

**As Passed by the Senate**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. H. B. No. 149**

**Representatives Calvert, Raga, McGregor, J., Evans, C., Latta, Aslanides,  
Hartnett, Chandler, Oelslager, Gibbs, Seitz, Gilb, Collier, Schaffer, Kilbane,  
Hagan, Barrett, Blessing, Buehrer, Cassell, Combs, Core, DeBose, DeGeeter,  
Dolan, Evans, D., Faber, Fende, Flowers, Garrison, Healy, Hughes, Law,  
Martin, Mason, McGregor, R., Patton, T., Peterson, Reidelbach, Reinhard,  
Sayre, Schlichter, Schneider, Seaver, Setzer, Smith, G., Stewart, J., Trakas,  
Wagoner, Widener, Wolpert, Woodard, Yates, Yuko  
Senators Amstutz, Austria, Cates, Clancy, Coughlin, Fingerhut, Gardner,  
Grendell, Harris, Kearney, Miller, D., Mumper, Niehaus, Padgett, Roberts,  
Schuring, Stivers, Zurz, Hagan, Prentiss, Wilson, Fedor**

—

**A B I L L**

To amend sections 5725.24, 5733.01, 5733.98, 1  
5739.011, and 5747.98 and to enact sections 2  
149.311, 5725.151, 5733.47, and 5747.76 of the 3  
Revised Code to authorize refundable tax credits 4  
for rehabilitating historic buildings and to 5  
exempt from the sales and use taxes property used 6  
to clean manufacturing equipment that produces 7  
dairy products. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5725.24, 5733.01, 5733.98, 5739.011, 9  
and 5747.98 be amended and sections 149.311, 5725.151, 5733.47, 10  
and 5747.76 of the Revised Code be enacted to read as follows: 11

Sec. 149.311. (A) As used in this section: 12

(1) "Historic building" means a building, including its 13  
structural components, that is located in this state and that is 14  
either individually listed on the national register of historic 15  
places under 16 U.S.C. 470a, located in a registered historic 16  
district, and certified by the state historic preservation officer 17  
as being of historic significance to the district, or is 18  
individually listed as a historic landmark designated by a local 19  
government certified under 16 U.S.C. 470a(c). 20

(2) "Qualified rehabilitation expenditures" means 21  
expenditures paid or incurred during the rehabilitation period, 22  
and before and after that period as determined under 26 U.S.C. 47, 23  
by an owner of a historic building to rehabilitate the building. 24  
"Qualified rehabilitation expenditures" includes architectural or 25  
engineering fees paid or incurred in connection with the 26  
rehabilitation, and expenses incurred in the preparation of 27  
nomination forms for listing on the national register of historic 28  
places. "Qualified rehabilitation expenditures" does not include 29  
any of the following: 30

(a) The cost of acquiring, expanding, or enlarging a historic 31  
building; 32

(b) Expenditures attributable to work done to facilities 33  
related to the building, such as parking lots, sidewalks, and 34  
landscaping; 35

(c) New building construction costs. 36

(3) "Owner" of a historic building means a person holding the 37  
fee simple interest in the building. 38

(4) "Certificate owner" means the owner of a historic 39  
building to which a rehabilitation tax credit certificate was 40  
issued under this section. 41

(5) "Registered historic district" means a historic district listed in the national register of historic places under 16 U.S.C. 470a, a historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(6) "Rehabilitation" means the process of repairing or altering a historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(7) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner not to exceed sixty months during which rehabilitation occurs.

(8) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(9) "Application period" means either of the following time periods during which an application for a rehabilitation tax credit certificate may be filed under this section:

(a) July 1, 2007, through June 30, 2008;

(b) July 1, 2008, through June 30, 2009.

