

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 508

Representative Beck

—

A B I L L

To amend sections 131.02, 1701.86, 1702.47, 3769.28, 1
4301.42, 4303.33, 4928.23, 4928.2314, 5703.261, 2
5703.37, 5703.47, 5727.84, 5727.86, 5731.39, 3
5733.26, 5735.02, 5735.03, 5735.35, 5739.01, 4
5739.02, 5739.021, 5739.023, 5739.026, 5739.04, 5
5739.17, 5741.08, 5743.20, 5743.61, 5743.66, 6
5747.082, 5747.11, 5751.01, 5751.011, 5751.012, 7
5751.03, 5751.04, 5751.05, 5751.051, 5751.08, 8
5751.12, 5751.20, 5751.22, and 5753.03, to enact 9
section 5703.061, and to repeal section 5751.032 10
of the Revised Code to make changes to the laws 11
governing the assessment, levy, and collection of 12
taxes in the state. 13

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

Section 1. That sections 131.02, 1701.86, 1702.47, 3769.28, 14
4301.42, 4303.33, 4928.23, 4928.2314, 5703.261, 5703.37, 5703.47, 15
5727.84, 5727.86, 5731.39, 5733.26, 5735.02, 5735.03, 5735.35, 16
5739.01, 5739.02, 5739.021, 5739.023, 5739.026, 5739.04, 5739.17, 17
5741.08, 5743.20, 5743.61, 5743.66, 5747.082, 5747.11, 5751.01, 18
5751.011, 5751.012, 5751.03, 5751.04, 5751.05, 5751.051, 5751.08, 19
5751.12, 5751.20, 5751.22, and 5753.03 be amended and section 20
5703.061 of the Revised Code be enacted to read as follows: 21

Sec. 131.02. (A) Except as otherwise provided in section 22
4123.37, section 5703.061, and division (K) of section 4123.511 of 23
the Revised Code, whenever any amount is payable to the state, the 24
officer, employee, or agent responsible for administering the law 25
under which the amount is payable shall immediately proceed to 26
collect the amount or cause the amount to be collected and shall 27
pay the amount into the state treasury or into the appropriate 28
custodial fund in the manner set forth pursuant to section 113.08 29
of the Revised Code. Except as otherwise provided in this 30
division, if the amount is not paid within forty-five days after 31
payment is due, the officer, employee, or agent shall certify the 32
amount due to the attorney general, in the form and manner 33
prescribed by the attorney general, and notify the director of 34
budget and management thereof. In the case of an amount payable by 35
a student enrolled in a state institution of higher education, the 36
amount shall be certified within the later of forty-five days 37
after the amount is due or the tenth day after the beginning of 38
the next academic semester, quarter, or other session following 39
the session for which the payment is payable. The attorney general 40
may assess the collection cost to the amount certified in such 41
manner and amount as prescribed by the attorney general. If an 42
amount payable to a political subdivision is past due, the 43
political subdivision may, with the approval of the attorney 44
general, certify the amount to the attorney general pursuant to 45
this section. 46

For the purposes of this section, the attorney general and 47
the officer, employee, or agent responsible for administering the 48
law under which the amount is payable shall agree on the time a 49
payment is due, and that agreed upon time shall be one of the 50
following times: 51

(1) If a law, including an administrative rule, of this state 52
prescribes the time a payment is required to be made or reported, 53

when the payment is required by that law to be paid or reported.	54
(2) If the payment is for services rendered, when the rendering of the services is completed.	55 56
(3) If the payment is reimbursement for a loss, when the loss is incurred.	57 58
(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed.	59 60 61
(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.	62 63 64
(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.	65 66
(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.	67 68 69
(8) Upon proof of claim being filed in a bankruptcy case.	70
(9) Any other appropriate time determined by the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.	71 72 73 74 75
(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness.	76 77 78
(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., 5747., or 5751. of the Revised Code, the notice also shall specify all of the following:	79 80 81
(a) The assessment or case number;	82

(b) The tax pursuant to which the assessment is made;	83
(c) The reason for the liability, including, if applicable, that a penalty or interest is due;	84 85
(d) An explanation of how and when interest will be added to the amount assessed;	86 87
(e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.	88 89 90 91
(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.	92 93
(D) Each claim shall bear interest, from the day on which the claim became due, at the rate per annum required by section 5703.47 of the Revised Code.	94 95 96
(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:	97 98 99
(1) Compromise the claim;	100
(2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim.	101 102 103 104
(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.	105 106 107
(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following:	108 109 110 111 112

(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;

(b) Cancel the claim or cause it to be canceled.

(2) The attorney general shall cancel or cause to be canceled an unsatisfied claim on the date that is forty years after the date the claim is certified.

(3) No initial action shall be commenced to collect any tax payable to the state that is administered by the tax commissioner, whether or not such tax is subject to division (B) of this section, or any penalty, interest, or additional charge on such tax, after the expiration of the period ending on the later of the dates specified in divisions (F)(3)(a) and (b) of this section, provided that such period shall be extended by the period of any stay to such collection or by any other period to which the parties mutually agree. If the initial action in aid of execution is commenced before the later of the dates specified in divisions (F)(3)(a) and (b) of this section, any and all subsequent actions may be pursued in aid of execution of judgment for as long as the debt exists.

(a) Seven years after the assessment of the tax, penalty, interest, or additional charge is issued.

(b) Four years after the assessment of the tax, penalty, interest, or additional charge becomes final. For the purposes of division (F)(3)(b) of this section, the assessment becomes final at the latest of the following: upon expiration of the period to petition for reassessment, or if applicable, to appeal a final determination of the commissioner or decision of the board of tax appeals or a court, or, if applicable, upon decision of the United States supreme court.

For the purposes of division (F)(3) of this section, an initial action to collect a tax debt is commenced at the time when

any action, including any action in aid of execution on a 144
judgment, commences after a certified copy of the tax 145
commissioner's entry making an assessment final has been filed in 146
the office of the clerk of court of common pleas in the county in 147
which the taxpayer resides or has its principal place of business 148
in this state, or in the office of the clerk of court of common 149
pleas of Franklin county, as provided in section 5739.13, 5741.14, 150
5747.13, or 5751.09 of the Revised Code or in any other applicable 151
law requiring such a filing. If an assessment has not been issued 152
and there is no time limitation on the issuance of an assessment 153
under applicable law, an action to collect a tax debt commences 154
when the action is filed in the courts of this state to collect 155
the liability. 156

(4) If information contained in a claim that is sold, 157
conveyed, or transferred to a private entity pursuant to this 158
section is confidential pursuant to federal law or a section of 159
the Revised Code that implements a federal law governing 160
confidentiality, such information remains subject to that law 161
during and following the sale, conveyance, or transfer. 162

Sec. 1701.86. (A) A corporation may be dissolved voluntarily 163
in the manner provided in this section, provided the provisions of 164
Chapter 1704. of the Revised Code do not prevent the dissolution 165
from being effected. 166

(B) A resolution of dissolution for a corporation shall set 167
forth: 168

(1) That the corporation elects to be dissolved; 169

(2) Any additional provision considered necessary with 170
respect to the proposed dissolution and winding up. 171

(C) If an initial stated capital is not set forth in the 172
articles then before the corporation begins business, or if an 173

initial stated capital is set forth in the articles then before 174
subscriptions to shares shall have been received in the amount of 175
that initial stated capital, the incorporators or a majority of 176
them may adopt, by a writing signed by them, a resolution of 177
dissolution. 178

(D) The directors may adopt a resolution of dissolution in 179
the following cases: 180

(1) When the corporation has been adjudged bankrupt or has 181
made a general assignment for the benefit of creditors; 182

(2) By leave of the court, when a receiver has been appointed 183
in a general creditors' suit or in any suit in which the affairs 184
of the corporation are to be wound up; 185

(3) When substantially all of the assets have been sold at 186
judicial sale or otherwise; 187

(4) When the articles have been canceled for failure to file 188
annual franchise or excise tax returns or for failure to pay 189
franchise or excise taxes and the corporation has not been 190
reinstated or does not desire to be reinstated; 191

(5) When the period of existence of the corporation specified 192
in its articles has expired. 193

(E) The shareholders at a meeting held for such purpose may 194
adopt a resolution of dissolution by the affirmative vote of the 195
holders of shares entitling them to exercise two-thirds of the 196
voting power of the corporation on such proposal or, if the 197
articles provide or permit, by the affirmative vote of a greater 198
or lesser proportion, though less than a majority, of such voting 199
power, and by such affirmative vote of the holders of shares of 200
any particular class as is required by the articles. Notice of the 201
meeting of the shareholders shall be given to all the shareholders 202
whether or not entitled to vote at it. 203

(F) Upon the adoption of a resolution of dissolution, a	204
certificate shall be prepared, on a form prescribed by the	205
secretary of state, setting forth the following:	206
(1) The name of the corporation;	207
(2) A statement that a resolution of dissolution has been	208
adopted;	209
(3) A statement of the manner of adoption of such resolution,	210
and, in the case of its adoption by the incorporators or	211
directors, a statement of the basis for such adoption;	212
(4) The place in this state where its principal office is or	213
is to be located;	214
(5) The names and addresses of its directors and officers,	215
unless the resolution of dissolution is adopted by the	216
incorporators, in which event the names and addresses of the	217
incorporators shall be set forth in the certificate;	218
(6) The name and address of its statutory agent;	219
(7) The date of dissolution, if other than the filing date.	220
(G) Such certificate shall be signed as follows:	221
(1) When the resolution of dissolution is adopted by the	222
incorporators or a majority of them, the certificate shall be	223
signed by not less than a majority of them;	224
(2) When the resolution is adopted by the directors or by the	225
shareholders, the certificate shall be signed by any authorized	226
officer, unless the officer fails to execute and file such	227
certificate within thirty days after the adoption of the	228
resolution or upon any date specified in the resolution as the	229
date upon which such certificate is to be filed or upon the	230
expiration of any period specified in the resolution as the period	231
within which such certificate is to be filed, whichever is latest,	232
in which event the certificate of dissolution may be signed by any	233

three shareholders and shall set forth a statement that the 234
persons signing the certificate are shareholders and are filing 235
the certificate because of the failure of the officers to do so. 236

(H) A certificate of dissolution, filed with the secretary of 237
state, shall be accompanied by: 238

~~(1) An affidavit of one or more of the persons executing the 239
certificate of dissolution or of an officer of the corporation 240
containing a statement of the counties, if any, in this state in 241
which the corporation has personal property or a statement that 242
the corporation is of a type required to pay personal property 243
taxes to state authorities only; 244~~

~~(2) A receipt, certificate, or other evidence showing that 245
the payment of all franchise, sales, use, and highway use taxes 246
accruing up to the date of such filing or, if applicable, to the 247
later date specified in the certificate of corporation has paid 248
all taxes imposed under the laws of this state that are or will be 249
due from the corporation on the date of the dissolution in 250
accordance with division (F) of this section, or that such payment 251
has been adequately guaranteed; 252~~

~~(3) A receipt, certificate, or other evidence showing the 253
payment of all personal property taxes accruing up to the date of 254
such filing or, if applicable, to the later date specified in the 255
certificate of dissolution in accordance with division (F) of this 256
section, or that such payment has been adequately guaranteed; 257~~

~~(4)(2) A receipt, certificate, or other evidence from the 258
director of job and family services showing that all contributions 259
due from the corporation as an employer have been paid, or that 260
such payment has been adequately guaranteed, or that the 261
corporation is not subject to such contributions; 262~~

~~(5)(3) A receipt, certificate, or other evidence from the 263
bureau of workers' compensation showing that all premiums due from 264~~

the corporation as an employer have been paid, or that such 265
payment has been adequately guaranteed, or that the corporation is 266
not subject to such premium payments; 267

~~(6)~~(4) In lieu of the receipt, certificate, or other evidence 268
described in division (H)(1), (2), or (3), ~~(4), or (5)~~ of this 269
section, an affidavit of one or more persons executing the 270
certificate of dissolution or of an officer of the corporation 271
containing a statement of the date upon which the particular 272
department, agency, or authority was advised in writing of the 273
scheduled effective date of the dissolution and was advised in 274
writing of the acknowledgment by the corporation of the 275
applicability of the provisions of section 1701.95 of the Revised 276
Code. 277

(I) Upon the filing of a certificate of dissolution and such 278
accompanying documents or on a later date specified in the 279
certificate that is not more than ninety days after the filing, 280
the corporation shall be dissolved. 281

Sec. 1702.47. (A) A corporation may be dissolved voluntarily 282
in the manner provided in this section. 283

(B) A resolution of dissolution for a corporation shall set 284
forth: 285

(1) That the corporation elects to be dissolved; 286

(2) Any additional provision deemed necessary with respect to 287
the proposed dissolution and winding up. 288

(C) The directors may adopt a resolution of dissolution in 289
the following cases: 290

(1) When the corporation has been adjudged bankrupt or has 291
made a general assignment for the benefit of creditors; 292

(2) By leave of the court, when a receiver has been appointed 293
in a general creditors' suit or in any suit in which the affairs 294

of the corporation are to be wound up;	295
(3) When substantially all of the assets have been sold at judicial sale or otherwise;	296 297
(4) When the period of existence of the corporation specified in its articles has expired.	298 299
(D)(1) The voting members at a meeting held for that purpose may adopt a resolution of dissolution by the affirmative vote of a majority of the voting members present in person or, if permitted, by mail, by proxy, or by the use of authorized communications equipment, if a quorum is present or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by the affirmative vote of the voting members or the affirmative vote of the voting members of any particular class that is required by the articles or the regulations. Notice of the meeting of the members shall be sent to all the members who would be entitled to vote at the meeting by mail, overnight delivery service, or any authorized communications equipment.	300 301 302 303 304 305 306 307 308 309 310 311 312
(2) For purposes of division (D)(1) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.	313 314 315 316 317
(E) Upon the adoption of a resolution of dissolution, a certificate shall be prepared, on a form prescribed by the secretary of state, setting forth the following:	318 319 320
(1) The name of the corporation;	321
(2) A statement that a resolution of dissolution has been adopted;	322 323
(3) A statement of the manner of adoption of that resolution,	324

and, in the case of its adoption by the directors, a statement of 325
the basis for the adoption; 326

(4) The place in this state where its principal office is or 327
is to be located; 328

(5) The names and addresses of its directors and officers; 329

(6) The name and address of its statutory agent; 330

(7) The date of dissolution, if other than the filing date. 331

(F) The certificate described in division (E) of this section 332
shall be signed by any authorized officer, unless the officer 333
fails to execute and file the certificate within thirty days after 334
the adoption of the resolution, or upon any date specified in the 335
resolution as the date upon which the certificate is to be filed, 336
or upon the expiration of any period specified in the resolution 337
as the period within which the certificate is to be filed, 338
whichever is latest, in which event the certificate of dissolution 339
may be signed by any three voting members and shall set forth a 340
statement that the persons signing the certificate are voting 341
members and are filing the certificate because of the failure of 342
the officers to do so. 343

(G) A certificate of dissolution, filed with the secretary of 344
state, shall be accompanied by: 345

~~(1) An affidavit of one or more of the persons executing the 346
certificate of dissolution or of an officer of the corporation 347
containing a statement of the counties, if any, in this state in 348
which the corporation has personal property subject to personal 349
property taxes or a statement that the corporation is of a type 350
required to pay personal property taxes to state authorities only; 351~~

~~(2) A receipt, certificate, or other evidence showing the 352
payment of all personal property taxes accruing up to the date of 353
such filing or, if applicable, to the later date specified in the 354~~

~~certificate of dissolution in accordance with division (E) of this 355
section, unless the affidavit provided for in division (G)(1) of 356
this section states that the corporation has in this state no 357
personal property subject to personal property taxes; 358~~

~~(3) A receipt, certificate, or other evidence from the 359
director of job and family services showing that all contributions 360
due from the corporation as an employer have been paid, that such 361
payment has been adequately guaranteed, or that the corporation is 362
not subject to such contributions; 363~~

~~(4)(2) A receipt, certificate, or other evidence showing that 364
the payment of all sales, use, and highway use taxes accruing up 365
to the date of such filing or, if applicable, to the later date 366
specified in the certificate of corporation has paid all taxes 367
imposed under the laws of this state that are or will be due from 368
the corporation on the date of the dissolution in accordance with 369
division (E) of this section, or that such payment has been 370
adequately guaranteed; 371~~

~~(5)(3) In lieu of the receipt, certificate, or other evidence 372
described in division (G)(1) or (2), (3), or (4) of this section, 373
an affidavit of one or more of the persons executing the 374
certificate of dissolution or of an officer of the corporation 375
containing a statement of the date upon which the particular 376
department, agency, or authority was advised in writing of the 377
scheduled effective date of the dissolution and was advised in 378
writing of the acknowledgement by the corporation of the 379
applicability of section 1702.55 of the Revised Code. 380~~

(H) Upon the filing of a certificate of dissolution and those 381
accompanying documents or on a later date specified in the 382
certificate that is not more than ninety days after the filing, 383
the corporation shall be dissolved. 384

Sec. 3769.28. The tax commissioner shall collect from each 385

permit holder who conducts a pari-mutuel system of wagering where 386
the wagering is less than five million dollars a sum of money 387
equal to one-tenth of one per cent of the total amount wagered and 388
where the wagering is five million dollars or more a sum of money 389
equal to fifteen hundredths of one per cent of the total amount 390
wagered during any horse-racing meeting for the purpose of 391
providing operating revenue for the political subdivisions wherein 392
such meetings are held. ~~Such moneys shall be collected by the~~ 393
~~commissioner within~~ Within ten days after the close of ~~such a~~ 394
meeting ~~and shall be sent back to,~~ the permit holder ~~who paid the~~ 395
~~tax. Such permit holder shall prepare and transmit to the tax~~ 396
commissioner a final report showing the total amount wagered 397
during the horse-racing meeting and any other information required 398
by the commissioner relative to the tax levied by this section. 399
The final report shall be signed by the permit holder or an 400
authorized agent of the permit holder. The commissioner shall 401
prescribe the form of the final report. 402

The commissioner shall collect the tax due under this section 403
on amounts wagered during a horse-racing meeting within ten days 404
after the close of the meeting. The commissioner shall then 405
immediately forward the ~~moneys~~ amount collected to the chief 406
fiscal officers of the municipal corporations or townships in 407
which such horse-racing meeting took place and in which any such 408
facilities or accessory uses therefor were located. ~~Such moneys~~ 409
The amount collected shall be divided equally between the 410
municipal corporations or townships in which such horse-racing 411
meeting took place and in which any facilities or accessory uses 412
therefor were located. Such municipal corporations or townships 413
may distribute a portion of the moneys so received to any 414
adjoining political subdivision which incurs increased expenses 415
because of such horse-racing meeting. 416

This section shall not apply to any agricultural society 417

which holds a horse-racing permit. 418

The amount collected under this section from any one permit 419
holder shall not exceed fifteen thousand dollars from any one 420
horse-racing meeting in any calendar year. 421

Sec. 4301.42. For the purpose of providing revenue for the 422
support of the state, a tax is hereby levied on the sale of beer 423
in sealed bottles and cans having twelve ounces or less of liquid 424
content, at the rate of fourteen one-hundredths of one cent on 425
each ounce of liquid content or fractional part of each ounce of 426
liquid content, and on such containers in excess of twelve ounces, 427
at the rate of eighty-four one-hundredths of one cent on each six 428
ounces of liquid content or fractional part of each six ounces of 429
liquid content. Sections 4307.01 to 4307.12 of the Revised Code 430
apply in the administration of that tax. Manufacturers, bottlers, 431
and canners of ~~and wholesale dealers in~~ beer, wholesale dealers in 432
beer, and S permit holders have the duty to pay the tax imposed by 433
this section and are entitled to the privileges in the manner 434
provided in section 4303.33 of the Revised Code. 435

