation, it must be construed *strictly against* the taxpayer. *In re Estate of Roberts* (2002), 94 Ohio St.3d 311, 316, 762 N.E.2d 1001.”

MOYER, C.J., RESNICK, F.E. SWEENEY, LUNDBERG STRATTON, O’CONNOR and O’DONNELL, JJ., concur.

PFEIFER, J., dissents.

Bricker & Eckler, L.L.P., and Mark A. Engel, for appellee.

Jim Petro, Attorney General, and Robert C. Maier, Assistant Attorney General, for appellant.