(B) On or after July 1, 2007, but before July 1, 2009, the owner of a historic building may apply to the state historic preservation officer for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred after the effective date of this section for rehabilitation of a

historic building. The form and manner of filing such applications 72  
shall be prescribed by rule of the director of development, and 73  
applications expire at the end of each application period. Before 74  
July 1, 2007, the director, after consultation with the tax 75  
commissioner and in accordance with Chapter 119. of the Revised 76  
Code, shall adopt rules that establish all of the following: 77

(1) Forms and procedures by which applicants may apply for 78  
rehabilitation tax credit certificates; 79

(2) Criteria for reviewing, evaluating, and approving 80  
applications for certificates within the limitation on the number 81  
of applications that may be approved in an application period 82  
under division (D) of this section, criteria for assuring that the 83  
certificates issued encompass a mixture of high and low qualified 84  
rehabilitation expenditures, and criteria for issuing certificates 85  
under division (C)(3)(b) of this section; 86

(3) Eligibility requirements for obtaining a certificate 87  
under this section; 88

(4) The form of rehabilitation tax credit certificates; 89

(5) Reporting requirements and monitoring procedures; 90

(6) Any other rules necessary to implement and administer 91  
this section. 92

(C) The state historic preservation officer shall accept 93  
applications in the order in which they are filed. Within seven 94  
days after an application is filed, the officer shall forward it 95  
to the director of development who shall review the application 96  
and determine whether all of the following criteria are met: 97

(1) That the building that is the subject of the application 98  
is a historic building and the applicant is the owner of the 99  
building; 100

(2) That the rehabilitation will satisfy standards prescribed 101

by the United States secretary of the interior under 16 U.S.C. 102  
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 103  
that section; 104

(3) That receiving a rehabilitation tax credit certificate 105  
under this section is a major factor in: 106

(a) The applicant's decision to rehabilitate the historic 107  
building; or 108

(b) To increase the level of investment in such 109  
rehabilitation. 110

An applicant shall demonstrate to the satisfaction of the 111  
state historic preservation officer and director of development 112  
that the rehabilitation will satisfy the standards described in 113  
division (C)(2) of this section before the applicant begins the 114  
physical rehabilitation of the historic building. 115

(D) If the director of development determines that the 116  
criteria in divisions (C)(1), (2), and (3) of this section are 117  
met, the director, in conjunction with the tax commissioner, shall 118  
conduct a cost and benefit analysis for the historic building that 119  
is the subject of an application filed under this section to 120  
determine whether rehabilitation of the historic building will 121  
result in a net revenue gain in state and local taxes once the 122  
building is used. The director shall not approve an application 123  
and issue a rehabilitation tax credit certificate to an applicant 124  
unless the cost and benefit analysis of the historic building 125  
determines that there will be a net revenue gain in state and 126  
local taxes once the building is used. A rehabilitation tax credit 127  
certificate shall not be issued before rehabilitation of a 128  
historic building is completed. The director shall not approve 129  
more than one hundred applications in an application period. 130

(E) Issuance of a certificate represents a finding by the 131  
director of development of the matters described in divisions 132

(C)(1), (2), and (3) of this section only; issuance of a 133  
certificate does not represent a verification or certification by 134  
the director of the amount of qualified rehabilitation 135  
expenditures for which a tax credit may be claimed under section 136  
5725.151, 5733.47, or 5747.76 of the Revised Code. The amount of 137  
qualified rehabilitation expenditures for which a tax credit may 138  
be claimed is subject to inspection and examination by the tax 139  
commissioner or employees of the commissioner under section 140  
5703.19 of the Revised Code and any other applicable law. Upon the 141  
issuance of a certificate, the director shall certify to the tax 142  
commissioner, in the form and manner requested by the tax 143  
commissioner, the name of the applicant, the amount of qualified 144  
rehabilitation expenditures shown on the certificate, and any 145  
other information required by the rules adopted under this 146  
section. 147

(F)(1) On or before the first day of December in 2007, 2008, 148  
and 2009, the director of development and tax commissioner jointly 149  
shall submit to the president of the senate and the speaker of the 150  
house of representatives a report on the tax credit program 151  
established under this section and sections 5725.151, 5733.47, and 152  
5747.76 of the Revised Code. The report shall present an overview 153  
of the program and shall include information on the number of 154  
rehabilitation tax credit certificates issued under this section 155  
during an application period, an update on the status of each 156  
historic building for which an application was approved under this 157  
section, the dollar amount of the tax credits granted under 158  
sections 5725.151, 5733.47, and 5747.76 of the Revised Code, and 159  
any other information the director and commissioner consider 160  
relevant to the topics addressed in the report. 161