Sec. 4303.33. (A) Every A-1 permit holder in this state, 436
every bottler, importer, wholesale dealer, broker, producer, or 437
manufacturer of beer outside this state and within the United 438
States, and every B-1 permit holder and importer importing beer 439
from any manufacturer, bottler, person, or group of persons 440
however organized outside the United States for sale or 441
distribution for sale in this state, on or before the eighteenth 442
day of each month, shall make and file with the tax commissioner 443
upon a form prescribed by the tax commissioner an advance tax 444
payment in an amount estimated to equal the taxpayer's tax 445
liability for the month in which the advance tax payment is made. 446
If the advance tax payment credits claimed on the report are for 447
advance tax payments received by the tax commissioner on or before 448

the eighteenth day of the month covered by the report, the 449
taxpayer is entitled to an additional credit of three per cent of 450
the advance tax payment and a discount of three per cent shall be 451
allowed the taxpayer at the time of filing the report if filed as 452
provided in division (B) of this section on any amount by which 453
the tax liability reflected in the report exceeds the advance tax 454
payment estimate by not more than ten per cent. The additional 455
three per cent credit and three per cent discount shall be in 456
consideration for advancing the payment of the tax and other 457
services performed by the permit holder and other taxpayers in the 458
collection of the tax. 459

"Advance tax payment credit" means credit for payments made 460
by an A-1 or B-1 permit holder and any other persons during the 461
period covered by a report which was made in anticipation of the 462
tax liability required to be reported on that report. 463

"Tax liability" as used in division (A) of this section means 464
the total gross tax liability of an A-1 or B-1 permit holder and 465
any other persons for the period covered by a report before any 466
allowance for credits and discount. 467

(B) Every A-1 permit holder in this state, every bottler, 468
importer, wholesale dealer, broker, producer, or manufacturer of 469
beer outside this state and within the United States, ~~and~~ every 470
B-1 permit holder importing beer from any manufacturer, bottler, 471
person, or group of persons however organized outside the United 472
States, and every S permit holder, on or before the tenth day of 473
each month, shall make and file a report for the preceding month 474
upon a form prescribed by the tax commissioner which report shall 475
show the amount of beer produced, sold, and distributed for sale 476
in this state by the A-1 permit holder, sold and distributed for 477
sale in this state by each manufacturer, bottler, importer, 478
wholesale dealer, or broker outside this state and within the 479
United States, ~~and~~ the amount of beer imported into this state 480

from outside the United States and sold and distributed for sale 481
in this state by the B-1 permit holder or importer, and the amount 482
of beer sold in this state by the S permit holder. 483

The report shall be filed by mailing it to the tax 484
commissioner, together with payment of the tax levied by sections 485
4301.42 and 4305.01 of the Revised Code shown to be due on the 486
report after deduction of advance payment credits and any 487
additional credits or discounts provided for under this section. 488

(C)(1) Every A-2, A-4, B-2, B-2a, B-3, B-4, B-5, and S permit 489
holder in this state, on or before the eighteenth day of each 490
month, shall make and file a report with the tax commissioner upon 491
a form prescribed by the tax commissioner which report shall show, 492
on the report of each A-2, A-4, B-2a, and S permit holder the 493
amount of wine, cider, and mixed beverages produced and sold, or 494
sold in this state by each such A-2, A-4, B-2a, and S permit 495
holder for the next preceding calendar month and such other 496
information as the tax commissioner requires, and on the report of 497
each such B-2, B-3, B-4, and B-5 permit holder the amount of wine, 498
cider, and mixed beverages purchased from an importer, broker, 499
wholesale dealer, producer, or manufacturer located outside this 500
state and sold and distributed in this state by such B-2, B-3, 501
B-4, and B-5 permit holder, for the next preceding calendar month 502
and such other information as the tax commissioner requires. 503

(2) Every such A-2, A-4, B-2, B-2a, B-3, B-4, B-5, and S 504
permit holder in this state shall remit with the report the tax 505
levied by sections 4301.43 and, if applicable, 4301.432 of the 506
Revised Code less a discount thereon of three per cent of the 507
total tax so levied and paid, provided the return is filed 508
together with remittance of the amount of tax shown to be due 509
thereon, within the time prescribed. Any permit holder or other 510
persons who fail to file a report under this section, for each day 511
the person so fails, may be required to forfeit and pay into the 512

state treasury the sum of one dollar as revenue arising from the 513
tax imposed by sections 4301.42, 4301.43, 4301.432, and 4305.01 of 514
the Revised Code, and that sum may be collected by assessment in 515
the manner provided in section 4305.13 of the Revised Code. 516

(3) If the tax commissioner determines that the quantity 517
reported by a person does not warrant monthly reporting, the 518
commissioner may authorize the filing of returns and the payment 519
of the tax required by this section for periods longer than one 520
month. 521

(D) Every B-1 permit holder and importer in this state 522
importing beer from any manufacturer, bottler, person, or group of 523
persons however organized, outside the United States, if required 524
by the tax commissioner shall post a bond payable to the state in 525
such form and amount as the commissioner prescribes with surety to 526
the satisfaction of the tax commissioner, conditioned upon the 527
payment to the tax commissioner of taxes levied by sections 528
4301.42 and 4305.01 of the Revised Code. 529

(E) No such wine, beer, cider, or mixed beverages sold or 530
distributed in this state shall be taxed more than once under 531
sections 4301.42, 4301.43, and 4305.01 of the Revised Code. 532

(F) As used in this section: 533

(1) "Cider" has the same meaning as in section 4301.01 of the 534
Revised Code. 535

(2) "Wine" has the same meaning as in section 4301.01 of the 536
Revised Code, except that "wine" does not include cider. 537

(G) All money collected by the tax commissioner under this 538
section shall be paid to the treasurer of state as revenue arising 539
from the taxes levied by sections 4301.42, 4301.43, 4301.432, and 540
4305.01 of the Revised Code. 541

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of the 542

Revised Code:	543
(A) "Ancillary agreement" means any bond insurance policy,	544
letter of credit, reserve account, surety bond, swap arrangement,	545
hedging arrangement, liquidity or credit support arrangement, or	546
other similar agreement or arrangement entered into in connection	547
with the issuance of phase-in-recovery bonds that is designed to	548
promote the credit quality and marketability of the bonds or to	549
mitigate the risk of an increase in interest rates.	550
(B) "Assignee" means any person or entity to which an	551
interest in phase-in-recovery property is sold, assigned,	552
transferred, or conveyed, other than as security, and any	553
successor to or subsequent assignee of such a person or entity.	554
(C) "Bond" includes debentures, notes, certificates of	555
participation, certificates of beneficial interest, certificates	556
of ownership or other evidences of indebtedness or ownership that	557
are issued by an electric distribution utility or an assignee	558
under a final financing order, the proceeds of which are used	559
directly or indirectly to recover, finance, or refinance phase-in	560
costs and financing costs, and that are secured by or payable from	561
revenues from phase-in-recovery charges.	562
(D) "Bondholder" means any holder or owner of a	563
phase-in-recovery bond.	564
(E) "Financing costs" means any of the following:	565
(1) Principal, interest, and redemption premiums that are	566
payable on phase-in-recovery bonds;	567
(2) Any payment required under an ancillary agreement;	568
(3) Any amount required to fund or replenish a reserve	569
account or another account established under any indenture,	570
ancillary agreement, or other financing document relating to	571
phase-in-recovery bonds;	572

(4) Any costs of retiring or refunding any existing debt and equity securities of an electric distribution utility in connection with either the issuance of, or the use of proceeds from, phase-in-recovery bonds;

(5) Any costs incurred by an electric distribution utility to obtain modifications of or amendments to any indenture, financing agreement, security agreement, or similar agreement or instrument relating to any existing secured or unsecured obligation of the electric distribution utility in connection with the issuance of phase-in-recovery bonds;

(6) Any costs incurred by an electric distribution utility to obtain any consent, release, waiver, or approval from any holder of an obligation described in division (E)(5) of this section that are necessary to be incurred for the electric distribution utility to issue or cause the issuance of phase-in-recovery bonds;

(7) Any taxes, franchise fees, or license fees imposed on phase-in-recovery revenues;

(8) Any costs related to issuing or servicing phase-in-recovery bonds or related to obtaining a financing order, including servicing fees and expenses, trustee fees and expenses, legal, accounting, or other professional fees and expenses, administrative fees, placement fees, underwriting fees, capitalized interest and equity, and rating-agency fees;

(9) Any other similar costs that the public utilities commission finds appropriate.

(F) "Financing order" means an order issued by the public utilities commission under section 4928.232 of the Revised Code that authorizes an electric distribution utility or an assignee to issue phase-in-recovery bonds and recover phase-in-recovery charges.

(G) "Final financing order" means a financing order that has

become final and has taken effect as provided in section 4928.233 604
of the Revised Code. 605

(H) "Financing party" means either of the following: 606

(1) Any trustee, collateral agent, or other person acting for 607
the benefit of any bondholder; 608

(2) Any party to an ancillary agreement, the rights and 609
obligations of which relate to or depend upon the existence of 610
phase-in-recovery property, the enforcement and priority of a 611
security interest in phase-in-recovery property, the timely 612
collection and payment of phase-in-recovery revenues, or a 613
combination of these factors. 614

(I) "Financing statement" has the same meaning as in section 615
1309.102 of the Revised Code. 616

(J) "Phase-in costs" means costs, inclusive of carrying 617
charges incurred before, on, or after ~~the effective date of this~~ 618
~~section~~ March 22, 2012, authorized by the commission before, on, 619
or after ~~the effective date of this section~~ March 22, 2012, to be 620
securitized or deferred as regulatory assets in proceedings under 621
section 4909.18 of the Revised Code, sections 4928.141 to 622
4928.143, or 4928.144 of the Revised Code, or section 4928.14 of 623
the Revised Code as it existed prior to July 31, 2008, pursuant to 624
a final order for which appeals have been exhausted. "Phase-in 625
costs" excludes the following: 626

(1) With respect to any electric generating facility that, on 627
and after ~~the effective date of this section~~ March 22, 2012, is 628
owned, in whole or in part, by an electric distribution utility 629
applying for a financing order under section 4928.231 of the 630
Revised Code, costs that are authorized under division (B)(2)(b) 631
or (c) of section 4928.143 of the Revised Code; 632

(2) Costs incurred after ~~the effective date of this section~~ 633
March 22, 2012, related to the ongoing operation of an electric 634

generating facility, but not environmental clean-up or remediation 635
costs incurred by an electric distribution utility because of its 636
ownership or operation of an electric generating facility prior to 637
~~the effective date of this section~~ March 22, 2012, which such 638
clean-up or remediation costs are imposed or incurred pursuant to 639
federal or state law, rules, or regulations and for which the 640
commission approves recovery in accordance with section 4909.18 of 641
the Revised Code, sections 4928.141 to 4928.143, or 4928.144 of 642
the Revised Code, or section 4928.14 of the Revised Code as it 643
existed prior to July 31, 2008. 644

(K) "Phase-in-recovery property" means the property, rights, 645
and interests of an electric distribution utility or an assignee 646
under a final financing order, including the right to impose, 647
charge, and collect the phase-in-recovery charges that shall be 648
used to pay and secure the payment of phase-in-recovery bonds and 649
financing costs, and including the right to obtain adjustments to 650
those charges, and any revenues, receipts, collections, rights to 651
payment, payments, moneys, claims, or other proceeds arising from 652
the rights and interests created under the final financing order. 653
"Phase-in-recovery property" does not include tangible personal 654
property constituting the generation, transmission, or 655
distribution property of an electric distribution utility or an 656
assignee thereof. 657

(L) "Phase-in-recovery revenues" means all revenues, 658
receipts, collections, payments, moneys, claims, or other proceeds 659
arising from phase-in-recovery property. 660

(M) "Successor" means, with respect to any entity, another 661
entity that succeeds by operation of law to the rights and 662
obligations of the first legal entity pursuant to any bankruptcy, 663
reorganization, restructuring, or other insolvency proceeding, any 664
merger, acquisition, or consolidation, or any sale or transfer of 665
assets, regardless of whether any of these occur as a result of a 666

restructuring of the electric power industry or otherwise. 667

Sec. 4928.2314. (A) The transfer and ownership of 668
phase-in-recovery property and the imposition, charging, 669
collection, and receipt of phase-in-recovery revenues under 670
sections 4928.231 to 4928.2317 of the Revised Code are exempt from 671
all taxes and similar charges imposed by the state or any county, 672
municipal corporation, school district, local authority, or other 673
subdivision. 674

(B) Phase-in-recovery bonds issued under a final financing 675
order shall not constitute a debt or a pledge of the faith and 676
credit or taxing power of this state or of any county, municipal 677
corporation, or any other political subdivision of this state. 678
Bondholders shall have no right to have taxes levied by this state 679
or the taxing authority of any county, municipal corporation, or 680
any other political subdivision of this state for the payment of 681
the principal of or interest on the bonds. The issuance of 682
phase-in-recovery bonds does not, directly, indirectly, or 683
contingently, obligate this state or any county, municipal 684
corporation, or political subdivision of this state to levy any 685
tax or make any appropriation for payment of the principal of or 686
interest on the bonds. 687

(C) Nothing in this section prohibits the levy of the tax 688
imposed under Chapter 5751. of the Revised Code. 689

Sec. 5703.061. The tax commissioner may cancel a debt owed to 690
the state arising from any tax administered by the commissioner if 691
the total amount of the debt does not exceed fifty dollars and if 692
the debt consists only of unpaid taxes due for a single reporting 693
period and of any penalty, interest, assessment, or other charge 694
arising from such unpaid taxes. 695

Sec. 5703.261. ~~If~~ (A) As used in this section: 696

(1) "Instrument" has the same meaning as in section 1303.03 697
of the Revised Code. 698

(2) "Financial transaction device" has the same meaning as in 699
section 113.40 of the Revised Code. 700

(B) If a taxpayer or employer required by any tax 701
administered by the department of taxation to pay taxes, 702
penalties, or interest makes payment of the taxes, penalties, or 703
interest with a ~~nonnegotiable or~~ dishonored instrument, an 704
instrument that is determined to be nonnegotiable, or with any 705
financial transaction device that is declined, returned, or 706
dishonored, a penalty of fifty dollars shall be added to the 707
amount due. The penalty imposed by this section shall be assessed 708
and collected in the same manner as the taxes, penalties, or 709
interest. All or part of any penalty imposed under this section 710
may be abated by the tax commissioner. 711

Sec. 5703.37. (A)(1) Except as provided in division (B) of 712
this section, whenever service of a notice or order is required in 713
the manner provided in this section, a copy of the notice or order 714
shall be served upon the person affected thereby either by 715
personal service, by certified mail, or by a delivery service 716
authorized under section 5703.056 of the Revised Code that 717
notifies the tax commissioner of the date of delivery. 718

(2) ~~With the permission of the person affected by the notice~~ 719
~~or order, the commissioner may enter into a written agreement to~~ 720
~~deliver a notice or order by~~ In lieu of serving a copy of a notice 721
or order through one of the means provided in division (A)(1) of 722
this section, the commissioner may serve a notice or order upon 723
the person affected thereby through alternative means as provided 724
in this section, including, but not limited to, delivery by secure 725
electronic mail as provided in division (F) of this section. 726
Delivery by such means satisfies the requirements for delivery 727

under this section. 728

(B)(1)(a) If certified mail is returned because of an 729
undeliverable address, the commissioner shall first utilize 730
reasonable means to ascertain a new last known address, including 731
the use of a change of address service offered by the United 732
States postal service or an authorized delivery service under 733
section 5703.056 of the Revised Code. If, after using reasonable 734
means, the commissioner is unable to ascertain a new last known 735
address, the assessment is final for purposes of section 131.02 of 736
the Revised Code sixty days after the notice or order sent by 737
certified mail is first returned to the commissioner, and the 738
commissioner shall certify the notice or order, if applicable, to 739
the attorney general for collection under section 131.02 of the 740
Revised Code. 741

(b) Notwithstanding certification to the attorney general 742
under division (B)(1)(a) of this section, once the commissioner or 743
attorney general, or the designee of either, makes an initial 744
contact with the person to whom the notice or order is directed, 745
the person may protest an assessment by filing a petition for 746
reassessment within sixty days after the initial contact. The 747
certification of an assessment under division (B)(1)(a) of this 748
section is prima-facie evidence that delivery is complete and that 749
the notice or order is served. 750

(2) If mailing of a notice or order by certified mail is 751
returned for some cause other than an undeliverable address, the 752
~~tax~~ commissioner shall resend the notice or order by ordinary 753
mail. The notice or order shall show the date the commissioner 754
sends the notice or order and include the following statement: 755

"This notice or order is deemed to be served on the addressee 756
under applicable law ten days from the date this notice or order 757
was mailed by the commissioner as shown on the notice or order, 758
and all periods within which an appeal may be filed apply from and 759

after that date." 760

Unless the mailing is returned because of an undeliverable 761
address, the mailing of that information is prima-facie evidence 762
that delivery of the notice or order was completed ten days after 763
the commissioner sent the notice or order by ordinary mail and 764
that the notice or order was served. 765

If the ordinary mail is subsequently returned because of an 766
undeliverable address, the commissioner shall proceed under 767
division (B)(1)(a) of this section. A person may challenge the 768
presumption of delivery and service under this division in 769
accordance with division (C) of this section. 770

(C)(1) A person disputing the presumption of delivery and 771
service under division (B) of this section bears the burden of 772
proving by a preponderance of the evidence that the address to 773
which the notice or order was sent was not an address with which 774
the person was associated at the time the commissioner originally 775
mailed the notice or order by certified mail. For the purposes of 776
this section, a person is associated with an address at the time 777
the commissioner originally mailed the notice or order if, at that 778
time, the person was residing, receiving legal documents, or 779
conducting business at the address; or if, before that time, the 780
person had conducted business at the address and, when the notice 781
or order was mailed, the person's agent or the person's affiliate 782
was conducting business at the address. For the purposes of this 783
section, a person's affiliate is any other person that, at the 784
time the notice or order was mailed, owned or controlled at least 785
twenty per cent, as determined by voting rights, of the 786
addressee's business. 787

(2) If the person elects to protest an assessment certified 788
to the attorney general for collection, the person must do so 789
within sixty days after the attorney general's initial contact 790
with the person. The attorney general may enter into a compromise 791

with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the ~~tax~~ commissioner.

(D) Nothing in this section prohibits the ~~tax~~ commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) The commissioner may serve a notice or order upon the person affected by the notice or order through secure electronic means only with the person's consent. The commissioner must inform the recipient, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. The recipient's electronic access of the notice or order satisfies the requirements for delivery under this section. If the recipient fails to access the notice or order electronically within ten business days, the notice or order shall be served upon the person through one of the means provided in division (A)(1) of this section.

(G) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code.

(2) "Undeliverable address" means an address to which the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.47. (A) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current year.

(B) On the fifteenth day of October of each year, the tax commissioner shall determine the federal short-term rate. For purposes of any section of the Revised Code requiring interest to be computed at the rate per annum required by this section, the rate determined by the commissioner under this section, rounded to the nearest whole number per cent, plus ~~three~~ one per cent, shall be the interest rate per annum used in making the computation for interest that accrues during the following calendar year. ~~For the purposes of sections 5719.041 and 5731.23 of the Revised Code, references to the "federal short term rate" are references to the federal short term rate as determined by the tax commissioner under this section rounded to the nearest whole number per cent.~~

(C) Within ten days after the interest rate per annum is determined under this section, the tax commissioner shall notify the auditor of each county ~~in writing~~ of that rate of interest.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district. 853
854

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code. 855
856
857
858
859
860

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts. 861
862
863
864
865
866

(4) "State education aid," for a school district, means the following: 867
868

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: 869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884

divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of

the 127th general assembly, as subsequently amended, instead of 885
division (D) of section 3317.022 of the Revised Code; and include 886
amounts calculated under Section 269.30.80 of H.B. 119 of the 887
127th general assembly, as subsequently amended. 888

(b) For fiscal years 2010 and 2011, the sum of the amounts 889
computed for the district under former sections 3306.052, 3306.12, 890
3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code and 891
the following provisions, as they existed for the applicable 892
fiscal year: division (G) of section 3317.024; sections 3317.05, 893
3317.052, and 3317.053 of the Revised Code; and the adjustments 894
required by division (C) of section 3310.08; division (C)(2) of 895
section 3310.41; division (C) of section 3314.08; division (D)(2) 896
of section 3314.091; division (D) of section 3314.13; divisions 897
(E), (K), (L), (M), and (N) of section 3317.023; division (C) of 898
section 3317.20; and sections 3313.979, 3313.981, and 3326.33 of 899
the Revised Code. 900

(c) For fiscal years 2012 and 2013, the amount paid in 901
accordance with the section of H.B. 153 of the 129th general 902
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 903
SCHOOL DISTRICTS" and the adjustments required by division (C) of 904
section 3310.08; division (C)(2) of section 3310.41; section 905
3310.55; division (C) of section 3314.08; division (D)(2) of 906
section 3314.091; division (D) of section 3314.13; divisions (B), 907
(H), (I), (J), and (K) of section 3317.023; division (C) of 908
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 909
Code. 910

(5) "State education aid," for a joint vocational school 911
district, means the following: 912

(a) For fiscal years prior to fiscal year 2010, the sum of 913
the state aid amounts computed for the district under division (N) 914
of section 3317.024 and section 3317.16 of the Revised Code. 915
However, when calculating state education aid for a joint 916

vocational school district for fiscal years 2008 and 2009, include 917
the amount computed for the district under Section 269.30.90 of 918
H.B. 119 of the 127th general assembly, as subsequently amended. 919

(b) For fiscal years 2010 and 2011, the amount computed for 920
the district in accordance with the section of H.B. 1 of the 128th 921
general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 922
DISTRICTS". 923

(c) For fiscal years 2012 and 2013, the amount paid in 924
accordance with the section of H.B. 153 of the 129th general 925
assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 926

(6) "State education aid offset" means the amount determined 927
for each school district or joint vocational school district under 928
division (A)(1) of section 5727.85 of the Revised Code. 929

(7) "Recognized valuation" has the same meaning as in section 930
3317.02 of the Revised Code. 931

(8) "Electric company tax value loss" means the amount 932
determined under division (D) of this section. 933

(9) "Natural gas company tax value loss" means the amount 934
determined under division (E) of this section. 935

(10) "Tax value loss" means the sum of the electric company 936
tax value loss and the natural gas company tax value loss. 937

(11) "Fixed-rate levy" means any tax levied on property other 938
than a fixed-sum levy. 939

(12) "Fixed-rate levy loss" means the amount determined under 940
division (G) of this section. 941

(13) "Fixed-sum levy" means a tax levied on property at 942
whatever rate is required to produce a specified amount of tax 943
money or levied in excess of the ten-mill limitation to pay debt 944
charges, and includes school district emergency levies ~~imposed~~ 945
charged and payable pursuant to section 5705.194 of the Revised 946

Code. 947

(14) "Fixed-sum levy loss" means the amount determined under 948
division (H) of this section. 949

(15) "Consumer price index" means the consumer price index 950
(all items, all urban consumers) prepared by the bureau of labor 951
statistics of the United States department of labor. 952

(16) "Total resources" ~~has~~ and "total library resources" have 953
the same ~~meaning~~ meanings as in section 5751.20 of the Revised 954
Code. 955

(17) "2011 current expense S.B. 3 allocation" means the sum 956
of payments received by a school district or joint vocational 957
school district in fiscal year 2011 for current expense levy 958
losses pursuant to division (C)(2) of section 5727.85 of the 959
Revised Code. If a fixed-rate levy eligible for reimbursement is 960
not ~~imposed~~ charged and payable in any year after tax year 2010, 961
"2011 current expense S.B. 3 allocation" used to compute payments 962
to be made under division (C)(3) of section 5727.85 of the Revised 963
Code in the tax years following the last year the levy is ~~imposed~~ 964
charged and payable shall be reduced ~~by the amount of~~ to the 965
extent that those payments are attributable to the fixed-rate levy 966
loss of that levy. 967

(18) "2010 current expense S.B. 3 allocation" means the sum 968
of payments received by a municipal corporation in calendar year 969
2010 for current expense levy losses pursuant to division (A)(1) 970
of section 5727.86 of the Revised Code, excluding any such 971
payments received for current expense levy losses attributable to 972
a tax levied under section 5705.23 of the Revised Code. If a 973
fixed-rate levy eligible for reimbursement is not ~~imposed~~ charged 974
and payable in any year after tax year 2010, "2010 current expense 975
S.B. 3 allocation" used to compute payments to be made under 976
division (A)(1)(d) or (e) of section 5727.86 of the Revised Code 977

in the tax years following the last year the levy is ~~imposed~~ 978
~~charged and payable~~ shall be reduced ~~by the amount of~~ to the 979
extent that those payments are attributable to the fixed-rate levy 980
loss of that levy. 981

(19) "2010 S.B. 3 allocation" means the sum of payments 982
received by a local taxing unit during calendar year 2010 pursuant 983
to division (A)(1) of section 5727.86 of the Revised Code, 984
excluding any such payments received for fixed-rate levy losses 985
attributable to a tax levied under section 5705.23 of the Revised 986
Code. If a fixed-rate levy eligible for reimbursement is not 987
~~imposed charged and payable~~ in any year after tax year 2010, "2010 988
S.B. 3 allocation" used to compute payments to be made under 989
division (A)(1)(d) or (e) of section 5727.86 of the Revised Code 990
in the tax years following the last year the levy is ~~imposed~~ 991
~~charged and payable~~ shall be reduced ~~by the amount of~~ to the 992
extent that those payments are attributable to the fixed-rate levy 993
loss of that levy. 994

(20) "Total S.B. 3 allocation" means, in the case of a school 995
district or joint vocational school district, the sum of the 996
~~amounts~~ payments received in fiscal year 2011 pursuant to 997
divisions (C)(2) and (D) of section 5727.85 of the Revised Code. 998
In the case of a local taxing unit, "total S.B. 3 allocation" 999
means the sum of payments received by the unit in calendar year 1000
2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of 1001
the Revised Code, excluding any such payments received for 1002
fixed-rate levy losses attributable to a tax levied under section 1003
5705.23 of the Revised Code. If a fixed-rate levy eligible for 1004
reimbursement is not ~~imposed charged and payable~~ in any year after 1005
tax year 2010, "total S.B. 3 allocation" used to compute payments 1006
to be made under division (C)(3) of section 5727.85 or division 1007
(A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax 1008
years following the last year the levy is ~~imposed charged and~~ 1009

payable shall be reduced ~~by the amount of~~ to the extent that those 1010
payments are attributable to the fixed-rate levy loss of that levy 1011
as would be computed under division (C)(2) of section 5727.85 or 1012
division (A)(1)(b) of section 5727.86 of the Revised Code. 1013

(21) "2011 non-current expense S.B. 3 allocation" means the 1014
difference of a school district's or joint vocational school 1015
district's total S.B. 3 allocation minus the sum of the school 1016
district's 2011 current expense S.B. 3 allocation and the portion 1017
of the school district's total S.B. 3 allocation constituting 1018
reimbursement for debt levies pursuant to division (D) of section 1019
5727.85 of the Revised Code. 1020

(22) "2010 non-current expense S.B. 3 allocation" means the 1021
difference of a municipal corporation's total S.B. 3 allocation 1022
minus the sum of its 2010 current expense S.B. 3 allocation and 1023
the portion of its total S.B. 3 allocation constituting 1024
reimbursement for debt levies pursuant to division (A)(4) of 1025
section 5727.86 of the Revised Code. 1026

(23) "S.B. 3 allocation for library purposes" means, in the 1027
case of a county, municipal corporation, school district, or 1028
township public library that receives the proceeds of a tax levied 1029
under section 5705.23 of the Revised Code, the sum of the payments 1030
received by the public library in calendar year 2010 pursuant to 1031
section 5727.86 of the Revised Code for fixed-rate levy losses 1032
attributable to a tax levied under section 5705.23 of the Revised 1033
Code. If a fixed-rate levy authorized under section 5705.23 of the 1034
Revised Code that is eligible for reimbursement is not charged and 1035
payable in any year after tax year 2010, "S.B. 3 allocation for 1036
library purposes" used to compute payments to be made under 1037
division (A)(1)(f) of section 5727.86 of the Revised Code in the 1038
tax years following the last year the levy is charged and payable 1039
shall be reduced to the extent that those payments are 1040
attributable to the fixed-rate levy loss of that levy as would be 1041

computed under division (A)(1)(b) of section 5727.86 of the 1042
Revised Code. 1043

(24) "Threshold per cent" means, in the case of a school 1044
district or joint vocational school district, two per cent for 1045
fiscal year 2012 and four per cent for fiscal years 2013 and 1046
thereafter. In the case of a local taxing unit or public library 1047
that receives the proceeds of a tax levied under section 5705.23 1048
of the Revised Code, "threshold per cent" means two per cent for 1049
calendar year 2011, four per cent for calendar year 2012, and six 1050
per cent for calendar years 2013 and thereafter. 1051

(B) The kilowatt-hour tax receipts fund is hereby created in 1052
the state treasury and shall consist of money arising from the tax 1053
imposed by section 5727.81 of the Revised Code. All money in the 1054
kilowatt-hour tax receipts fund shall be credited as follows: 1055

Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund	
2001-2011	63.0%	25.4%	11.6%	1057
2012 and thereafter	88.0%	9.0%	3.0%	1058

(C) The natural gas tax receipts fund is hereby created in 1059
the state treasury and shall consist of money arising from the tax 1060
imposed by section 5727.811 of the Revised Code. All money in the 1061
fund shall be credited as follows: 1062

(1) For fiscal years before fiscal year 2012: 1063

(a) Sixty-eight and seven-tenths per cent shall be credited 1064
to the school district property tax replacement fund for the 1065
purpose of making the payments described in section 5727.85 of the 1066
Revised Code. 1067

(b) Thirty-one and three-tenths per cent shall be credited to 1068
the local government property tax replacement fund for the purpose 1069

of making the payments described in section 5727.86 of the Revised Code. 1070
1071

(2) For fiscal years 2012 and thereafter, one hundred per cent to the general revenue fund. 1072
1073

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section: 1074
1075
1076
1077

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section. 1078
1079
1080

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998; 1081
1082
1083
1084
1085

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001. 1086
1087
1088
1089
1090

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section. 1091
1092
1093

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments; 1094
1095
1096
1097
1098

(b) The three-year average assessed value from nuclear fuel 1099

materials and assemblies assessed under division (D)(2)(a) of this 1100
section for tax years 1996, 1997, and 1998, as reflected in the 1101
preliminary assessments, using an assessment rate of twenty-five 1102
per cent. 1103

(3) In the case of a taxing district having a nuclear power 1104
plant within its territory, any amount, resulting in an electric 1105
company tax value loss, obtained by subtracting the amount 1106
described in division (D)(1) of this section from the difference 1107
obtained by subtracting the amount described in division (D)(3)(b) 1108
of this section from the amount described in division (D)(3)(a) of 1109
this section. 1110

(a) The value of electric company tangible personal property 1111
as assessed by the tax commissioner for tax year 2000 on a 1112
preliminary assessment, or an amended preliminary assessment if 1113
issued prior to March 1, 2001, and as apportioned to the taxing 1114
district for tax year 2000; 1115

(b) The value of electric company tangible personal property 1116
as assessed by the tax commissioner for tax year 2001 on a 1117
preliminary assessment, or an amended preliminary assessment if 1118
issued prior to March 1, 2002, and as apportioned to the taxing 1119
district for tax year 2001. 1120

(4) In the case of a taxing district having a nuclear power 1121
plant within its territory, the difference obtained by subtracting 1122
the amount described in division (D)(4)(b) of this section from 1123
the amount described in division (D)(4)(a) of this section, 1124
provided that such difference is greater than ten per cent of the 1125
amount described in division (D)(4)(a) of this section. 1126

(a) The value of electric company tangible personal property 1127
as assessed by the tax commissioner for tax year 2005 on a 1128
preliminary assessment, or an amended preliminary assessment if 1129
issued prior to March 1, 2006, and as apportioned to the taxing 1130

district for tax year 2005; 1131

(b) The value of electric company tangible personal property 1132
as assessed by the tax commissioner for tax year 2006 on a 1133
preliminary assessment, or an amended preliminary assessment if 1134
issued prior to March 1, 2007, and as apportioned to the taxing 1135
district for tax year 2006. 1136

(E) Not later than January 1, 2002, the tax commissioner 1137
shall determine for each taxing district its natural gas company 1138
tax value loss, which is the sum of the amounts described in 1139
divisions (E)(1) and (2) of this section: 1140

(1) The difference obtained by subtracting the amount 1141
described in division (E)(1)(b) from the amount described in 1142
division (E)(1)(a) of this section. 1143

(a) The value of all natural gas company tangible personal 1144
property, other than property described in division (E)(2) of this 1145
section, as assessed by the tax commissioner for tax year 1999 on 1146
a preliminary assessment, or an amended preliminary assessment if 1147
issued prior to March 1, 2000, and apportioned to the taxing 1148
district for tax year 1999; 1149

(b) The value of all natural gas company tangible personal 1150
property, other than property described in division (E)(2) of this 1151
section, as assessed by the tax commissioner for tax year 1999 had 1152
the property been apportioned to the taxing district for tax year 1153
2001, and assessed at the rates in effect for tax year 2001. 1154

(2) The difference in the value of current gas obtained by 1155
subtracting the amount described in division (E)(2)(b) from the 1156
amount described in division (E)(2)(a) of this section. 1157

(a) The three-year average assessed value of current gas as 1158
assessed by the tax commissioner for tax years 1997, 1998, and 1159
1999 on a preliminary assessment, or an amended preliminary 1160
assessment if issued prior to March 1, 2001, and as apportioned in 1161

the taxing district for those respective years; 1162

(b) The three-year average assessed value from current gas 1163
under division (E)(2)(a) of this section for tax years 1997, 1998, 1164
and 1999, as reflected in the preliminary assessment, using an 1165
assessment rate of twenty-five per cent. 1166

(F) The tax commissioner may request that natural gas 1167
companies, electric companies, and rural electric companies file a 1168
report to help determine the tax value loss under divisions (D) 1169
and (E) of this section. The report shall be filed within thirty 1170
days of the commissioner's request. A company that fails to file 1171
the report or does not timely file the report is subject to the 1172
penalty in section 5727.60 of the Revised Code. 1173

(G) Not later than January 1, 2002, the tax commissioner 1174
shall determine for each school district, joint vocational school 1175
district, and local taxing unit its fixed-rate levy loss, which is 1176
the sum of its electric company tax value loss multiplied by the 1177
tax rate in effect in tax year 1998 for fixed-rate levies and its 1178
natural gas company tax value loss multiplied by the tax rate in 1179
effect in tax year 1999 for fixed-rate levies. 1180

(H) Not later than January 1, 2002, the tax commissioner 1181
shall determine for each school district, joint vocational school 1182
district, and local taxing unit its fixed-sum levy loss, which is 1183
the amount obtained by subtracting the amount described in 1184
division (H)(2) of this section from the amount described in 1185
division (H)(1) of this section: 1186

(1) The sum of the electric company tax value loss multiplied 1187
by the tax rate in effect in tax year 1998, and the natural gas 1188
company tax value loss multiplied by the tax rate in effect in tax 1189
year 1999, for fixed-sum levies for all taxing districts within 1190
each school district, joint vocational school district, and local 1191
taxing unit. For the years 2002 through 2006, this computation 1192

shall include school district emergency levies that existed in 1193
1998 in the case of the electric company tax value loss, and 1999 1194
in the case of the natural gas company tax value loss, and all 1195
other fixed-sum levies that existed in 1998 in the case of the 1196
electric company tax value loss and 1999 in the case of the 1197
natural gas company tax value loss and continue to be charged in 1198
the tax year preceding the distribution year. For the years 2007 1199
through 2016 in the case of school district emergency levies, and 1200
for all years after 2006 in the case of all other fixed-sum 1201
levies, this computation shall exclude all fixed-sum levies that 1202
existed in 1998 in the case of the electric company tax value loss 1203
and 1999 in the case of the natural gas company tax value loss, 1204
but are no longer in effect in the tax year preceding the 1205
distribution year. For the purposes of this section, an emergency 1206
levy that existed in 1998 in the case of the electric company tax 1207
value loss, and 1999 in the case of the natural gas company tax 1208
value loss, continues to exist in a year beginning on or after 1209
January 1, 2007, but before January 1, 2017, if, in that year, the 1210
board of education levies a school district emergency levy for an 1211
annual sum at least equal to the annual sum levied by the board in 1212
tax year 1998 or 1999, respectively, less the amount of the 1213
payment certified under this division for 2002. 1214

(2) The total taxable value in tax year 1999 less the tax 1215
value loss in each school district, joint vocational school 1216
district, and local taxing unit multiplied by one-fourth of one 1217
mill. 1218

If the amount computed under division (H) of this section for 1219
any school district, joint vocational school district, or local 1220
taxing unit is greater than zero, that amount shall equal the 1221
fixed-sum levy loss reimbursed pursuant to division (F) of section 1222
5727.85 of the Revised Code or division (A)(2) of section 5727.86 1223
of the Revised Code, and the one-fourth of one mill that is 1224

subtracted under division (H)(2) of this section shall be 1225
apportioned among all contributing fixed-sum levies in the 1226
proportion of each levy to the sum of all fixed-sum levies within 1227
each school district, joint vocational school district, or local 1228
taxing unit. 1229

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 1230
section, in computing the tax value loss, fixed-rate levy loss, 1231
and fixed-sum levy loss, the tax commissioner shall use the 1232
greater of the 1998 tax rate or the 1999 tax rate in the case of 1233
levy losses associated with the electric company tax value loss, 1234
but the 1999 tax rate shall not include for this purpose any tax 1235
levy approved by the voters after June 30, 1999, and the tax 1236
commissioner shall use the greater of the 1999 or the 2000 tax 1237
rate in the case of levy losses associated with the natural gas 1238
company tax value loss. 1239

(J) Not later than January 1, 2002, the tax commissioner 1240
shall certify to the department of education the tax value loss 1241
determined under divisions (D) and (E) of this section for each 1242
taxing district, the fixed-rate levy loss calculated under 1243
division (G) of this section, and the fixed-sum levy loss 1244
calculated under division (H) of this section. The calculations 1245
under divisions (G) and (H) of this section shall separately 1246
display the levy loss for each levy eligible for reimbursement. 1247

(K) Not later than September 1, 2001, the tax commissioner 1248
shall certify the amount of the fixed-sum levy loss to the county 1249
auditor of each county in which a school district with a fixed-sum 1250
levy loss has territory. 1251

Sec. 5727.86. (A) ~~Not later than January 1, 2002, the~~ The tax 1252
commissioner shall compute the payments to be made to each local 1253
taxing unit, and to each public library that receives the proceeds 1254
of a tax levied under section 5705.23 of the Revised Code, for 1255

each year according to divisions (A)(1), (2), (3), and (4) and 1256
division (E) of this section, and shall distribute the payments in 1257
the manner prescribed by division (C) of this section. The 1258
calculation of the fixed-sum levy loss shall cover a time period 1259
sufficient to include all fixed-sum levies for which the tax 1260
commissioner determined, pursuant to division (H) of section 1261
5727.84 of the Revised Code, that a fixed-sum levy loss is to be 1262
reimbursed. 1263

(1) Except as provided in divisions (A)(3) and (4) of this 1264
section, the following amounts shall be paid on or before the 1265
thirty-first day of August and the twenty-eighth day of February: 1266

(a) For years 2002 through 2006, fifty per cent of the 1267
fixed-rate levy loss computed under division (G) of section 1268
5727.84 of the Revised Code; 1269

(b) For years 2007 through 2010, forty per cent of the 1270
fixed_rate levy loss computed under division (G) of section 1271
5727.84 of the Revised Code; 1272

(c) For the payment in 2011 to be made on or before the 1273
twentieth day of February, the amount required to be paid in 2010 1274
on or before the twentieth day of February; 1275