(2) On or before December 1, 2010, the director of 162  
development and tax commissioner jointly shall submit to the 163  
president of the senate and the speaker of the house of 164

representatives a comprehensive report that includes the 165  
information required by division (F)(1) of this section and a 166  
detailed analysis of the effectiveness of issuing tax credits for 167  
rehabilitating historic buildings. The report shall be prepared 168  
with the assistance of an economic research organization jointly 169  
chosen by the director and commissioner. 170

Sec. 5725.151. (A) As used in this section, "certificate 171  
owner" has the same meaning as in section 149.311 of the Revised 172  
Code. 173

(B) There is allowed a refundable credit against the tax 174  
imposed by section 5707.03 and assessed under section 5725.15 of 175  
the Revised Code for a dealer in intangibles subject to that tax 176  
that is a certificate owner of a rehabilitation tax credit 177  
certificate issued under section 149.311 of the Revised Code. The 178  
credit shall equal twenty-five per cent of the dollar amount 179  
indicated on the certificate. The credit shall be claimed in the 180  
calendar year specified in the certificate. 181

(C) A dealer in intangibles claiming a credit under this 182  
section shall retain the rehabilitation tax credit certificate for 183  
four years following the end of the year in which the credit was 184  
claimed, and shall make the certificate available for inspection 185  
by the tax commissioner upon the request of the tax commissioner 186  
during that period. 187

(D) For the purpose of division (C) of section 5725.24 of the 188  
Revised Code, reductions in the amount of taxes collected on 189  
account of credits allowed under this section shall be applied to 190  
reduce the amount credited to the general revenue fund and shall 191  
not be applied to reduce the amount to be credited to the 192  
undivided local government funds of the counties in which such 193  
taxes originate. 194

**Sec. 5725.24.** (A) As used in this section, "qualifying dealer" means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company also is a member on the first day of January of the year in and for which the tax imposed by section 5707.03 of the Revised Code is required to be paid by the dealer.

(B) The taxes levied by section 5725.18 of the Revised Code and collected pursuant to this chapter shall be paid into the state treasury to the credit of the general revenue fund.

(C) The taxes levied by section 5707.03 of the Revised Code on the value of shares in and capital employed by dealers in intangibles other than those that are qualifying dealers shall be for the use of the general revenue fund of the state and the local government funds of the several counties in which the taxes originate as provided in this division.

On or before the first day of each month on which there is money in the state treasury for disbursement under this division, the tax commissioner shall provide for payment to the county treasurer of each county of five-eighths of the amount of the taxes collected on account of shares in and capital employed by dealers in intangibles other than those that are qualifying dealers, representing capital employed in the county. The balance of the money received and credited on account of taxes assessed on shares in and capital employed by such dealers in intangibles shall be credited to the general revenue fund.

Reductions in the amount of taxes collected on account of credits allowed under section 5725.151 of the Revised Code shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited



to the undivided local government funds of the counties in which 226  
such taxes originate. 227

For the purpose of this division, such taxes are deemed to 228  
originate in the counties in which such dealers in intangibles 229  
have their offices. 230

Money received into the treasury of a county pursuant to this 231  
section shall be credited to the undivided local government fund 232  
of the county and shall be distributed by the budget commission as 233  
provided by law. 234

(D) All of the taxes levied under section 5707.03 of the 235  
Revised Code on the value of the shares in and capital employed by 236  
dealers in intangibles that are qualifying dealers shall be paid 237  
into the state treasury to the credit of the general revenue fund. 238

**Sec. 5733.01.** (A) The tax provided by this chapter for 239  
domestic corporations shall be the amount charged against each 240  
corporation organized for profit under the laws of this state and 241  
each nonprofit corporation organized pursuant to Chapter 1729. of 242  
the Revised Code, except as provided in sections 5733.09 and 243  
5733.10 of the Revised Code, for the privilege of exercising its 244  
franchise during the calendar year in which that amount is 245  
payable, and the tax provided by this chapter for foreign 246  
corporations shall be the amount charged against each corporation 247  
organized for profit and each nonprofit corporation organized or 248  
operating in the same or similar manner as nonprofit corporations 249  
organized under Chapter 1729. of the Revised Code, under the laws 250  
of any state or country other than this state, except as provided 251  
in sections 5733.09 and 5733.10 of the Revised Code, for the 252  
privilege of doing business in this state, owning or using a part 253  
or all of its capital or property in this state, holding a 254  
certificate of compliance with the laws of this state authorizing 255  
it to do business in this state, or otherwise having nexus in or 256

with this state under the Constitution of the United States, 257  
during the calendar year in which that amount is payable. 258

(B) A corporation is subject to the tax imposed by section 259  
5733.06 of the Revised Code for each calendar year that it is so 260  
organized, doing business, owning or using a part or all of its 261  
capital or property, holding a certificate of compliance, or 262  
otherwise having nexus in or with this state under the 263  
Constitution of the United States, on the first day of January of 264  
that calendar year. 265

(C) Any corporation subject to this chapter that is not 266  
subject to the federal income tax shall file its returns and 267  
compute its tax liability as required by this chapter in the same 268  
manner as if that corporation were subject to the federal income 269  
tax. 270

(D) For purposes of this chapter, a federally chartered 271  
financial institution shall be deemed to be organized under the 272  
laws of the state within which its principal office is located. 273

(E) For purposes of this chapter, any person, as defined in 274  
section 5701.01 of the Revised Code, shall be treated as a 275  
corporation if the person is classified for federal income tax 276  
purposes as an association taxable as a corporation, and an equity 277  
interest in the person shall be treated as capital stock of the 278  
person. 279

(F) For the purposes of this chapter, "disregarded entity" 280  
has the same meaning as in division (D) of section 5745.01 of the 281  
Revised Code. 282

(1) A person's interest in a disregarded entity, whether held 283  
directly or indirectly, shall be treated as the person's ownership 284  
of the assets and liabilities of the disregarded entity, and the 285  
income, including gain or loss, shall be included in the person's 286  
net income under this chapter. 287

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

(G) The tax a corporation is required to pay under this chapter shall be as follows:

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this

section:	319
(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax;	320 321 322 323
(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or four-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(29) and the refundable credits described in divisions (A)(30), <del>(31)</del> , <del>(32)</del> , and <del>(33)</del> <u>to (34)</u> of section 5733.98 of the Revised Code;	324 325 326 327 328 329 330 331
(iii) For tax year 2007, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or three-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(29) and the refundable credits described in divisions (A)(30), <del>(31)</del> , <del>(32)</del> , and <del>(33)</del> <u>to (34)</u> of section 5733.98 of the Revised Code;	332 333 334 335 336 337 338 339
(iv) For tax year 2008, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or two-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(29) and the refundable credits described in divisions (A)(30), <del>(31)</del> , <del>(32)</del> , and <del>(33)</del> <u>to (34)</u> of section 5733.98 of the Revised Code;	340 341 342 343 344 345 346 347
(v) For tax year 2009, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code	348 349

or one-fifth of the difference between all taxes charged the  
corporation under this chapter and any credits allowable against  
such tax, except the qualifying pass-through entity tax credit  
described in division (A)(29) and the refundable credits described  
in divisions (A)(30), (31), ~~and (32)~~, and (33) of section 5733.98  
of the Revised Code;

(vi) For tax year 2010 and each tax year thereafter, no tax.

(b) A corporation shall subtract from the amount calculated  
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section  
any qualifying pass-through entity tax credit described in  
division (A)(29) and any refundable credits described in divisions  
(A)(30), ~~(31), (32), and (33)~~ to (34) of section 5733.98 of the  
Revised Code to which the corporation is entitled. Any unused  
qualifying pass-through entity tax credit is not refundable.

(c) For the purposes of computing the amount of a credit that  
may be carried forward to a subsequent tax year under division  
(G)(2) of this section, a credit is utilized against the tax for a  
tax year to the extent the credit applies against the tax for that  
tax year, even if the difference is then multiplied by the  
applicable fraction under division (G)(2)(a) of this section.

(3) Nothing in division (G) of this section eliminates or  
reduces the tax imposed by section 5733.41 of the Revised Code on  
a qualifying pass-through entity.