(d) For the payment in 2011 to be made on or before the 1276
thirty-first day of August ~~and for all payments to be made in~~ 1277
~~years 2012 and thereafter~~, the sum of the amounts in divisions 1278
(A)(1)(d)(i) or (ii) and (iii) of this section: 1279

(i) If the ratio of fifty per cent of the taxing unit's 2010 1280
S.B. 3 allocation to its total resources is equal to or less than 1281
the threshold per cent, zero; 1282

(ii) If the ratio of fifty per cent of the taxing unit's 2010 1283
S.B. 3 allocation to its total resources is greater than the 1284
threshold per cent, the difference of fifty per cent of the 2010 1285
S.B. 3 allocation minus the product of total resources multiplied 1286

by the threshold per cent; 1287

(iii) In the case of a municipal corporation, fifty per cent 1288
of the product of its 2010 non-current expense S.B. 3 allocation 1289
multiplied by seventy-five per cent ~~for year 2011, fifty per cent~~ 1290
~~for year 2012, and twenty five percent for years 2013 and~~ 1291
thereafter. 1292

(e) For 2012 and each year thereafter, the sum of the amounts 1293
in divisions (A)(1)(e)(i) or (ii) and (iii) of this section: 1294

(i) If the ratio of the taxing unit's 2010 S.B. 3 allocation 1295
to its total resources is equal to or less than the threshold per 1296
cent, zero; 1297

(ii) If the ratio of the taxing unit's 2010 S.B. 3 allocation 1298
to its total resources is greater than the threshold per cent, 1299
fifty per cent of the difference of the 2010 S.B. 3 allocation 1300
minus the product of total resources multiplied by the threshold 1301
per cent; 1302

(iii) In the case of a municipal corporation, fifty per cent 1303
of the product of its 2010 non-current expense S.B. 3 allocation 1304
multiplied by fifty per cent for year 2012 and by twenty-five per 1305
cent for years 2013 and thereafter. 1306

(f) For the payment in 2012 to be made to a public library on 1307
or before the thirty-first day of August and for all such payments 1308
to be made in 2013 and thereafter, the amount in division 1309
(A)(1)(f)(i) or (ii) of this section: 1310

(i) If the ratio of S.B. 3 allocation for library purposes to 1311
total library resources is equal to or less than the threshold per 1312
cent, zero; 1313

(ii) If the ratio of S.B. 3 allocation for library purposes 1314
to total library resources is greater than the threshold per cent, 1315
fifty per cent of the difference of the S.B. 3 allocation for 1316

library purposes minus the product of total library resources 1317
multiplied by the threshold per cent. 1318

(2) For fixed-sum levy losses determined under division (H) 1319
of section 5727.84 of the Revised Code, payments shall be made in 1320
the amount of one hundred per cent of the fixed-sum levy loss for 1321
payments required to be made in 2002 and thereafter. 1322

(3) A local taxing unit in a county of less than two hundred 1323
fifty square miles that receives eighty per cent or more of its 1324
combined general fund and bond retirement fund revenues from 1325
property taxes and rollbacks based on 1997 actual revenues as 1326
presented in its 1999 tax budget, and in which electric companies 1327
and rural electric companies comprise over twenty per cent of its 1328
property valuation, shall receive one hundred per cent of its 1329
fixed-rate levy losses from electric company tax value losses 1330
certified under division (A) of this section in years 2002 to 1331
2010. Beginning in 2011, payments for such local taxing units 1332
shall be determined under division (A)(1) of this section. 1333

(4) For taxes levied within the ten-mill limitation or 1334
pursuant to a municipal charter for debt purposes in tax year 1998 1335
in the case of electric company tax value losses, and in tax year 1336
1999 in the case of natural gas company tax value losses, payments 1337
shall be made equal to one hundred per cent of the loss computed 1338
as if the tax were a fixed-rate levy, but those payments shall 1339
extend from 2011 through 2016 if the levy was ~~imposed~~ charged and 1340
payable for debt purposes in tax year 2010. If the levy is not 1341
~~imposed~~ charged and payable for debt purposes in tax year 2010 or 1342
any following tax year before tax year 2016, payments for that 1343
levy shall be made under division (A)(1) of this section beginning 1344
with the first year after the year the levy is ~~imposed~~ charged and 1345
payable for a purpose other than debt. For the purposes of this 1346
division, taxes levied pursuant to a municipal charter refer to 1347
taxes levied pursuant to a provision of a municipal charter that 1348

permits the tax to be levied without prior voter approval. 1349

(B) Beginning in 2003, by the thirty-first day of January of 1350
each year, the tax commissioner shall review the calculation 1351
originally made under division (A) of this section of the 1352
fixed-sum levy loss determined under division (H) of section 1353
5727.84 of the Revised Code. If the commissioner determines that a 1354
fixed-sum levy that had been scheduled to be reimbursed in the 1355
current year has expired, a revised calculation for that and all 1356
subsequent years shall be made. 1357

(C) Payments to local taxing units and public libraries 1358
required to be made under divisions (A) and (E) of this section 1359
shall be paid from the local government property tax replacement 1360
fund to the county undivided income tax fund in the proper county 1361
treasury. The county treasurer shall distribute amounts paid under 1362
division (A) of this section to the proper local taxing unit or 1363
public library as if they had been levied and collected as taxes, 1364
and the local taxing unit or public library shall apportion the 1365
amounts so received among its funds in the same proportions as if 1366
those amounts had been levied and collected as taxes. Except in 1367
the case of amounts distributed to the county as a local taxing 1368
unit, amounts distributed under division (E)(2) of this section 1369
shall be credited to the general fund of the local taxing unit 1370
that receives them. Amounts distributed to each county as a local 1371
taxing unit under division (E)(2) of this section shall be 1372
credited in the proportion that the current taxes charged and 1373
payable from each levy of or by the county bears to the total 1374
current taxes charged and payable from all levies of or by the 1375
county. 1376

(D) By February 5, 2002, the tax commissioner shall estimate 1377
the amount of money in the local government property tax 1378
replacement fund in excess of the amount necessary to make 1379
payments in that month under division (C) of this section. 1380

Notwithstanding division (A) of this section, the tax commissioner 1381
may pay any local taxing unit, from those excess funds, nine and 1382
four-tenths times the amount computed for 2002 under division 1383
(A)(1) of this section. A payment made under this division shall 1384
be in lieu of the payment to be made in February 2002 under 1385
division (A)(1) of this section. A local taxing unit receiving a 1386
payment under this division will no longer be entitled to any 1387
further payments under division (A)(1) of this section. A payment 1388
made under this division shall be paid from the local government 1389
property tax replacement fund to the county undivided income tax 1390
fund in the proper county treasury. The county treasurer shall 1391
distribute the payment to the proper local taxing unit as if it 1392
had been levied and collected as taxes, and the local taxing unit 1393
shall apportion the amounts so received among its funds in the 1394
same proportions as if those amounts had been levied and collected 1395
as taxes. 1396

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 1397
2005, and 2006, and on the thirty-first day of January and July of 1398
2007 through January 2011, if the amount credited to the local 1399
government property tax replacement fund exceeds the amount needed 1400
to be distributed from the fund under division (A) of this section 1401
in the following month, the tax commissioner shall distribute the 1402
excess to each county as follows: 1403

(a) One-half shall be distributed to each county in 1404
proportion to each county's population. 1405

(b) One-half shall be distributed to each county in the 1406
proportion that the amounts determined under divisions (G) and (H) 1407
of section 5727.84 of the Revised Code for all local taxing units 1408
in the county is of the total amounts so determined for all local 1409
taxing units in the state. 1410

(2) The amounts distributed to each county under division (E) 1411
of this section shall be distributed by the county auditor to each 1412

local taxing unit in the county in the proportion that the unit's 1413
current taxes charged and payable are of the total current taxes 1414
charged and payable of all the local taxing units in the county. 1415
If the amount that the county auditor determines to be distributed 1416
to a local taxing unit is less than five dollars, that amount 1417
shall not be distributed, and the amount not distributed shall 1418
remain credited to the county undivided income tax fund. At the 1419
time of the next distribution under division (E)(2) of this 1420
section, any amount that had not been distributed in the prior 1421
distribution shall be added to the amount available for the next 1422
distribution prior to calculation of the amount to be distributed. 1423
As used in this division, "current taxes charged and payable" 1424
means the taxes charged and payable as most recently determined 1425
for local taxing units in the county. 1426

After January 2011, any amount that exceeds the amount needed 1427
to be distributed from the fund under division (A) of this section 1428
in the following month shall be transferred to the general revenue 1429
fund. 1430

(F) If the total amount in the local government property tax 1431
replacement fund is insufficient to make all payments under 1432
division (C) of this section at the times the payments are to be 1433
made, the director of budget and management shall transfer from 1434
the general revenue fund to the local government property tax 1435
replacement fund the difference between the total amount to be 1436
paid and the amount in the local government property tax 1437
replacement fund, except that no transfer shall be made by reason 1438
of a deficiency to the extent that it results from the amendment 1439
of section 5727.84 of the Revised Code by Amended Substitute House 1440
Bill 95 of the 125th general assembly. 1441

(G) If all or a part of the territories of two or more local 1442
taxing units are merged, or unincorporated territory of a township 1443
is annexed by a municipal corporation, the tax commissioner shall 1444

adjust the payments made under this section to each of the local 1445
taxing units in proportion to the square mileage apportioned to 1446
the merged or annexed territory, or as otherwise provided by a 1447
written agreement between the legislative authorities of the local 1448
taxing units certified to the tax commissioner not later than the 1449
first day of June of the calendar year in which the payment is to 1450
be made. 1451

Sec. 5731.39. ~~(A)~~ This section does not apply to, and the 1452
written permission of the tax commissioner is not required for 1453
asset transfers with respect to, decedents dying on or after 1454
January 1, 2013. 1455

(A) No corporation organized or existing under the laws of 1456
this state shall transfer on its books or issue a new certificate 1457
for any share of its capital stock registered in the name of a 1458
decedent, or in trust for a decedent, or in the name of a decedent 1459
and another person or persons, without the written consent of the 1460
tax commissioner. 1461

(B) No safe deposit company, trust company, financial 1462
institution as defined in division (A) of section 5725.01 of the 1463
Revised Code or other corporation or person, having in possession, 1464
control, or custody a deposit standing in the name of a decedent, 1465
or in trust for a decedent, or in the name of a decedent and 1466
another person or persons, shall deliver or transfer an amount in 1467
excess of three-fourths of the total value of such deposit, 1468
including accrued interest and dividends, as of the date of 1469
decedent's death, without the written consent of the tax 1470
commissioner. The written consent of the tax commissioner need not 1471
be obtained prior to the delivery or transfer of amounts having a 1472
value of three-fourths or less of said total value. 1473

(C) No life insurance company shall pay the proceeds of an 1474
annuity or matured endowment contract, or of a life insurance 1475

contract payable to the estate of a decedent, or of any other 1476
insurance contract taxable under Chapter 5731. of the Revised 1477
Code, without the written consent of the tax commissioner. Any 1478
life insurance company may pay the proceeds of any insurance 1479
contract not specified in this division (C) without the written 1480
consent of the tax commissioner. 1481

(D) No trust company or other corporation or person shall pay 1482
the proceeds of any death benefit, retirement, pension or profit 1483
sharing plan in excess of two thousand dollars, without the 1484
written consent of the tax commissioner. Such trust company or 1485
other corporation or person, however, may pay the proceeds of any 1486
death benefit, retirement, pension, or profit-sharing plan which 1487
consists of insurance on the life of the decedent payable to a 1488
beneficiary other than the estate of the insured without the 1489
written consent of the tax commissioner. 1490

(E) No safe deposit company, trust company, financial 1491
institution as defined in division (A) of section 5725.01 of the 1492
Revised Code, or other corporation or person, having in 1493
possession, control, or custody securities, assets, or other 1494
property (including the shares of the capital stock of, or other 1495
interest in, such safe deposit company, trust company, financial 1496
institution as defined in division (A) of section 5725.01 of the 1497
Revised Code, or other corporation), standing in the name of a 1498
decedent, or in trust for a decedent, or in the name of a decedent 1499
and another person or persons, and the transfer of which is 1500
taxable under Chapter 5731. of the Revised Code, shall deliver or 1501
transfer any such securities, assets, or other property which have 1502
a value as of the date of decedent's death in excess of 1503
three-fourths of the total value thereof, without the written 1504
consent of the tax commissioner. The written consent of the tax 1505
commissioner need not be obtained prior to the delivery or 1506
transfer of any such securities, assets, or other property having 1507

a value of three-fourths or less of said total value. 1508

(F) No safe deposit company, financial institution as defined 1509
in division (A) of section 5725.01 of the Revised Code, or other 1510
corporation or person having possession or control of a safe 1511
deposit box or similar receptacle standing in the name of a 1512
decedent or in the name of the decedent and another person or 1513
persons, or to which the decedent had a right of access, except 1514
when such safe deposit box or other receptacle stands in the name 1515
of a corporation or partnership, or in the name of the decedent as 1516
guardian or executor, shall deliver any of the contents thereof 1517
unless the safe deposit box or similar receptacle has been opened 1518
and inventoried in the presence of the tax commissioner or the 1519
commissioner's agent, and a written consent to transfer issued; 1520
provided, however, that a safe deposit company, financial 1521
institution, or other corporation or person having possession or 1522
control of a safe deposit box may deliver wills, deeds to burial 1523
lots, and insurance policies to a representative of the decedent, 1524
but that a representative of the safe deposit company, financial 1525
institution, or other corporation or person must supervise the 1526
opening of the box and make a written record of the wills, deeds, 1527
and policies removed. Such written record shall be included in the 1528
tax commissioner's inventory records. 1529

(G) Notwithstanding any provision of this section: 1530

(1) The tax commissioner may authorize any delivery or 1531
transfer or waive any of the foregoing requirements under such 1532
terms and conditions as the commissioner may prescribe; 1533

(2) An adult care facility, as defined in section 5119.70 of 1534
the Revised Code, or a home, as defined in section 3721.10 of the 1535
Revised Code, may transfer or use the money in a personal needs 1536
allowance account in accordance with section 5111.113 of the 1537
Revised Code without the written consent of the tax commissioner, 1538
and without the account having been opened and inventoried in the 1539

presence of the commissioner or the commissioner's agent. 1540

Failure to comply with this section shall render such safe 1541
deposit company, trust company, life insurance company, financial 1542
institution as defined in division (A) of section 5725.01 of the 1543
Revised Code, or other corporation or person liable for the amount 1544
of the taxes and interest due under the provisions of Chapter 1545
5731. of the Revised Code on the transfer of such stock, deposit, 1546
proceeds of an annuity or matured endowment contract or of a life 1547
insurance contract payable to the estate of a decedent, or other 1548
insurance contract taxable under Chapter 5731. of the Revised 1549
Code, proceeds of any death benefit, retirement, pension, or 1550
profit sharing plan in excess of two thousand dollars, or 1551
securities, assets, or other property of any resident decedent, 1552
and in addition thereto, to a penalty of not less than five 1553
hundred or more than five thousand dollars. 1554

Sec. 5733.26. (A) Except as provided in section 5733.261 of 1555
the Revised Code, if the tax imposed by sections 5733.06, 1556
5733.065, and 5733.066 of the Revised Code for the tax year, 1557
reduced by the credits listed in section 5733.98 of the Revised 1558
Code, is not paid on or before the date prescribed for its 1559
payment, interest shall be assessed, collected, and paid, in the 1560
same manner as the tax, upon such unpaid amount at the rate per 1561
annum prescribed by section 5703.47 of the Revised Code from the 1562
date prescribed for its payment until it is paid or until the day 1563
an assessment is issued under section 5733.11 of the Revised Code, 1564
whichever occurs first. For estimated tax payments due under 1565
division (B) of section 5733.021 of the Revised Code, the interest 1566
due on the delinquent portion of the estimated tax required to be 1567
paid under that section shall be based on the tax owed for the tax 1568
year without regard to division (C) of section 5733.021 of the 1569
Revised Code. 1570

(B) ~~Interest~~ Except as provided in division (C) of this 1571
section, interest shall be allowed and paid at the rate per annum 1572
prescribed by section 5703.47 of the Revised Code upon amounts 1573
refunded with respect to the tax imposed by sections 5733.06, 1574
5733.065, and 5733.066 of the Revised Code. The interest shall run 1575
from whichever of the following dates is the latest until the date 1576
the refund is paid: the date of the illegal, erroneous, or 1577
excessive payment; the ninetieth day after the final date the 1578
annual report under section 5733.02 of the Revised Code was 1579
required to be filed; or the ninetieth day after the date that 1580
report was filed. 1581

If the overpayment results from the carryback of a net 1582
capital loss to a previous taxable year, the overpayment is deemed 1583
not to have been made prior to the filing date, including any 1584
extension thereof, for the taxable year in which the net capital 1585
loss arises. 1586

(C) If a taxpayer claims a refundable credit against the tax 1587
imposed under section 5733.06 of the Revised Code, any payment 1588
that is refunded to the taxpayer as a result of the allowance of 1589
the credit shall not be considered an illegal, erroneous, or 1590
excessive payment for purposes of division (B) of this section. No 1591
interest shall be allowed on an amount refunded to a taxpayer to 1592
the extent that the refund results from the allowance of a 1593
refundable credit. 1594

Sec. 5735.02. (A) A motor fuel dealer shall not receive, use, 1595
sell, or distribute any motor fuel or engage in business within 1596
this state unless the motor fuel dealer holds an unrevoked license 1597
issued by the tax commissioner to engage in such business. ~~Te~~ 1598

(B) To procure ~~such a~~ motor fuel dealer's license, every 1599
motor fuel dealer shall file with the commissioner an application 1600
verified under oath by the applicant and in such form as the 1601

commissioner prescribes, setting forth, in addition to such other 1602
information required by the commissioner, the following: 1603

~~(A)(1)~~ The name under which the motor fuel dealer will 1604
transact business within the state; 1605

~~(B)(2)~~ The location, including street number address, of its 1606
principal office or place of business within this state; 1607

~~(C)(3)~~ The name and address of the owner, or the names and 1608
addresses of the partners if such motor fuel dealer is a 1609
partnership, or the names and addresses of the principal officers 1610
if such motor fuel dealer is a corporation or an association; 1611

~~(D)(4)~~ If such motor fuel dealer is a corporation organized 1612
under the laws of another state, territory, or country, a 1613
certified copy of the certificate or license issued by the Ohio 1614
secretary of state showing that such corporation is authorized to 1615
transact business in this state; 1616

~~(E)(5)~~ An agreement that the motor fuel dealer will assume 1617
the liability and will pay the tax on any shipment of motor fuel 1618
made into the state from any other state or foreign country and 1619
sold or caused to be sold by such motor fuel dealer for delivery 1620
to a person in this state who is not the holder of an unrevoked 1621
motor fuel dealer's license. 1622

An (C)(1) Except as provided in division (C)(2) of this 1623
section, an application for a license shall be accompanied by a 1624
bond, of the character stipulated and in the amount provided for 1625
in section 5735.03 of the Revised Code, which shall be filed with 1626
the commissioner. 1627

(2) The tax commissioner may exempt a motor fuel dealer from 1628
the requirements set forth in division (C)(1) of this section and 1629
section 5753.03 of the Revised Code if the motor fuel dealer 1630
primarily sells or distributes motor fuel upon which the motor 1631
fuel taxes imposed under this chapter have been paid or are not 1632

required to be paid by the motor fuel dealer. 1633

(D) If any application for a license to transact business as 1634
a motor fuel dealer in the state is filed by any person who has 1635
had any license previously canceled for cause by the tax 1636
commissioner; if the commissioner believes that such application 1637
is not filed in good faith or that such application is filed as a 1638
subterfuge by some person for the real person in interest who has 1639
previously had any license canceled for cause by the tax 1640
commissioner; or if the person has violated any provision of this 1641
chapter, then the tax commissioner, after a hearing, of which the 1642
applicant shall be given five days' notice in writing and at which 1643
said applicant shall have the right to appear in person or by 1644
counsel and present testimony, may refuse to issue to such person 1645
a license to transact business as a motor fuel dealer in the 1646
state. 1647