**Sec. 5733.47.** (A) As used in this section, "certificate  
owner" has the same meaning as in section 149.311 of the Revised  
Code.

(B) There is allowed a refundable credit against the tax  
imposed under section 5733.06 of the Revised Code for a taxpayer  
that is a certificate owner of a rehabilitation tax credit  
certificate issued under section 149.311 of the Revised Code. The

credit shall equal twenty-five per cent of the dollar amount 380  
indicated on the certificate. The credit shall be claimed for the 381  
tax year specified in the certificate and in the order required 382  
under section 5733.98 of the Revised Code. For purposes of making 383  
tax payments under this chapter, taxes equal to the amount of the 384  
refundable credit shall be considered to be paid to the state on 385  
the first day of the tax year. 386

(C) A taxpayer claiming a credit under this section shall 387  
retain the rehabilitation tax credit certificate for four years 388  
following the end of the tax year to which the credit was applied, 389  
and shall make the certificate available for inspection by the tax 390  
commissioner upon the request of the tax commissioner during that 391  
period. 392

(D) If, pursuant to division (G) of section 5733.01 of the 393  
Revised Code, a taxpayer no longer pays a tax under this chapter, 394  
the taxpayer may nonetheless file an annual report under section 395  
5733.02 of the Revised Code and claim the refundable credit 396  
authorized by this section. Nothing in this division allows a 397  
taxpayer to claim the credit under this section more than once. 398

**Sec. 5733.98.** (A) To provide a uniform procedure for 399  
calculating the amount of tax imposed by section 5733.06 of the 400  
Revised Code that is due under this chapter, a taxpayer shall 401  
claim any credits to which it is entitled in the following order, 402  
except as otherwise provided in section 5733.058 of the Revised 403  
Code: 404

(1) For tax year 2005, the credit for taxes paid by a 405  
qualifying pass-through entity allowed under section 5733.0611 of 406  
the Revised Code; 407

(2) The credit allowed for financial institutions under 408  
section 5733.45 of the Revised Code; 409

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	410 411
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	412 413
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	414 415
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	416 417
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	418 419
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	420 421
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	422 423
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	424 425
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	426 427
(12) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	428 429 430
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	431 432
(14) The job training credit under section 5733.42 of the Revised Code;	433 434
(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;	435 436
(16) The enterprise zone credit under section 5709.66 of the Revised Code;	437 438

(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	439 440
(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	441 442
(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;	443 444
(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	445 446
(21) The export sales credit under section 5733.069 of the Revised Code;	447 448
(22) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	449 450
(23) The enterprise zone credits under section 5709.65 of the Revised Code;	451 452
(24) The credit for using Ohio coal under section 5733.39 of the Revised Code;	453 454
(25) The credit for small telephone companies under section 5733.57 of the Revised Code;	455 456
(26) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	457 458
(27) For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	459 460 461
(28) The research and development credit under section 5733.352 of the Revised Code;	462 463
(29) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	464 465 466
(30) <u>The refundable credit for rehabilitating a historic</u>	467



building under section 5733.47 of the Revised Code; 468

(31) The refundable jobs creation credit under division (A) 469  
of section 5733.0610 of the Revised Code; 470

~~(31)~~(32) The refundable credit for tax withheld under 471  
division (B)(2) of section 5747.062 of the Revised Code; 472

~~(32)~~(33) The refundable credit under section 5733.49 of the 473  
Revised Code for losses on loans made to the Ohio venture capital 474  
program under sections 150.01 to 150.10 of the Revised Code; 475

~~(33)~~(34) For tax years 2006, 2007, and 2008, the refundable 476  
credit allowable under division (B) of section 5733.56 of the 477  
Revised Code. 478

(B) For any credit except the credits enumerated in divisions 479  
(A)(30), ~~(31)~~, ~~(32)~~, and ~~(33)~~ to (34) of this section, the amount 480  
of the credit for a tax year shall not exceed the tax due after 481  
allowing for any other credit that precedes it in the order 482  
required under this section. Any excess amount of a particular 483  
credit may be carried forward if authorized under the section 484  
creating that credit. 485

**Sec. 5739.011.** (A) As used in this section: 486

(1) "Manufacturer" means a person who is engaged in 487  
manufacturing, processing, assembling, or refining a product for 488  
sale and, solely for the purposes of division (B)(12) of this 489  
section, a person who meets all the qualifications of that 490  
division. 491

(2) "Manufacturing facility" means a single location where a 492  
manufacturing operation is conducted, including locations 493  
consisting of one or more buildings or structures in a contiguous 494  
area owned or controlled by the manufacturer. 495

(3) "Materials handling" means the movement of the product 496  
being or to be manufactured, during which movement the product is 497

not undergoing any substantial change or alteration in its state 498  
or form. 499

(4) "Testing" means a process or procedure to identify the 500  
properties or assure the quality of a material or product. 501

(5) "Completed product" means a manufactured item that is in 502  
the form and condition as it will be sold by the manufacturer. An 503  
item is completed when all processes that change or alter its 504  
state or form or enhance its value are finished, even though the 505  
item subsequently will be tested to ensure its quality or be 506  
packaged for storage or shipment. 507

(6) "Continuous manufacturing operation" means the process in 508  
which raw materials or components are moved through the steps 509  
whereby manufacturing occurs. Materials handling of raw materials 510  
or parts from the point of receipt or preproduction storage or of 511  
a completed product, to or from storage, to or from packaging, or 512  
to the place from which the completed product will be shipped, is 513  
not a part of a continuous manufacturing operation. 514

(B) For purposes of division (B)(42)(g) of section 5739.02 of 515  
the Revised Code, the "thing transferred" includes, but is not 516  
limited to, any of the following: 517

(1) Production machinery and equipment that act upon the 518  
product or machinery and equipment that treat the materials or 519  
parts in preparation for the manufacturing operation; 520

(2) Materials handling equipment that moves the product 521  
through a continuous manufacturing operation; equipment that 522  
temporarily stores the product during the manufacturing operation; 523  
or, excluding motor vehicles licensed to operate on public 524  
highways, equipment used in intraplant or interplant transfers of 525  
work in process where the plant or plants between which such 526  
transfers occur are manufacturing facilities operated by the same 527  
person; 528

(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;	529 530 531
(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;	532 533 534 535 536
(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;	537 538 539 540
(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;	541 542 543
(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;	544 545 546
(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;	547 548 549 550 551 552 553 554
(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the	555 556 557 558 559

manufacturing facility, if purchased by the manufacturer, to the 560  
manufacturing operation; 561

(10) Machinery, equipment, and other tangible personal 562  
property that treats, filters, cools, refines, or otherwise 563  
renders water, steam, acid, oil, solvents, or similar substances 564  
used in the manufacturing operation reusable, provided that the 565  
substances are intended for reuse and not for disposal, sale, or 566  
transportation from the manufacturing facility; 567

(11) Parts, components, and repair and installation services 568  
for items described in division (B) of this section; 569

(12) Machinery and equipment, detergents, supplies, solvents, 570  
and any other tangible personal property located at a 571  
manufacturing facility that are used in the process of removing 572  
soil, dirt, or other contaminants from, or otherwise preparing in 573  
a suitable condition for use, towels, linens, articles of 574  
clothing, floor mats, mop heads, or other similar items, to be 575  
supplied to a consumer as part of laundry and dry cleaning 576  
services as defined in division (BB) of section 5739.01 of the 577  
Revised Code, only when the towels, linens, articles of clothing, 578  
floor mats, mop heads, or other similar items belong to the 579  
provider of the services; 580

(13) Equipment and supplies used to clean processing 581  
equipment that is part of a continuous manufacturing operation to 582  
produce milk, ice cream, yogurt, cheese, and similar dairy 583  
products for human consumption. 584

(C) For purposes of division (B)(42)(g) of section 5739.02 of 585  
the Revised Code, the "thing transferred" does not include any of 586  
the following: 587

(1) Tangible personal property used in administrative, 588  
personnel, security, inventory control, record-keeping, ordering, 589  
billing, or similar functions; 590