(E) When the application in proper form has been accepted for 1648
filing, and the bond accepted and approved, the commissioner shall 1649
issue to such motor fuel dealer a license to transact business as 1650
a motor fuel dealer in the state, subject to cancellation of such 1651
license as provided by law. 1652

(F) No person shall make a false or fraudulent statement on 1653
the application required by this section. 1654

Sec. 5735.03. ~~Every~~ Except as provided in division (C)(2) of 1655
section 5735.02 of the Revised Code, every motor fuel dealer shall 1656
file with the tax commissioner a surety bond of not less than five 1657
thousand dollars, but may be required by the tax commissioner to 1658
submit a surety bond equal to three months' average tax liability, 1659
on a form approved by and with a surety satisfactory to the 1660
commissioner, upon which the motor fuel dealer shall be the 1661
principal obligor and the state shall be the obligee, conditioned 1662
upon the prompt filing of true reports and the payment by the 1663

motor fuel dealer to the treasurer of state of all motor fuel 1664
excise taxes levied by the state, provided that after notice is 1665
received from the state by the surety of the delinquency of any 1666
taxes, if the surety pays the taxes within thirty days after the 1667
receipt of the notice no penalties or interest shall be charged 1668
against the surety. If the surety does not pay the taxes within 1669
thirty days, but does pay within ninety days from the date of the 1670
receipt of notice from the state by the surety, no penalty shall 1671
be assessed against the surety but the surety shall pay interest 1672
at the rate of six per cent per annum on the unpaid taxes from the 1673
date the taxes are due and payable. If the surety does not pay 1674
within ninety days then the surety shall be liable for interest 1675
and penalties, and the tax commissioner may cancel all bonds 1676
issued by the surety. 1677

The commissioner may increase or reduce the amount of the 1678
bond required to be filed by any licensed motor fuel dealer. If 1679
the commissioner finds that it is necessary to increase the bond 1680
to assure payment of the tax, the bond may be increased to an 1681
amount equal to three months/average liability or fifty thousand 1682
dollars, whichever is greater. 1683

If liability upon the bond thus filed by the motor fuel 1684
dealer with the commissioner is discharged or reduced, whether by 1685
judgment rendered, payment made, or otherwise, or if, in the 1686
opinion of the commissioner any surety on the bond theretofore 1687
given has become unsatisfactory or unacceptable, the commissioner 1688
may require the motor fuel dealer to file a new bond with 1689
satisfactory sureties in the same amount, and if a new bond is not 1690
filed the commissioner shall forthwith cancel the license of the 1691
motor fuel dealer. If a new bond is furnished by the motor fuel 1692
dealer, the commissioner shall cancel and surrender the bond of 1693
the motor fuel dealer for which the new bond is substituted. 1694

A surety on a bond furnished by a motor fuel dealer shall be 1695

released from all liability to the state accruing on the bond 1696
after the expiration of sixty days from the date upon which the 1697
surety lodges with the commissioner a written request to be 1698
released. The request shall not operate to release the surety from 1699
any liability already accrued, or which accrues before the 1700
expiration of the sixty-day period. The commissioner shall 1701
promptly on receipt of notice of the request notify the motor fuel 1702
dealer who furnished the bond and, unless the motor fuel dealer on 1703
or before the expiration of the sixty-day period files with the 1704
commissioner a new bond with a surety satisfactory to the 1705
commissioner in the amount and form provided in this section, the 1706
commissioner shall forthwith cancel the license of the motor fuel 1707
dealer. If the new bond is furnished by said motor fuel dealer, 1708
the commissioner shall cancel and surrender the bond of the motor 1709
fuel dealer for which the new bond is substituted. 1710

The commissioner, in lieu of any surety bond required by this 1711
section, may accept a deposit by a motor fuel dealer of cash. Any 1712
cash thus accepted shall be deposited with the treasurer of state 1713
to be held by the treasurer of state, in the same manner as other 1714
cash required to be deposited with the treasurer of state under 1715
the laws of the state, for the account of such motor fuel dealer 1716
and subject to any lawful claim of the state for any excise tax 1717
upon motor fuel, and penalties and interest thereon levied by the 1718
laws of this state. The state shall have a lien upon cash thus 1719
deposited for the amount of any motor fuel excise taxes and 1720
penalty and interest due to the state from the motor fuel dealer 1721
in whose behalf they were deposited. The amount of cash to be thus 1722
accepted shall in all respects be determined in the same manner as 1723
provided in this section for the amount of surety bonds. Any cash 1724
deposited shall be subject to levy upon execution to satisfy any 1725
judgment secured in any action by the state to recover any motor 1726
fuel excise taxes, and penalties and interest found to be due to 1727
the state from such motor fuel dealer. The cash shall be released 1728

by the treasurer of state upon certificate of the commissioner 1729
that the license of the motor fuel dealer in whose behalf they 1730
have been deposited has been canceled or that other security has 1731
been accepted in lieu thereof, and that the state asserts no claim 1732
thereto. 1733

Sec. 5735.35. (A)(1) If any ~~corporation or business trust~~ 1734
person, regardless of organizational form, required to file 1735
reports and to remit taxes imposed under this chapter fails for 1736
any reason to file such reports or pay such taxes, any employees 1737
of the ~~corporation or business trust~~ person having control or 1738
supervision of, or charged with the responsibility of, filing 1739
reports and making payments, or any officers or trustees of the 1740
~~corporation or business trust~~ person responsible for the execution 1741
of the ~~corporation's or business trust's~~ person's fiscal 1742
responsibilities, are personally liable for the ~~unpaid liability~~ 1743
~~resulting from the failure to file such reports or pay such taxes.~~ 1744

(2) The dissolution, termination, or bankruptcy of a 1745
~~corporation or business trust~~ person shall not discharge a 1746
responsible officer's, shareholder's, member's, manager's, 1747
employee's, or trustee's liability for failure of the person to 1748
file reports or remit taxes. The sum due for the liability may be 1749
collected by assessment in the manner provided in sections 5735.12 1750
and 5735.121 of the Revised Code. 1751

(B) If more than one ~~person~~ individual is personally liable 1752
under this section for the unpaid tax of a ~~corporation or business~~ 1753
~~trust~~ person, then the liability of all such individuals shall be 1754
joint and several. 1755

Sec. 5739.01. As used in this chapter: 1756

(A) "Person" includes individuals, receivers, assignees, 1757
trustees in bankruptcy, estates, firms, partnerships, 1758

associations, joint-stock companies, joint ventures, clubs, 1759
societies, corporations, the state and its political subdivisions, 1760
and combinations of individuals of any form. 1761

(B) "Sale" and "selling" include all of the following 1762
transactions for a consideration in any manner, whether absolutely 1763
or conditionally, whether for a price or rental, in money or by 1764
exchange, and by any means whatsoever: 1765

(1) All transactions by which title or possession, or both, 1766
of tangible personal property, is or is to be transferred, or a 1767
license to use or consume tangible personal property is or is to 1768
be granted; 1769

(2) All transactions by which lodging by a hotel is or is to 1770
be furnished to transient guests; 1771

(3) All transactions by which: 1772

(a) An item of tangible personal property is or is to be 1773
repaired, except property, the purchase of which would not be 1774
subject to the tax imposed by section 5739.02 of the Revised Code; 1775

(b) An item of tangible personal property is or is to be 1776
installed, except property, the purchase of which would not be 1777
subject to the tax imposed by section 5739.02 of the Revised Code 1778
or property that is or is to be incorporated into and will become 1779
a part of a production, transmission, transportation, or 1780
distribution system for the delivery of a public utility service; 1781

(c) The service of washing, cleaning, waxing, polishing, or 1782
painting a motor vehicle is or is to be furnished; 1783

(d) Until August 1, 2003, industrial laundry cleaning 1784
services are or are to be provided and, on and after August 1, 1785
2003, laundry and dry cleaning services are or are to be provided; 1786

(e) Automatic data processing, computer services, or 1787
electronic information services are or are to be provided for use 1788

in business when the true object of the transaction is the receipt 1789
by the consumer of automatic data processing, computer services, 1790
or electronic information services rather than the receipt of 1791
personal or professional services to which automatic data 1792
processing, computer services, or electronic information services 1793
are incidental or supplemental. Notwithstanding any other 1794
provision of this chapter, such transactions that occur between 1795
members of an affiliated group are not sales. An "affiliated 1796
group" means two or more persons related in such a way that one 1797
person owns or controls the business operation of another member 1798
of the group. In the case of corporations with stock, one 1799
corporation owns or controls another if it owns more than fifty 1800
per cent of the other corporation's common stock with voting 1801
rights. 1802

(f) Telecommunications service, including prepaid calling 1803
service, prepaid wireless calling service, or ancillary service, 1804
is or is to be provided, but not including coin-operated telephone 1805
service; 1806

(g) Landscaping and lawn care service is or is to be 1807
provided; 1808

(h) Private investigation and security service is or is to be 1809
provided; 1810

(i) Information services or tangible personal property is 1811
provided or ordered by means of a nine hundred telephone call; 1812

(j) Building maintenance and janitorial service is or is to 1813
be provided; 1814

(k) Employment service is or is to be provided; 1815

(l) Employment placement service is or is to be provided; 1816

(m) Exterminating service is or is to be provided; 1817

(n) Physical fitness facility service is or is to be 1818

provided;	1819
(o) Recreation and sports club service is or is to be provided;	1820 1821
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	1822 1823
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	1824 1825 1826 1827 1828 1829 1830 1831
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	1832 1833 1834 1835 1836 1837 1838 1839
(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	1840 1841 1842 1843
(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.	1844 1845 1846 1847 1848 1849

(u) Electronic publishing service is or is to be provided to 1850
a consumer for use in business, except that such transactions 1851
occurring between members of an affiliated group, as defined in 1852
division (B)(3)(e) of this section, are not sales. 1853

(4) All transactions by which printed, imprinted, 1854
overprinted, lithographic, multilithic, blueprinted, photostatic, 1855
or other productions or reproductions of written or graphic matter 1856
are or are to be furnished or transferred; 1857

(5) The production or fabrication of tangible personal 1858
property for a consideration for consumers who furnish either 1859
directly or indirectly the materials used in the production of 1860
fabrication work; and include the furnishing, preparing, or 1861
serving for a consideration of any tangible personal property 1862
consumed on the premises of the person furnishing, preparing, or 1863
serving such tangible personal property. Except as provided in 1864
section 5739.03 of the Revised Code, a construction contract 1865
pursuant to which tangible personal property is or is to be 1866
incorporated into a structure or improvement on and becoming a 1867
part of real property is not a sale of such tangible personal 1868
property. The construction contractor is the consumer of such 1869
tangible personal property, provided that the sale and 1870
installation of carpeting, the sale and installation of 1871
agricultural land tile, the sale and erection or installation of 1872
portable grain bins, or the provision of landscaping and lawn care 1873
service and the transfer of property as part of such service is 1874
never a construction contract. 1875

As used in division (B)(5) of this section: 1876

(a) "Agricultural land tile" means fired clay or concrete 1877
tile, or flexible or rigid perforated plastic pipe or tubing, 1878
incorporated or to be incorporated into a subsurface drainage 1879
system appurtenant to land used or to be used primarily in 1880
production by farming, agriculture, horticulture, or floriculture. 1881

The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the

terms of the motor vehicle insurance policy or is stolen and not 1913
recovered, if the protection and its price are included in the 1914
purchase or lease agreement; 1915

(11)(a) Except as provided in division (B)(11)(b) of this 1916
section, on and after October 1, 2009, all transactions by which 1917
health care services are paid for, reimbursed, provided, 1918
delivered, arranged for, or otherwise made available by a medicaid 1919
health insuring corporation pursuant to the corporation's contract 1920
with the state. 1921

(b) If the centers for medicare and medicaid services of the 1922
United States department of health and human services determines 1923
that the taxation of transactions described in division (B)(11)(a) 1924
of this section constitutes an impermissible health care-related 1925
tax under section 1903(w) of the "Social Security Act," 49 Stat. 1926
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 1927
adopted thereunder, the director of job and family services shall 1928
notify the tax commissioner of that determination. Beginning with 1929
the first day of the month following that notification, the 1930
transactions described in division (B)(11)(a) of this section are 1931
not sales for the purposes of this chapter or Chapter 5741. of the 1932
Revised Code. The tax commissioner shall order that the collection 1933
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 1934
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 1935
shall cease for transactions occurring on or after that date. 1936

Except as provided in this section, "sale" and "selling" do 1937
not include transfers of interest in leased property where the 1938
original lessee and the terms of the original lease agreement 1939
remain unchanged, or professional, insurance, or personal service 1940
transactions that involve the transfer of tangible personal 1941
property as an inconsequential element, for which no separate 1942
charges are made. 1943

(C) "Vendor" means the person providing the service or by 1944

whom the transfer effected or license given by a sale is or is to 1945
be made or given and, for sales described in division (B)(3)(i) of 1946
this section, the telecommunications service vendor that provides 1947
the nine hundred telephone service; if two or more persons are 1948
engaged in business at the same place of business under a single 1949
trade name in which all collections on account of sales by each 1950
are made, such persons shall constitute a single vendor. 1951

Physicians, dentists, hospitals, and veterinarians who are 1952
engaged in selling tangible personal property as received from 1953
others, such as eyeglasses, mouthwashes, dentifrices, or similar 1954
articles, are vendors. Veterinarians who are engaged in 1955
transferring to others for a consideration drugs, the dispensing 1956
of which does not require an order of a licensed veterinarian or 1957
physician under federal law, are vendors. 1958

(D)(1) "Consumer" means the person for whom the service is 1959
provided, to whom the transfer effected or license given by a sale 1960
is or is to be made or given, to whom the service described in 1961
division (B)(3)(f) or (i) of this section is charged, or to whom 1962
the admission is granted. 1963

(2) Physicians, dentists, hospitals, and blood banks operated 1964
by nonprofit institutions and persons licensed to practice 1965
veterinary medicine, surgery, and dentistry are consumers of all 1966
tangible personal property and services purchased by them in 1967
connection with the practice of medicine, dentistry, the rendition 1968
of hospital or blood bank service, or the practice of veterinary 1969
medicine, surgery, and dentistry. In addition to being consumers 1970
of drugs administered by them or by their assistants according to 1971
their direction, veterinarians also are consumers of drugs that 1972
under federal law may be dispensed only by or upon the order of a 1973
licensed veterinarian or physician, when transferred by them to 1974
others for a consideration to provide treatment to animals as 1975
directed by the veterinarian. 1976

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;	2040
(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;	2041 2042 2043 2044 2045
(iii) Charges by the vendor for any services necessary to complete the sale;	2046 2047
(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.	2048 2049 2050 2051 2052
(v) Installation charges;	2053
(vi) Credit for any trade-in.	2054
(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:	2055 2056 2057 2058 2059 2060 2061 2062 2063
(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;	2064 2065 2066 2067 2068 2069

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation

from a third party to cover all or part of the gift card value. 2101
For the purposes of this division, a gift card is not sold by a 2102
vendor or purchased by a consumer if it is distributed pursuant to 2103
an awards, loyalty, or promotional program. Past and present 2104
purchases of tangible personal property or services by the 2105
consumer shall not be treated as consideration exchanged for a 2106
gift card. 2107

(2) In the case of a sale of any new motor vehicle by a new 2108
motor vehicle dealer, as defined in section 4517.01 of the Revised 2109
Code, in which another motor vehicle is accepted by the dealer as 2110
part of the consideration received, "price" has the same meaning 2111
as in division (H)(1) of this section, reduced by the credit 2112
afforded the consumer by the dealer for the motor vehicle received 2113
in trade. 2114

(3) In the case of a sale of any watercraft or outboard motor 2115
by a watercraft dealer licensed in accordance with section 2116
1547.543 of the Revised Code, in which another watercraft, 2117
watercraft and trailer, or outboard motor is accepted by the 2118
dealer as part of the consideration received, "price" has the same 2119
meaning as in division (H)(1) of this section, reduced by the 2120
credit afforded the consumer by the dealer for the watercraft, 2121
watercraft and trailer, or outboard motor received in trade. As 2122
used in this division, "watercraft" includes an outdrive unit 2123
attached to the watercraft. 2124

(4) In the case of transactions for health care services 2125
under division (B)(11) of this section, "price" means the amount 2126
of managed care premiums received each month by a medicaid health 2127
insuring corporation. 2128

(I) "Receipts" means the total amount of the prices of the 2129
sales of vendors, provided that the dollar value of gift cards 2130
distributed pursuant to an awards, loyalty, or promotional 2131
program, and cash discounts allowed and taken on sales at the time 2132

they are consummated are not included, minus any amount deducted 2133
as a bad debt pursuant to section 5739.121 of the Revised Code. 2134
"Receipts" does not include the sale price of property returned or 2135
services rejected by consumers when the full sale price and tax 2136
are refunded either in cash or by credit. 2137

(J) "Place of business" means any location at which a person 2138
engages in business. 2139

(K) "Premises" includes any real property or portion thereof 2140
upon which any person engages in selling tangible personal 2141
property at retail or making retail sales and also includes any 2142
real property or portion thereof designated for, or devoted to, 2143
use in conjunction with the business engaged in by such person. 2144

(L) "Casual sale" means a sale of an item of tangible 2145
personal property that was obtained by the person making the sale, 2146
through purchase or otherwise, for the person's own use and was 2147
previously subject to any state's taxing jurisdiction on its sale 2148
or use, and includes such items acquired for the seller's use that 2149
are sold by an auctioneer employed directly by the person for such 2150
purpose, provided the location of such sales is not the 2151
auctioneer's permanent place of business. As used in this 2152
division, "permanent place of business" includes any location 2153
where such auctioneer has conducted more than two auctions during 2154
the year. 2155

(M) "Hotel" means every establishment kept, used, maintained, 2156
advertised, or held out to the public to be a place where sleeping 2157
accommodations are offered to guests, in which five or more rooms 2158
are used for the accommodation of such guests, whether the rooms 2159
are in one or several structures, except as otherwise provided in 2160
division (G) of section 5739.09 of the Revised Code. 2161

(N) "Transient guests" means persons occupying a room or 2162
rooms for sleeping accommodations for less than thirty consecutive 2163

days. 2164

(O) "Making retail sales" means the effecting of transactions 2165
wherein one party is obligated to pay the price and the other 2166
party is obligated to provide a service or to transfer title to or 2167
possession of the item sold. "Making retail sales" does not 2168
include the preliminary acts of promoting or soliciting the retail 2169
sales, other than the distribution of printed matter which 2170
displays or describes and prices the item offered for sale, nor 2171
does it include delivery of a predetermined quantity of tangible 2172
personal property or transportation of property or personnel to or 2173
from a place where a service is performed, ~~regardless of whether~~ 2174
~~the vendor is a delivery vendor.~~ 2175

(P) "Used directly in the rendition of a public utility 2176
service" means that property that is to be incorporated into and 2177
will become a part of the consumer's production, transmission, 2178
transportation, or distribution system and that retains its 2179
classification as tangible personal property after such 2180
incorporation; fuel or power used in the production, transmission, 2181
transportation, or distribution system; and tangible personal 2182
property used in the repair and maintenance of the production, 2183
transmission, transportation, or distribution system, including 2184
only such motor vehicles as are specially designed and equipped 2185
for such use. Tangible personal property and services used 2186
primarily in providing highway transportation for hire are not 2187
used directly in the rendition of a public utility service. In 2188
this definition, "public utility" includes a citizen of the United 2189
States holding, and required to hold, a certificate of public 2190
convenience and necessity issued under 49 U.S.C. 41102. 2191

(Q) "Refining" means removing or separating a desirable 2192
product from raw or contaminated materials by distillation or 2193
physical, mechanical, or chemical processes. 2194

(R) "Assembly" and "assembling" mean attaching or fitting 2195

together parts to form a product, but do not include packaging a product. 2196
2197

(S) "Manufacturing operation" means a process in which 2198
materials are changed, converted, or transformed into a different 2199
state or form from which they previously existed and includes 2200
refining materials, assembling parts, and preparing raw materials 2201
and parts by mixing, measuring, blending, or otherwise committing 2202
such materials or parts to the manufacturing process. 2203
"Manufacturing operation" does not include packaging. 2204

(T) "Fiscal officer" means, with respect to a regional 2205
transit authority, the secretary-treasurer thereof, and with 2206
respect to a county that is a transit authority, the fiscal 2207
officer of the county transit board if one is appointed pursuant 2208
to section 306.03 of the Revised Code or the county auditor if the 2209
board of county commissioners operates the county transit system. 2210

(U) "Transit authority" means a regional transit authority 2211
created pursuant to section 306.31 of the Revised Code or a county 2212
in which a county transit system is created pursuant to section 2213
306.01 of the Revised Code. For the purposes of this chapter, a 2214
transit authority must extend to at least the entire area of a 2215
single county. A transit authority that includes territory in more 2216
than one county must include all the area of the most populous 2217
county that is a part of such transit authority. County population 2218
shall be measured by the most recent census taken by the United 2219
States census bureau. 2220

(V) "Legislative authority" means, with respect to a regional 2221
transit authority, the board of trustees thereof, and with respect 2222
to a county that is a transit authority, the board of county 2223
commissioners. 2224

(W) "Territory of the transit authority" means all of the 2225
area included within the territorial boundaries of a transit 2226

authority as they from time to time exist. Such territorial 2227
boundaries must at all times include all the area of a single 2228
county or all the area of the most populous county that is a part 2229
of such transit authority. County population shall be measured by 2230
the most recent census taken by the United States census bureau. 2231

(X) "Providing a service" means providing or furnishing 2232
anything described in division (B)(3) of this section for 2233
consideration. 2234

(Y)(1)(a) "Automatic data processing" means processing of 2235
others' data, including keypunching or similar data entry services 2236
together with verification thereof, or providing access to 2237
computer equipment for the purpose of processing data. 2238

(b) "Computer services" means providing services consisting 2239
of specifying computer hardware configurations and evaluating 2240
technical processing characteristics, computer programming, and 2241
training of computer programmers and operators, provided in 2242
conjunction with and to support the sale, lease, or operation of 2243
taxable computer equipment or systems. 2244

(c) "Electronic information services" means providing access 2245
to computer equipment by means of telecommunications equipment for 2246
the purpose of either of the following: 2247

(i) Examining or acquiring data stored in or accessible to 2248
the computer equipment; 2249

(ii) Placing data into the computer equipment to be retrieved 2250
by designated recipients with access to the computer equipment. 2251

For transactions occurring on or after the effective date of 2252
the amendment of this section by H.B. 157 of the 127th general 2253
assembly, December 21, 2007, "electronic information services" 2254
does not include electronic publishing as defined in division 2255
(LLL) of this section. 2256

(d) "Automatic data processing, computer services, or
electronic information services" shall not include personal or
professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this
section, "personal and professional services" means all services
other than automatic data processing, computer services, or
electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax
matters, asset management, budgetary matters, quality control,
information security, and auditing and any other situation where
the service provider receives data or information and studies,
alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical
analysis of existing or potential computer hardware or software
needs and alternatives;

(e) Designing policies, procedures, and custom software for
collecting business information, and determining how data should
be summarized, sequenced, formatted, processed, controlled, and
reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how
business events and transactions are to be authorized, executed,
and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information
by a consumer reporting agency, as defined in the "Fair Credit
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or
as hereafter amended, including but not limited to gathering,

organizing, analyzing, recording, and furnishing such information	2287
by any oral, written, graphic, or electronic medium;	2288
(j) Providing debt collection services by any oral, written,	2289
graphic, or electronic means.	2290
The services listed in divisions (Y)(2)(a) to (j) of this	2291
section are not automatic data processing or computer services.	2292
(Z) "Highway transportation for hire" means the	2293
transportation of personal property belonging to others for	2294
consideration by any of the following:	2295
(1) The holder of a permit or certificate issued by this	2296
state or the United States authorizing the holder to engage in	2297
transportation of personal property belonging to others for	2298
consideration over or on highways, roadways, streets, or any	2299
similar public thoroughfare;	2300
(2) A person who engages in the transportation of personal	2301
property belonging to others for consideration over or on	2302
highways, roadways, streets, or any similar public thoroughfare	2303
but who could not have engaged in such transportation on December	2304
11, 1985, unless the person was the holder of a permit or	2305
certificate of the types described in division (Z)(1) of this	2306
section;	2307
(3) A person who leases a motor vehicle to and operates it	2308
for a person described by division (Z)(1) or (2) of this section.	2309
(AA)(1) "Telecommunications service" means the electronic	2310
transmission, conveyance, or routing of voice, data, audio, video,	2311
or any other information or signals to a point, or between or	2312
among points. "Telecommunications service" includes such	2313
transmission, conveyance, or routing in which computer processing	2314
applications are used to act on the form, code, or protocol of the	2315
content for purposes of transmission, conveyance, or routing	2316
without regard to whether the service is referred to as voice-over	2317

internet protocol service or is classified by the federal 2318
communications commission as enhanced or value-added. 2319
"Telecommunications service" does not include any of the 2320
following: 2321

(a) Data processing and information services that allow data 2322
to be generated, acquired, stored, processed, or retrieved and 2323
delivered by an electronic transmission to a consumer where the 2324
consumer's primary purpose for the underlying transaction is the 2325
processed data or information; 2326

(b) Installation or maintenance of wiring or equipment on a 2327
customer's premises; 2328

(c) Tangible personal property; 2329

(d) Advertising, including directory advertising; 2330

(e) Billing and collection services provided to third 2331
parties; 2332

(f) Internet access service; 2333

(g) Radio and television audio and video programming 2334
services, regardless of the medium, including the furnishing of 2335
transmission, conveyance, and routing of such services by the 2336
programming service provider. Radio and television audio and video 2337
programming services include, but are not limited to, cable 2338
service, as defined in 47 U.S.C. 522(6), and audio and video 2339
programming services delivered by commercial mobile radio service 2340
providers, as defined in 47 C.F.R. 20.3; 2341

(h) Ancillary service; 2342

(i) Digital products delivered electronically, including 2343
software, music, video, reading materials, or ring tones. 2344

(2) "Ancillary service" means a service that is associated 2345
with or incidental to the provision of telecommunications service, 2346
including conference bridging service, detailed telecommunications 2347

billing service, directory assistance, vertical service, and voice 2348
mail service. As used in this division: 2349

(a) "Conference bridging service" means an ancillary service 2350
that links two or more participants of an audio or video 2351
conference call, including providing a telephone number. 2352
"Conference bridging service" does not include telecommunications 2353
services used to reach the conference bridge. 2354

(b) "Detailed telecommunications billing service" means an 2355
ancillary service of separately stating information pertaining to 2356
individual calls on a customer's billing statement. 2357

(c) "Directory assistance" means an ancillary service of 2358
providing telephone number or address information. 2359

(d) "Vertical service" means an ancillary service that is 2360
offered in connection with one or more telecommunications 2361
services, which offers advanced calling features that allow 2362
customers to identify callers and manage multiple calls and call 2363
connections, including conference bridging service. 2364

(e) "Voice mail service" means an ancillary service that 2365
enables the customer to store, send, or receive recorded messages. 2366
"Voice mail service" does not include any vertical services that 2367
the customer may be required to have in order to utilize the voice 2368
mail service. 2369

(3) "900 service" means an inbound toll telecommunications 2370
service purchased by a subscriber that allows the subscriber's 2371
customers to call in to the subscriber's prerecorded announcement 2372
or live service, and which is typically marketed under the name 2373
"900" service and any subsequent numbers designated by the federal 2374
communications commission. "900 service" does not include the 2375
charge for collection services provided by the seller of the 2376
telecommunications service to the subscriber, or services or 2377
products sold by the subscriber to the subscriber's customer. 2378

(4) "Prepaid calling service" means the right to access 2379
exclusively telecommunications services, which must be paid for in 2380
advance and which enables the origination of calls using an access 2381
number or authorization code, whether manually or electronically 2382
dialed, and that is sold in predetermined units of dollars of 2383
which the number declines with use in a known amount. 2384

(5) "Prepaid wireless calling service" means a 2385
telecommunications service that provides the right to utilize 2386
mobile telecommunications service as well as other 2387
non-telecommunications services, including the download of digital 2388
products delivered electronically, and content and ancillary 2389
services, that must be paid for in advance and that is sold in 2390
predetermined units of dollars of which the number declines with 2391
use in a known amount. 2392

(6) "Value-added non-voice data service" means a 2393
telecommunications service in which computer processing 2394
applications are used to act on the form, content, code, or 2395
protocol of the information or data primarily for a purpose other 2396
than transmission, conveyance, or routing. 2397

(7) "Coin-operated telephone service" means a 2398
telecommunications service paid for by inserting money into a 2399
telephone accepting direct deposits of money to operate. 2400

(8) "Customer" has the same meaning as in section 5739.034 of 2401
the Revised Code. 2402

(BB) "Laundry and dry cleaning services" means removing soil 2403
or dirt from towels, linens, articles of clothing, or other fabric 2404
items that belong to others and supplying towels, linens, articles 2405
of clothing, or other fabric items. "Laundry and dry cleaning 2406
services" does not include the provision of self-service 2407
facilities for use by consumers to remove soil or dirt from 2408
towels, linens, articles of clothing, or other fabric items. 2409

(CC) "Magazines distributed as controlled circulation 2410
publications" means magazines containing at least twenty-four 2411
pages, at least twenty-five per cent editorial content, issued at 2412
regular intervals four or more times a year, and circulated 2413
without charge to the recipient, provided that such magazines are 2414
not owned or controlled by individuals or business concerns which 2415
conduct such publications as an auxiliary to, and essentially for 2416
the advancement of the main business or calling of, those who own 2417
or control them. 2418

(DD) "Landscaping and lawn care service" means the services 2419
of planting, seeding, sodding, removing, cutting, trimming, 2420
pruning, mulching, aerating, applying chemicals, watering, 2421
fertilizing, and providing similar services to establish, promote, 2422
or control the growth of trees, shrubs, flowers, grass, ground 2423
cover, and other flora, or otherwise maintaining a lawn or 2424
landscape grown or maintained by the owner for ornamentation or 2425
other nonagricultural purpose. However, "landscaping and lawn care 2426
service" does not include the providing of such services by a 2427
person who has less than five thousand dollars in sales of such 2428
services during the calendar year. 2429

(EE) "Private investigation and security service" means the 2430
performance of any activity for which the provider of such service 2431
is required to be licensed pursuant to Chapter 4749. of the 2432
Revised Code, or would be required to be so licensed in performing 2433
such services in this state, and also includes the services of 2434
conducting polygraph examinations and of monitoring or overseeing 2435
the activities on or in, or the condition of, the consumer's home, 2436
business, or other facility by means of electronic or similar 2437
monitoring devices. "Private investigation and security service" 2438
does not include special duty services provided by off-duty police 2439
officers, deputy sheriffs, and other peace officers regularly 2440
employed by the state or a political subdivision. 2441

(FF) "Information services" means providing conversation, 2442
giving consultation or advice, playing or making a voice or other 2443
recording, making or keeping a record of the number of callers, 2444
and any other service provided to a consumer by means of a nine 2445
hundred telephone call, except when the nine hundred telephone 2446
call is the means by which the consumer makes a contribution to a 2447
recognized charity. 2448

(GG) "Research and development" means designing, creating, or 2449
formulating new or enhanced products, equipment, or manufacturing 2450
processes, and also means conducting scientific or technological 2451
inquiry and experimentation in the physical sciences with the goal 2452
of increasing scientific knowledge which may reveal the bases for 2453
new or enhanced products, equipment, or manufacturing processes. 2454

(HH) "Qualified research and development equipment" means 2455
capitalized tangible personal property, and leased personal 2456
property that would be capitalized if purchased, used by a person 2457
primarily to perform research and development. Tangible personal 2458
property primarily used in testing, as defined in division (A)(4) 2459
of section 5739.011 of the Revised Code, or used for recording or 2460
storing test results, is not qualified research and development 2461
equipment unless such property is primarily used by the consumer 2462
in testing the product, equipment, or manufacturing process being 2463
created, designed, or formulated by the consumer in the research 2464
and development activity or in recording or storing such test 2465
results. 2466

(II) "Building maintenance and janitorial service" means 2467
cleaning the interior or exterior of a building and any tangible 2468
personal property located therein or thereon, including any 2469
services incidental to such cleaning for which no separate charge 2470
is made. However, "building maintenance and janitorial service" 2471
does not include the providing of such service by a person who has 2472
less than five thousand dollars in sales of such service during 2473

the calendar year. 2474

(JJ) "Employment service" means providing or supplying 2475
personnel, on a temporary or long-term basis, to perform work or 2476
labor under the supervision or control of another, when the 2477
personnel so provided or supplied receive their wages, salary, or 2478
other compensation from the provider or supplier of the employment 2479
service or from a third party that provided or supplied the 2480
personnel to the provider or supplier. "Employment service" does 2481
not include: 2482

(1) Acting as a contractor or subcontractor, where the 2483
personnel performing the work are not under the direct control of 2484
the purchaser. 2485

(2) Medical and health care services. 2486

(3) Supplying personnel to a purchaser pursuant to a contract 2487
of at least one year between the service provider and the 2488
purchaser that specifies that each employee covered under the 2489
contract is assigned to the purchaser on a permanent basis. 2490

(4) Transactions between members of an affiliated group, as 2491
defined in division (B)(3)(e) of this section. 2492

(5) Transactions where the personnel so provided or supplied 2493
by a provider or supplier to a purchaser of an employment service 2494
are then provided or supplied by that purchaser to a third party 2495
as an employment service, except "employment service" does include 2496
the transaction between that purchaser and the third party. 2497

(KK) "Employment placement service" means locating or finding 2498
employment for a person or finding or locating an employee to fill 2499
an available position. 2500

(LL) "Exterminating service" means eradicating or attempting 2501
to eradicate vermin infestations from a building or structure, or 2502
the area surrounding a building or structure, and includes 2503

activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and 2535
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 2536
and nursery stock. As used in this division, "nursery stock" has 2537
the same meaning as in section 927.51 of the Revised Code. 2538

(RR) "Horticulture structure" means a building or structure 2539
used exclusively for the commercial growing, raising, or 2540
overwintering of horticultural products, and includes the area 2541
used for stocking, storing, and packing horticultural products 2542
when done in conjunction with the production of those products. 2543

(SS) "Newspaper" means an unbound publication bearing a title 2544
or name that is regularly published, at least as frequently as 2545
biweekly, and distributed from a fixed place of business to the 2546
public in a specific geographic area, and that contains a 2547
substantial amount of news matter of international, national, or 2548
local events of interest to the general public. 2549

(TT) "Professional racing team" means a person that employs 2550
at least twenty full-time employees for the purpose of conducting 2551
a motor vehicle racing business for profit. The person must 2552
conduct the business with the purpose of racing one or more motor 2553
racing vehicles in at least ten competitive professional racing 2554
events each year that comprise all or part of a motor racing 2555
series sanctioned by one or more motor racing sanctioning 2556
organizations. A "motor racing vehicle" means a vehicle for which 2557
the chassis, engine, and parts are designed exclusively for motor 2558
racing, and does not include a stock or production model vehicle 2559
that may be modified for use in racing. For the purposes of this 2560
division: 2561

(1) A "competitive professional racing event" is a motor 2562
vehicle racing event sanctioned by one or more motor racing 2563
sanctioning organizations, at which aggregate cash prizes in 2564
excess of eight hundred thousand dollars are awarded to the 2565
competitors. 2566

(2) "Full-time employee" means an individual who is employed 2567
for consideration for thirty-five or more hours a week, or who 2568
renders any other standard of service generally accepted by custom 2569
or specified by contract as full-time employment. 2570

(UU)(1) "Lease" or "rental" means any transfer of the 2571
possession or control of tangible personal property for a fixed or 2572
indefinite term, for consideration. "Lease" or "rental" includes 2573
future options to purchase or extend, and agreements described in 2574
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 2575
the amount of consideration may be increased or decreased by 2576
reference to the amount realized upon the sale or disposition of 2577
the property. "Lease" or "rental" does not include: 2578

(a) A transfer of possession or control of tangible personal 2579
property under a security agreement or a deferred payment plan 2580
that requires the transfer of title upon completion of the 2581
required payments; 2582

(b) A transfer of possession or control of tangible personal 2583
property under an agreement that requires the transfer of title 2584
upon completion of required payments and payment of an option 2585
price that does not exceed the greater of one hundred dollars or 2586
one per cent of the total required payments; 2587

(c) Providing tangible personal property along with an 2588
operator for a fixed or indefinite period of time, if the operator 2589
is necessary for the property to perform as designed. For purposes 2590
of this division, the operator must do more than maintain, 2591
inspect, or set-up the tangible personal property. 2592

(2) "Lease" and "rental," as defined in division (UU) of this 2593
section, shall not apply to leases or rentals that exist before 2594
June 26, 2003. 2595

(3) "Lease" and "rental" have the same meaning as in division 2596
(UU)(1) of this section regardless of whether a transaction is 2597

characterized as a lease or rental under generally accepted 2598
accounting principles, the Internal Revenue Code, Title XIII of 2599
the Revised Code, or other federal, state, or local laws. 2600

(VV) "Mobile telecommunications service" has the same meaning 2601
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 2602
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 2603
on and after August 1, 2003, includes related fees and ancillary 2604
services, including universal service fees, detailed billing 2605
service, directory assistance, service initiation, voice mail 2606
service, and vertical services, such as caller ID and three-way 2607
calling. 2608

(WW) "Certified service provider" has the same meaning as in 2609
section 5740.01 of the Revised Code. 2610

(XX) "Satellite broadcasting service" means the distribution 2611
or broadcasting of programming or services by satellite directly 2612
to the subscriber's receiving equipment without the use of ground 2613
receiving or distribution equipment, except the subscriber's 2614
receiving equipment or equipment used in the uplink process to the 2615
satellite, and includes all service and rental charges, premium 2616
channels or other special services, installation and repair 2617
service charges, and any other charges having any connection with 2618
the provision of the satellite broadcasting service. 2619

(YY) "Tangible personal property" means personal property 2620
that can be seen, weighed, measured, felt, or touched, or that is 2621
in any other manner perceptible to the senses. For purposes of 2622
this chapter and Chapter 5741. of the Revised Code, "tangible 2623
personal property" includes motor vehicles, electricity, water, 2624
gas, steam, and prewritten computer software. 2625

(ZZ) "Direct mail" means printed material delivered or 2626
distributed by United States mail or other delivery service to a 2627
mass audience or to addressees on a mailing list provided by the 2628

consumer or at the direction of the consumer when the cost of the 2629
items are not billed directly to the recipients. "Direct mail" 2630
includes tangible personal property supplied directly or 2631
indirectly by the consumer to the direct mail vendor for inclusion 2632
in the package containing the printed material. "Direct mail" does 2633
not include multiple items of printed material delivered to a 2634
single address. 2635

(AAA) "Computer" means an electronic device that accepts 2636
information in digital or similar form and manipulates it for a 2637
result based on a sequence of instructions. 2638

(BBB) "Computer software" means a set of coded instructions 2639
designed to cause a computer or automatic data processing 2640
equipment to perform a task. 2641

(CCC) "Delivered electronically" means delivery of computer 2642
software from the seller to the purchaser by means other than 2643
tangible storage media. 2644

(DDD) "Prewritten computer software" means computer software, 2645
including prewritten upgrades, that is not designed and developed 2646
by the author or other creator to the specifications of a specific 2647
purchaser. The combining of two or more prewritten computer 2648
software programs or prewritten portions thereof does not cause 2649
the combination to be other than prewritten computer software. 2650
"Prewritten computer software" includes software designed and 2651
developed by the author or other creator to the specifications of 2652
a specific purchaser when it is sold to a person other than the 2653
purchaser. If a person modifies or enhances computer software of 2654
which the person is not the author or creator, the person shall be 2655
deemed to be the author or creator only of such person's 2656
modifications or enhancements. Prewritten computer software or a 2657
prewritten portion thereof that is modified or enhanced to any 2658
degree, where such modification or enhancement is designed and 2659
developed to the specifications of a specific purchaser, remains 2660

prewritten computer software; provided, however, that where there
is a reasonable, separately stated charge or an invoice or other
statement of the price given to the purchaser for the modification
or enhancement, the modification or enhancement shall not
constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid,
concentrated, solid, frozen, dried, or dehydrated form, that are
sold for ingestion or chewing by humans and are consumed for their
taste or nutritional value. "Food" does not include alcoholic
beverages, dietary supplements, soft drinks, or tobacco.