(2) Tangible personal property used in storing raw materials	591
or parts prior to the commencement of the manufacturing operation	592
or used to handle or store a completed product, including storage	593
that actively maintains a completed product in a marketable state	594
or form;	595
(3) Tangible personal property used to handle or store scrap	596
or waste intended for disposal, sale, or other disposition, other	597
than reuse in the manufacturing operation at the same	598
manufacturing facility;	599
(4) Tangible personal property that is or is to be	600
incorporated into realty;	601
(5) Machinery, equipment, and other tangible personal	602
property used for ventilation, dust or gas collection, humidity or	603
temperature regulation, or similar environmental control, except	604
machinery, equipment, and other tangible personal property that	605
totally regulates the environment in a special and limited area of	606
the manufacturing facility where the regulation is essential for	607
production to occur;	608
(6) Tangible personal property used for the protection and	609
safety of workers, unless the property is attached to or	610
incorporated into machinery and equipment used in a continuous	611
manufacturing operation;	612
(7) Tangible personal property used to store fuel, water,	613
solvents, acid, oil, or similar items consumed in the	614
manufacturing operation;	615
(8) <del>Machinery</del> <u>Except as provided in division (B)(13) of this</u>	616
<u>section, machinery</u> , equipment, and other tangible personal	617
property used to clean, repair, or maintain real or personal	618
property in the manufacturing facility;	619
(9) Motor vehicles registered for operation on public	620

highways.

621

(D) For purposes of division (B)(42)(g) of section 5739.02 of the Revised Code, if the "thing transferred" is a machine used by a manufacturer in both a taxable and an exempt manner, it shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the "things transferred" are fungibles, they shall be taxed based upon the proportion of the fungibles used in a taxable manner.

622

623

624

625

626

627

628

Sec. 5747.76. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

629

630

631

(B) There is allowed a refundable credit against the tax imposed under section 5747.02 of the Revised Code for a taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate. The credit shall be claimed for the taxable year specified in the certificate and in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to the state on the first day of the taxable year.

632

633

634

635

636

637

638

639

640

641

642

(C) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity.

643

644

645

(D) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the taxable year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner

646

647

648

649

650

during that period.

651

**Sec. 5747.98.** (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

652

653

654

655

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

656

657

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

658

659

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

660

661

(4) The dependent care credit under section 5747.054 of the Revised Code;

662

663

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

664

665

(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

666

667

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

668

669

(8) The low-income credit under section 5747.056 of the Revised Code;

670

671

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

672

673

(10) The campaign contribution credit under section 5747.29 of the Revised Code;

674

675

(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

676

677

(12) The joint filing credit under division (G) of section

678

5747.05 of the Revised Code;	679
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	680
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	682
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	684
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	686
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	688
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	690
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	692
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	694
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	697
(22) The job training credit under section 5747.39 of the Revised Code;	700
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	702
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	704
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	706



(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	708 709
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	710 711
(28) The export sales credit under section 5747.057 of the Revised Code;	712 713
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	714 715
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	716 717
(31) The research and development credit under section 5747.331 of the Revised Code;	718 719
(32) <u>The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;</u>	720 721
<u>(33)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	722 723
<del>(33)</del> <u>(34)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	724 725
<del>(34)</del> <u>(35)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	726 727 728
<del>(35)</del> <u>(36)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	729 730
<del>(36)</del> <u>(37)</u> The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.	731 732 733
(B) For any credit, except the credits enumerated in divisions (A)(32) to <del>(36)</del> <u>(37)</u> of this section and the credit granted under division (I) of section 5747.08 of the Revised Code,	734 735 736

the amount of the credit for a taxable year shall not exceed the 737  
tax due after allowing for any other credit that precedes it in 738  
the order required under this section. Any excess amount of a 739  
particular credit may be carried forward if authorized under the 740  
section creating that credit. Nothing in this chapter shall be 741  
construed to allow a taxpayer to claim, directly or indirectly, a 742  
credit more than once for a taxable year. 743

**Section 2.** That existing sections 5725.24, 5733.01, 5733.98, 744  
5739.011, and 5747.98 of the Revised Code are hereby repealed. 745

**Section 3.** The amendment by this act of section 5739.011 of 746  
the Revised Code takes effect on the first day of the first month 747  
following the effective date of this act. 748