(2) As used in division (EEE)(1) of this section:

(a) "Alcoholic beverages" means beverages that are suitable
for human consumption and contain one-half of one per cent or more
of alcohol by volume.

(b) "Dietary supplements" means any product, other than
tobacco, that is intended to supplement the diet and that is
intended for ingestion in tablet, capsule, powder, softgel,
gelcap, or liquid form, or, if not intended for ingestion in such
a form, is not represented as conventional food for use as a sole
item of a meal or of the diet; that is required to be labeled as a
dietary supplement, identifiable by the "supplement facts" box
found on the label, as required by 21 C.F.R. 101.36; and that
contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the
diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or

combination of any ingredient described in divisions 2691
(EEE)(2)(b)(i) to (v) of this section. 2692

(c) "Soft drinks" means nonalcoholic beverages that contain 2693
natural or artificial sweeteners. "Soft drinks" does not include 2694
beverages that contain milk or milk products, soy, rice, or 2695
similar milk substitutes, or that contains greater than fifty per 2696
cent vegetable or fruit juice by volume. 2697

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 2698
tobacco, or any other item that contains tobacco. 2699

(FFF) "Drug" means a compound, substance, or preparation, and 2700
any component of a compound, substance, or preparation, other than 2701
food, dietary supplements, or alcoholic beverages that is 2702
recognized in the official United States pharmacopoeia, official 2703
homeopathic pharmacopoeia of the United States, or official 2704
national formulary, and supplements to them; is intended for use 2705
in the diagnosis, cure, mitigation, treatment, or prevention of 2706
disease; or is intended to affect the structure or any function of 2707
the body. 2708

(GGG) "Prescription" means an order, formula, or recipe 2709
issued in any form of oral, written, electronic, or other means of 2710
transmission by a duly licensed practitioner authorized by the 2711
laws of this state to issue a prescription. 2712

(HHH) "Durable medical equipment" means equipment, including 2713
repair and replacement parts for such equipment, that can 2714
withstand repeated use, is primarily and customarily used to serve 2715
a medical purpose, generally is not useful to a person in the 2716
absence of illness or injury, and is not worn in or on the body. 2717
"Durable medical equipment" does not include mobility enhancing 2718
equipment. 2719

(III) "Mobility enhancing equipment" means equipment, 2720
including repair and replacement parts for such equipment, that is 2721

primarily and customarily used to provide or increase the ability 2722
to move from one place to another and is appropriate for use 2723
either in a home or a motor vehicle, that is not generally used by 2724
persons with normal mobility, and that does not include any motor 2725
vehicle or equipment on a motor vehicle normally provided by a 2726
motor vehicle manufacturer. "Mobility enhancing equipment" does 2727
not include durable medical equipment. 2728

(JJJ) "Prosthetic device" means a replacement, corrective, or 2729
supportive device, including repair and replacement parts for the 2730
device, worn on or in the human body to artificially replace a 2731
missing portion of the body, prevent or correct physical deformity 2732
or malfunction, or support a weak or deformed portion of the body. 2733
As used in this division, "prosthetic device" does not include 2734
corrective eyeglasses, contact lenses, or dental prosthesis. 2735

(KKK)(1) "Fractional aircraft ownership program" means a 2736
program in which persons within an affiliated group sell and 2737
manage fractional ownership program aircraft, provided that at 2738
least one hundred airworthy aircraft are operated in the program 2739
and the program meets all of the following criteria: 2740

(a) Management services are provided by at least one program 2741
manager within an affiliated group on behalf of the fractional 2742
owners. 2743

(b) Each program aircraft is owned or possessed by at least 2744
one fractional owner. 2745

(c) Each fractional owner owns or possesses at least a 2746
one-sixteenth interest in at least one fixed-wing program 2747
aircraft. 2748

(d) A dry-lease aircraft interchange arrangement is in effect 2749
among all of the fractional owners. 2750

(e) Multi-year program agreements are in effect regarding the 2751
fractional ownership, management services, and dry-lease aircraft 2752

interchange arrangement aspects of the program. 2753

(2) As used in division (KKK)(1) of this section: 2754

(a) "Affiliated group" has the same meaning as in division 2755
(B)(3)(e) of this section. 2756

(b) "Fractional owner" means a person that owns or possesses 2757
at least a one-sixteenth interest in a program aircraft and has 2758
entered into the agreements described in division (KKK)(1)(e) of 2759
this section. 2760

(c) "Fractional ownership program aircraft" or "program 2761
aircraft" means a turbojet aircraft that is owned or possessed by 2762
a fractional owner and that has been included in a dry-lease 2763
aircraft interchange arrangement and agreement under divisions 2764
(KKK)(1)(d) and (e) of this section, or an aircraft a program 2765
manager owns or possesses primarily for use in a fractional 2766
aircraft ownership program. 2767

(d) "Management services" means administrative and aviation 2768
support services furnished under a fractional aircraft ownership 2769
program in accordance with a management services agreement under 2770
division (KKK)(1)(e) of this section, and offered by the program 2771
manager to the fractional owners, including, at a minimum, the 2772
establishment and implementation of safety guidelines; the 2773
coordination of the scheduling of the program aircraft and crews; 2774
program aircraft maintenance; program aircraft insurance; crew 2775
training for crews employed, furnished, or contracted by the 2776
program manager or the fractional owner; the satisfaction of 2777
record-keeping requirements; and the development and use of an 2778
operations manual and a maintenance manual for the fractional 2779
aircraft ownership program. 2780

(e) "Program manager" means the person that offers management 2781
services to fractional owners pursuant to a management services 2782
agreement under division (KKK)(1)(e) of this section. 2783

(LLL) "Electronic publishing" means providing access to one 2784
or more of the following primarily for business customers, 2785
including the federal government or a state government or a 2786
political subdivision thereof, to conduct research: news; 2787
business, financial, legal, consumer, or credit materials; 2788
editorials, columns, reader commentary, or features; photos or 2789
images; archival or research material; legal notices, identity 2790
verification, or public records; scientific, educational, 2791
instructional, technical, professional, trade, or other literary 2792
materials; or other similar information which has been gathered 2793
and made available by the provider to the consumer in an 2794
electronic format. Providing electronic publishing includes the 2795
functions necessary for the acquisition, formatting, editing, 2796
storage, and dissemination of data or information that is the 2797
subject of a sale. 2798

(MMM) "Medicaid health insuring corporation" means a health 2799
insuring corporation that holds a certificate of authority under 2800
Chapter 1751. of the Revised Code and is under contract with the 2801
department of job and family services pursuant to section 5111.17 2802
of the Revised Code. 2803

(NNN) "Managed care premium" means any premium, capitation, 2804
or other payment a medicaid health insuring corporation receives 2805
for providing or arranging for the provision of health care 2806
services to its members or enrollees residing in this state. 2807

(OOO) "Captive deer" means deer and other cervidae that have 2808
been legally acquired, or their offspring, that are privately 2809
owned for agricultural or farming purposes. 2810

(PPP) "Gift card" means a document, card, certificate, or 2811
other record, whether tangible or intangible, that may be redeemed 2812
by a consumer for a dollar value when making a purchase of 2813
tangible personal property or services. 2814

Sec. 5739.02. For the purpose of providing revenue with which 2815
to meet the needs of the state, for the use of the general revenue 2816
fund of the state, for the purpose of securing a thorough and 2817
efficient system of common schools throughout the state, for the 2818
purpose of affording revenues, in addition to those from general 2819
property taxes, permitted under constitutional limitations, and 2820
from other sources, for the support of local governmental 2821
functions, and for the purpose of reimbursing the state for the 2822
expense of administering this chapter, an excise tax is hereby 2823
levied on each retail sale made in this state. 2824

(A)(1) The tax shall be collected as provided in section 2825
5739.025 of the Revised Code. The rate of the tax shall be five 2826
and one-half per cent. The tax applies and is collectible when the 2827
sale is made, regardless of the time when the price is paid or 2828
delivered. 2829

(2) In the case of the lease or rental, with a fixed term of 2830
more than thirty days or an indefinite term with a minimum period 2831
of more than thirty days, of any motor vehicles designed by the 2832
manufacturer to carry a load of not more than one ton, watercraft, 2833
outboard motor, or aircraft, or of any tangible personal property, 2834
other than motor vehicles designed by the manufacturer to carry a 2835
load of more than one ton, to be used by the lessee or renter 2836
primarily for business purposes, the tax shall be collected by the 2837
vendor at the time the lease or rental is consummated and shall be 2838
calculated by the vendor on the basis of the total amount to be 2839
paid by the lessee or renter under the lease agreement. If the 2840
total amount of the consideration for the lease or rental includes 2841
amounts that are not calculated at the time the lease or rental is 2842
executed, the tax shall be calculated and collected by the vendor 2843
at the time such amounts are billed to the lessee or renter. In 2844
the case of an open-end lease or rental, the tax shall be 2845
calculated by the vendor on the basis of the total amount to be 2846

paid during the initial fixed term of the lease or rental, and for 2847
each subsequent renewal period as it comes due. As used in this 2848
division, "motor vehicle" has the same meaning as in section 2849
4501.01 of the Revised Code, and "watercraft" includes an outdrive 2850
unit attached to the watercraft. 2851

A lease with a renewal clause and a termination penalty or 2852
similar provision that applies if the renewal clause is not 2853
exercised is presumed to be a sham transaction. In such a case, 2854
the tax shall be calculated and paid on the basis of the entire 2855
length of the lease period, including any renewal periods, until 2856
the termination penalty or similar provision no longer applies. 2857
The taxpayer shall bear the burden, by a preponderance of the 2858
evidence, that the transaction or series of transactions is not a 2859
sham transaction. 2860

(3) Except as provided in division (A)(2) of this section, in 2861
the case of a sale, the price of which consists in whole or in 2862
part of the lease or rental of tangible personal property, the tax 2863
shall be measured by the installments of that lease or rental. 2864

(4) In the case of a sale of a physical fitness facility 2865
service or recreation and sports club service, the price of which 2866
consists in whole or in part of a membership for the receipt of 2867
the benefit of the service, the tax applicable to the sale shall 2868
be measured by the installments thereof. 2869

(B) The tax does not apply to the following: 2870

(1) Sales to the state or any of its political subdivisions, 2871
or to any other state or its political subdivisions if the laws of 2872
that state exempt from taxation sales made to this state and its 2873
political subdivisions; 2874

(2) Sales of food for human consumption off the premises 2875
where sold; 2876

(3) Sales of food sold to students only in a cafeteria, 2877

dormitory, fraternity, or sorority maintained in a private,	2878
public, or parochial school, college, or university;	2879
(4) Sales of newspapers and of magazine subscriptions and	2880
sales or transfers of magazines distributed as controlled	2881
circulation publications;	2882
(5) The furnishing, preparing, or serving of meals without	2883
charge by an employer to an employee provided the employer records	2884
the meals as part compensation for services performed or work	2885
done;	2886
(6) Sales of motor fuel upon receipt, use, distribution, or	2887
sale of which in this state a tax is imposed by the law of this	2888
state, but this exemption shall not apply to the sale of motor	2889
fuel on which a refund of the tax is allowable under division (A)	2890
of section 5735.14 of the Revised Code; and the tax commissioner	2891
may deduct the amount of tax levied by this section applicable to	2892
the price of motor fuel when granting a refund of motor fuel tax	2893
pursuant to division (A) of section 5735.14 of the Revised Code	2894
and shall cause the amount deducted to be paid into the general	2895
revenue fund of this state;	2896
(7) Sales of natural gas by a natural gas company, of water	2897
by a water-works company, or of steam by a heating company, if in	2898
each case the thing sold is delivered to consumers through pipes	2899
or conduits, and all sales of communications services by a	2900
telegraph company, all terms as defined in section 5727.01 of the	2901
Revised Code, and sales of electricity delivered through wires;	2902
(8) Casual sales by a person, or auctioneer employed directly	2903
by the person to conduct such sales, except as to such sales of	2904
motor vehicles, watercraft or outboard motors required to be	2905
titled under section 1548.06 of the Revised Code, watercraft	2906
documented with the United States coast guard, snowmobiles, and	2907
all-purpose vehicles as defined in section 4519.01 of the Revised	2908

Code;	2909
(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.	2910 2911 2912 2913 2914 2915 2916 2917 2918 2919 2920 2921 2922 2923 2924 2925
(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.	2926 2927 2928 2929 2930 2931 2932
(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.	2933 2934 2935
(10) Sales not within the taxing power of this state under the Constitution of the United States;	2936 2937
(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the	2938 2939

transportation of persons or property, unless the transportation 2940
is by a private investigation and security service; 2941

(12) Sales of tangible personal property or services to 2942
churches, to organizations exempt from taxation under section 2943
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2944
nonprofit organizations operated exclusively for charitable 2945
purposes in this state, no part of the net income of which inures 2946
to the benefit of any private shareholder or individual, and no 2947
substantial part of the activities of which consists of carrying 2948
on propaganda or otherwise attempting to influence legislation; 2949
sales to offices administering one or more homes for the aged or 2950
one or more hospital facilities exempt under section 140.08 of the 2951
Revised Code; and sales to organizations described in division (D) 2952
of section 5709.12 of the Revised Code. 2953

"Charitable purposes" means the relief of poverty; the 2954
improvement of health through the alleviation of illness, disease, 2955
or injury; the operation of an organization exclusively for the 2956
provision of professional, laundry, printing, and purchasing 2957
services to hospitals or charitable institutions; the operation of 2958
a home for the aged, as defined in section 5701.13 of the Revised 2959
Code; the operation of a radio or television broadcasting station 2960
that is licensed by the federal communications commission as a 2961
noncommercial educational radio or television station; the 2962
operation of a nonprofit animal adoption service or a county 2963
humane society; the promotion of education by an institution of 2964
learning that maintains a faculty of qualified instructors, 2965
teaches regular continuous courses of study, and confers a 2966
recognized diploma upon completion of a specific curriculum; the 2967
operation of a parent-teacher association, booster group, or 2968
similar organization primarily engaged in the promotion and 2969
support of the curricular or extracurricular activities of a 2970
primary or secondary school; the operation of a community or area 2971

center in which presentations in music, dramatics, the arts, and 2972
related fields are made in order to foster public interest and 2973
education therein; the production of performances in music, 2974
dramatics, and the arts; or the promotion of education by an 2975
organization engaged in carrying on research in, or the 2976
dissemination of, scientific and technological knowledge and 2977
information primarily for the public. 2978

Nothing in this division shall be deemed to exempt sales to 2979
any organization for use in the operation or carrying on of a 2980
trade or business, or sales to a home for the aged for use in the 2981
operation of independent living facilities as defined in division 2982
(A) of section 5709.12 of the Revised Code. 2983

(13) Building and construction materials and services sold to 2984
construction contractors for incorporation into a structure or 2985
improvement to real property under a construction contract with 2986
this state or a political subdivision of this state, or with the 2987
United States government or any of its agencies; building and 2988
construction materials and services sold to construction 2989
contractors for incorporation into a structure or improvement to 2990
real property that are accepted for ownership by this state or any 2991
of its political subdivisions, or by the United States government 2992
or any of its agencies at the time of completion of the structures 2993
or improvements; building and construction materials sold to 2994
construction contractors for incorporation into a horticulture 2995
structure or livestock structure for a person engaged in the 2996
business of horticulture or producing livestock; building 2997
materials and services sold to a construction contractor for 2998
incorporation into a house of public worship or religious 2999
education, or a building used exclusively for charitable purposes 3000
under a construction contract with an organization whose purpose 3001
is as described in division (B)(12) of this section; building 3002
materials and services sold to a construction contractor for 3003

incorporation into a building under a construction contract with 3004
an organization exempt from taxation under section 501(c)(3) of 3005
the Internal Revenue Code of 1986 when the building is to be used 3006
exclusively for the organization's exempt purposes; building and 3007
construction materials sold for incorporation into the original 3008
construction of a sports facility under section 307.696 of the 3009
Revised Code; building and construction materials and services 3010
sold to a construction contractor for incorporation into real 3011
property outside this state if such materials and services, when 3012
sold to a construction contractor in the state in which the real 3013
property is located for incorporation into real property in that 3014
state, would be exempt from a tax on sales levied by that state; 3015
and, until one calendar year after the construction of a 3016
convention center that qualifies for property tax exemption under 3017
section 5709.084 of the Revised Code is completed, building and 3018
construction materials and services sold to a construction 3019
contractor for incorporation into the real property comprising 3020
that convention center; 3021

(14) Sales of ships or vessels or rail rolling stock used or 3022
to be used principally in interstate or foreign commerce, and 3023
repairs, alterations, fuel, and lubricants for such ships or 3024
vessels or rail rolling stock; 3025

(15) Sales to persons primarily engaged in any of the 3026
activities mentioned in division (B)(42)(a), (g), or (h) of this 3027
section, to persons engaged in making retail sales, or to persons 3028
who purchase for sale from a manufacturer tangible personal 3029
property that was produced by the manufacturer in accordance with 3030
specific designs provided by the purchaser, of packages, including 3031
material, labels, and parts for packages, and of machinery, 3032
equipment, and material for use primarily in packaging tangible 3033
personal property produced for sale, including any machinery, 3034
equipment, and supplies used to make labels or packages, to 3035

prepare packages or products for labeling, or to label packages or 3036
products, by or on the order of the person doing the packaging, or 3037
sold at retail. "Packages" includes bags, baskets, cartons, 3038
crates, boxes, cans, bottles, bindings, wrappings, and other 3039
similar devices and containers, but does not include motor 3040
vehicles or bulk tanks, trailers, or similar devices attached to 3041
motor vehicles. "Packaging" means placing in a package. Division 3042
(B)(15) of this section does not apply to persons engaged in 3043
highway transportation for hire. 3044

(16) Sales of food to persons using supplemental nutrition 3045
assistance program benefits to purchase the food. As used in this 3046
division, "food" has the same meaning as in 7 U.S.C. 2012 and 3047
federal regulations adopted pursuant to the Food and Nutrition Act 3048
of 2008. 3049

(17) Sales to persons engaged in farming, agriculture, 3050
horticulture, or floriculture, of tangible personal property for 3051
use or consumption primarily in the production by farming, 3052
agriculture, horticulture, or floriculture of other tangible 3053
personal property for use or consumption primarily in the 3054
production of tangible personal property for sale by farming, 3055
agriculture, horticulture, or floriculture; or material and parts 3056
for incorporation into any such tangible personal property for use 3057
or consumption in production; and of tangible personal property 3058
for such use or consumption in the conditioning or holding of 3059
products produced by and for such use, consumption, or sale by 3060
persons engaged in farming, agriculture, horticulture, or 3061
floriculture, except where such property is incorporated into real 3062
property; 3063

(18) Sales of drugs for a human being that may be dispensed 3064
only pursuant to a prescription; insulin as recognized in the 3065
official United States pharmacopoeia; urine and blood testing 3066
materials when used by diabetics or persons with hypoglycemia to 3067

test for glucose or acetone; hypodermic syringes and needles when 3068
used by diabetics for insulin injections; epoetin alfa when 3069
purchased for use in the treatment of persons with medical 3070
disease; hospital beds when purchased by hospitals, nursing homes, 3071
or other medical facilities; and medical oxygen and medical 3072
oxygen-dispensing equipment when purchased by hospitals, nursing 3073
homes, or other medical facilities; 3074

(19) Sales of prosthetic devices, durable medical equipment 3075
for home use, or mobility enhancing equipment, when made pursuant 3076
to a prescription and when such devices or equipment are for use 3077
by a human being. 3078

(20) Sales of emergency and fire protection vehicles and 3079
equipment to nonprofit organizations for use solely in providing 3080
fire protection and emergency services, including trauma care and 3081
emergency medical services, for political subdivisions of the 3082
state; 3083

(21) Sales of tangible personal property manufactured in this 3084
state, if sold by the manufacturer in this state to a retailer for 3085
use in the retail business of the retailer outside of this state 3086
and if possession is taken from the manufacturer by the purchaser 3087
within this state for the sole purpose of immediately removing the 3088
same from this state in a vehicle owned by the purchaser; 3089

(22) Sales of services provided by the state or any of its 3090
political subdivisions, agencies, instrumentalities, institutions, 3091
or authorities, or by governmental entities of the state or any of 3092
its political subdivisions, agencies, instrumentalities, 3093
institutions, or authorities; 3094

(23) Sales of motor vehicles to nonresidents of this state 3095
under the circumstances described in division (B) of section 3096
5739.029 of the Revised Code; 3097

(24) Sales to persons engaged in the preparation of eggs for 3098

sale of tangible personal property used or consumed directly in 3099
such preparation, including such tangible personal property used 3100
for cleaning, sanitizing, preserving, grading, sorting, and 3101
classifying by size; packages, including material and parts for 3102
packages, and machinery, equipment, and material for use in 3103
packaging eggs for sale; and handling and transportation equipment 3104
and parts therefor, except motor vehicles licensed to operate on 3105
public highways, used in intraplant or interplant transfers or 3106
shipment of eggs in the process of preparation for sale, when the 3107
plant or plants within or between which such transfers or 3108
shipments occur are operated by the same person. "Packages" 3109
includes containers, cases, baskets, flats, fillers, filler flats, 3110
cartons, closure materials, labels, and labeling materials, and 3111
"packaging" means placing therein. 3112

(25)(a) Sales of water to a consumer for residential use, 3113
~~except the sale of bottled water, distilled water, mineral water,~~ 3114
~~carbonated water, or ice;~~ 3115

(b) Sales of water by a nonprofit corporation engaged 3116
exclusively in the treatment, distribution, and sale of water to 3117
consumers, if such water is delivered to consumers through pipes 3118
or tubing. 3119

(26) Fees charged for inspection or reinspection of motor 3120
vehicles under section 3704.14 of the Revised Code; 3121

(27) Sales to persons licensed to conduct a food service 3122
operation pursuant to section 3717.43 of the Revised Code, of 3123
tangible personal property primarily used directly for the 3124
following: 3125

(a) To prepare food for human consumption for sale; 3126

(b) To preserve food that has been or will be prepared for 3127
human consumption for sale by the food service operator, not 3128
including tangible personal property used to display food for 3129

selection by the consumer;	3130
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	3131 3132
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	3133 3134
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	3135 3136 3137 3138
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	3139 3140 3141
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	3142 3143 3144
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	3145 3146 3147 3148 3149 3150
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	3151 3152 3153 3154 3155
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or	3156 3157 3158 3159

recording any interactive, one- or two-way electromagnetic 3160
communications, including voice, image, data, and information, 3161
through the use of any medium, including, but not limited to, 3162
poles, wires, cables, switching equipment, computers, and record 3163
storage devices and media, and component parts for the tangible 3164
personal property. The exemption provided in this division shall 3165
be in lieu of all other exemptions under division (B)(42)(a) or 3166
(n) of this section to which the vendor may otherwise be entitled, 3167
based upon the use of the thing purchased in providing the 3168
telecommunications, mobile telecommunications, or satellite 3169
broadcasting service. 3170

(35)(a) Sales where the purpose of the consumer is to use or 3171
consume the things transferred in making retail sales and 3172
consisting of newspaper inserts, catalogues, coupons, flyers, gift 3173
certificates, or other advertising material that prices and 3174
describes tangible personal property offered for retail sale. 3175

(b) Sales to direct marketing vendors of preliminary 3176
materials such as photographs, artwork, and typesetting that will 3177
be used in printing advertising material; of printed matter that 3178
offers free merchandise or chances to win sweepstake prizes and 3179
that is mailed to potential customers with advertising material 3180
described in division (B)(35)(a) of this section; and of equipment 3181
such as telephones, computers, facsimile machines, and similar 3182
tangible personal property primarily used to accept orders for 3183
direct marketing retail sales. 3184

(c) Sales of automatic food vending machines that preserve 3185
food with a shelf life of forty-five days or less by refrigeration 3186
and dispense it to the consumer. 3187

For purposes of division (B)(35) of this section, "direct 3188
marketing" means the method of selling where consumers order 3189
tangible personal property by United States mail, delivery 3190
service, or telecommunication and the vendor delivers or ships the 3191

tangible personal property sold to the consumer from a warehouse, 3192
catalogue distribution center, or similar fulfillment facility by 3193
means of the United States mail, delivery service, or common 3194
carrier. 3195

(36) Sales to a person engaged in the business of 3196
horticulture or producing livestock of materials to be 3197
incorporated into a horticulture structure or livestock structure; 3198

(37) Sales of personal computers, computer monitors, computer 3199
keyboards, modems, and other peripheral computer equipment to an 3200
individual who is licensed or certified to teach in an elementary 3201
or a secondary school in this state for use by that individual in 3202
preparation for teaching elementary or secondary school students; 3203

(38) Sales to a professional racing team of any of the 3204
following: 3205

(a) Motor racing vehicles; 3206

(b) Repair services for motor racing vehicles; 3207

(c) Items of property that are attached to or incorporated in 3208
motor racing vehicles, including engines, chassis, and all other 3209
components of the vehicles, and all spare, replacement, and 3210
rebuilt parts or components of the vehicles; except not including 3211
tires, consumable fluids, paint, and accessories consisting of 3212
instrumentation sensors and related items added to the vehicle to 3213
collect and transmit data by means of telemetry and other forms of 3214
communication. 3215

(39) Sales of used manufactured homes and used mobile homes, 3216
as defined in section 5739.0210 of the Revised Code, made on or 3217
after January 1, 2000; 3218

(40) Sales of tangible personal property and services to a 3219
provider of electricity used or consumed directly and primarily in 3220
generating, transmitting, or distributing electricity for use by 3221

others, including property that is or is to be incorporated into 3222
and will become a part of the consumer's production, transmission, 3223
or distribution system and that retains its classification as 3224
tangible personal property after incorporation; fuel or power used 3225
in the production, transmission, or distribution of electricity; 3226
energy conversion equipment as defined in section 5727.01 of the 3227
Revised Code; and tangible personal property and services used in 3228
the repair and maintenance of the production, transmission, or 3229
distribution system, including only those motor vehicles as are 3230
specially designed and equipped for such use. The exemption 3231
provided in this division shall be in lieu of all other exemptions 3232
in division (B)(42)(a) or (n) of this section to which a provider 3233
of electricity may otherwise be entitled based on the use of the 3234
tangible personal property or service purchased in generating, 3235
transmitting, or distributing electricity. 3236

(41) Sales to a person providing services under division 3237
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 3238
personal property and services used directly and primarily in 3239
providing taxable services under that section. 3240

(42) Sales where the purpose of the purchaser is to do any of 3241
the following: 3242

(a) To incorporate the thing transferred as a material or a 3243
part into tangible personal property to be produced for sale by 3244
manufacturing, assembling, processing, or refining; or to use or 3245
consume the thing transferred directly in producing tangible 3246
personal property for sale by mining, including, without 3247
limitation, the extraction from the earth of all substances that 3248
are classed geologically as minerals, production of crude oil and 3249
natural gas, or directly in the rendition of a public utility 3250
service, except that the sales tax levied by this section shall be 3251
collected upon all meals, drinks, and food for human consumption 3252
sold when transporting persons. Persons engaged in rendering 3253

services in the exploration for, and production of, crude oil and 3254
natural gas for others are deemed engaged directly in the 3255
exploration for, and production of, crude oil and natural gas. 3256
This paragraph does not exempt from "retail sale" or "sales at 3257
retail" the sale of tangible personal property that is to be 3258
incorporated into a structure or improvement to real property. 3259

(b) To hold the thing transferred as security for the 3260
performance of an obligation of the vendor; 3261

(c) To resell, hold, use, or consume the thing transferred as 3262
evidence of a contract of insurance; 3263

(d) To use or consume the thing directly in commercial 3264
fishing; 3265

(e) To incorporate the thing transferred as a material or a 3266
part into, or to use or consume the thing transferred directly in 3267
the production of, magazines distributed as controlled circulation 3268
publications; 3269

(f) To use or consume the thing transferred in the production 3270
and preparation in suitable condition for market and sale of 3271
printed, imprinted, overprinted, lithographic, multilithic, 3272
blueprinted, photostatic, or other productions or reproductions of 3273
written or graphic matter; 3274

(g) To use the thing transferred, as described in section 3275
5739.011 of the Revised Code, primarily in a manufacturing 3276
operation to produce tangible personal property for sale; 3277

(h) To use the benefit of a warranty, maintenance or service 3278
contract, or similar agreement, as described in division (B)(7) of 3279
section 5739.01 of the Revised Code, to repair or maintain 3280
tangible personal property, if all of the property that is the 3281
subject of the warranty, contract, or agreement would not be 3282
subject to the tax imposed by this section; 3283

(i) To use the thing transferred as qualified research and development equipment;	3284 3285
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.	3286 3287 3288 3289 3290 3291 3292 3293 3294 3295 3296 3297 3298
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;	3299 3300 3301 3302 3303 3304 3305
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	3306 3307
(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	3308 3309 3310 3311 3312
(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming,	3313 3314

agriculture, horticulture, or floriculture. Persons engaged in 3315
rendering farming, agriculture, horticulture, or floriculture 3316
services for others are deemed engaged primarily in farming, 3317
agriculture, horticulture, or floriculture. This paragraph does 3318
not exempt from "retail sale" or "sales at retail" the sale of 3319
tangible personal property that is to be incorporated into a 3320
structure or improvement to real property. 3321

(o) To use or consume the thing transferred in acquiring, 3322
formatting, editing, storing, and disseminating data or 3323
information by electronic publishing. 3324

As used in division (B)(42) of this section, "thing" includes 3325
all transactions included in divisions (B)(3)(a), (b), and (e) of 3326
section 5739.01 of the Revised Code. 3327

(43) Sales conducted through a coin operated device that 3328
activates vacuum equipment or equipment that dispenses water, 3329
whether or not in combination with soap or other cleaning agents 3330
or wax, to the consumer for the consumer's use on the premises in 3331
washing, cleaning, or waxing a motor vehicle, provided no other 3332
personal property or personal service is provided as part of the 3333
transaction. 3334

(44) Sales of replacement and modification parts for engines, 3335
airframes, instruments, and interiors in, and paint for, aircraft 3336
used primarily in a fractional aircraft ownership program, and 3337
sales of services for the repair, modification, and maintenance of 3338
such aircraft, and machinery, equipment, and supplies primarily 3339
used to provide those services. 3340

(45) Sales of telecommunications service that is used 3341
directly and primarily to perform the functions of a call center. 3342
As used in this division, "call center" means any physical 3343
location where telephone calls are placed or received in high 3344
volume for the purpose of making sales, marketing, customer 3345

service, technical support, or other specialized business 3346
activity, and that employs at least fifty individuals that engage 3347
in call center activities on a full-time basis, or sufficient 3348
individuals to fill fifty full-time equivalent positions. 3349

(46) Sales by a telecommunications service vendor of 900 3350
service to a subscriber. This division does not apply to 3351
information services, as defined in division (FF) of section 3352
5739.01 of the Revised Code. 3353

(47) Sales of value-added non-voice data service. This 3354
division does not apply to any similar service that is not 3355
otherwise a telecommunications service. 3356

(48)(a) Sales of machinery, equipment, and software to a 3357
qualified direct selling entity for use in a warehouse or 3358
distribution center primarily for storing, transporting, or 3359
otherwise handling inventory that is held for sale to independent 3360
salespersons who operate as direct sellers and that is held 3361
primarily for distribution outside this state; 3362

(b) As used in division (B)(48)(a) of this section: 3363

(i) "Direct seller" means a person selling consumer products 3364
to individuals for personal or household use and not from a fixed 3365
retail location, including selling such product at in-home product 3366
demonstrations, parties, and other one-on-one selling. 3367

(ii) "Qualified direct selling entity" means an entity 3368
selling to direct sellers at the time the entity enters into a tax 3369
credit agreement with the tax credit authority pursuant to section 3370
122.17 of the Revised Code, provided that the agreement was 3371
entered into on or after January 1, 2007. Neither contingencies 3372
relevant to the granting of, nor later developments with respect 3373
to, the tax credit shall impair the status of the qualified direct 3374
selling entity under division (B)(48) of this section after 3375
execution of the tax credit agreement by the tax credit authority. 3376

(c) Division (B)(48) of this section is limited to machinery, 3377
equipment, and software first stored, used, or consumed in this 3378
state within the period commencing June 24, 2008, and ending on 3379
the date that is five years after that date. 3380

(49) Sales of materials, parts, equipment, or engines used in 3381
the repair or maintenance of aircraft or avionics systems of such 3382
aircraft, and sales of repair, remodeling, replacement, or 3383
maintenance services in this state performed on aircraft or on an 3384
aircraft's avionics, engine, or component materials or parts. As 3385
used in division (B)(49) of this section, "aircraft" means 3386
aircraft of more than six thousand pounds maximum certified 3387
takeoff weight or used exclusively in general aviation. 3388

(50) Sales of full flight simulators that are used for pilot 3389
or flight-crew training, sales of repair or replacement parts or 3390
components, and sales of repair or maintenance services for such 3391
full flight simulators. "Full flight simulator" means a replica of 3392
a specific type, or make, model, and series of aircraft cockpit. 3393
It includes the assemblage of equipment and computer programs 3394
necessary to represent aircraft operations in ground and flight 3395
conditions, a visual system providing an out-of-the-cockpit view, 3396
and a system that provides cues at least equivalent to those of a 3397
three-degree-of-freedom motion system, and has the full range of 3398
capabilities of the systems installed in the device as described 3399
in appendices A and B of part 60 of chapter 1 of title 14 of the 3400
Code of Federal Regulations. 3401

(51) Any transfer or lease of tangible personal property 3402
between the state and a successful proposer in accordance with 3403
sections 126.60 to 126.605 of the Revised Code, provided the 3404
property is part of a project as defined in section 126.60 of the 3405
Revised Code and the state retains ownership of the project or 3406
part thereof that is being transferred or leased, between the 3407
state and JobsOhio in accordance with section 4313.02 of the 3408

Revised Code. 3409

(C) For the purpose of the proper administration of this 3410
chapter, and to prevent the evasion of the tax, it is presumed 3411
that all sales made in this state are subject to the tax until the 3412
contrary is established. 3413

(D) The levy of this tax on retail sales of recreation and 3414
sports club service shall not prevent a municipal corporation from 3415
levying any tax on recreation and sports club dues or on any 3416
income generated by recreation and sports club dues. 3417

(E) The tax collected by the vendor from the consumer under 3418
this chapter is not part of the price, but is a tax collection for 3419
the benefit of the state, and of counties levying an additional 3420
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 3421
Code and of transit authorities levying an additional sales tax 3422
pursuant to section 5739.023 of the Revised Code. Except for the 3423
discount authorized under section 5739.12 of the Revised Code and 3424
the effects of any rounding pursuant to section 5703.055 of the 3425
Revised Code, no person other than the state or such a county or 3426
transit authority shall derive any benefit from the collection or 3427
payment of the tax levied by this section or section 5739.021, 3428
5739.023, or 5739.026 of the Revised Code. 3429

Sec. 5739.021. (A) For the purpose of providing additional 3430
general revenues for the county or supporting criminal and 3431
administrative justice services in the county, or both, and to pay 3432
the expenses of administering such levy, any county may levy a tax 3433
at the rate of not more than one per cent at any multiple of 3434
one-fourth of one per cent upon every retail sale made in the 3435
county, except sales of watercraft and outboard motors required to 3436
be titled pursuant to Chapter 1548. of the Revised Code and sales 3437
of motor vehicles, and may increase the rate of an existing tax to 3438
not more than one per cent at any multiple of one-fourth of one 3439

per cent. 3440

The tax shall be levied and the rate increased pursuant to a 3441
resolution of the board of county commissioners. The resolution 3442
shall state the purpose for which the tax is to be levied and the 3443
number of years for which the tax is to be levied, or that it is 3444
for a continuing period of time. If the tax is to be levied for 3445
the purpose of providing additional general revenues and for the 3446
purpose of supporting criminal and administrative justice 3447
services, the resolution shall state the rate or amount of the tax 3448
to be apportioned to each such purpose. The rate or amount may be 3449
different for each year the tax is to be levied, but the rates or 3450
amounts actually apportioned each year shall not be different from 3451
that stated in the resolution for that year. If the resolution is 3452
adopted as an emergency measure necessary for the immediate 3453
preservation of the public peace, health, or safety, it must 3454
receive an affirmative vote of all of the members of the board of 3455
county commissioners and shall state the reasons for such 3456
necessity. The board shall deliver a certified copy of the 3457
resolution to the tax commissioner, not later than the sixty-fifth 3458
day prior to the date on which the tax is to become effective, 3459
which shall be the first day of the calendar quarter. 3460

Prior to the adoption of any resolution under this section, 3461
the board of county commissioners shall conduct two public 3462
hearings on the resolution, the second hearing to be not less than 3463
three nor more than ten days after the first. Notice of the date, 3464
time, and place of the hearings shall be given by publication in a 3465
newspaper of general circulation in the county, or as provided in 3466
section 7.16 of the Revised Code, once a week on the same day of 3467
the week for two consecutive weeks, the second publication being 3468
not less than ten nor more than thirty days prior to the first 3469
hearing. 3470

Except as provided in division (B)(3) of this section, the 3471

resolution shall be subject to a referendum as provided in 3472
sections 305.31 to 305.41 of the Revised Code. 3473

If a petition for a referendum is filed, the county auditor 3474
with whom the petition was filed shall, within five days, notify 3475
the board of county commissioners and the tax commissioner of the 3476
filing of the petition by certified mail. If the board of 3477
elections with which the petition was filed declares the petition 3478
invalid, the board of elections, within five days, shall notify 3479
the board of county commissioners and the tax commissioner of that 3480
declaration by certified mail. If the petition is declared to be 3481
invalid, the effective date of the tax or increased rate of tax 3482
levied by this section shall be the first day of a calendar 3483
quarter following the expiration of sixty-five days from the date 3484
the commissioner receives notice from the board of elections that 3485
the petition is invalid. 3486

(B)(1) A resolution that is not adopted as an emergency 3487
measure may direct the board of elections to submit the question 3488
of levying the tax or increasing the rate of tax to the electors 3489
of the county at a special election held on the date specified by 3490
the board of county commissioners in the resolution, provided that 3491
the election occurs not less than ninety days after a certified 3492
copy of such resolution is transmitted to the board of elections 3493
and the election is not held in February or August of any year. 3494
Upon transmission of the resolution to the board of elections, the 3495
board of county commissioners shall notify the tax commissioner in 3496
writing of the levy question to be submitted to the electors. No 3497
resolution adopted under this division shall go into effect unless 3498
approved by a majority of those voting upon it, and, except as 3499
provided in division (B)(3) of this section, shall become 3500
effective on the first day of a calendar quarter following the 3501
expiration of sixty-five days from the date the tax commissioner 3502
receives notice from the board of elections of the affirmative 3503

vote. 3504

(2) A resolution that is adopted as an emergency measure 3505
shall go into effect as provided in division (A) of this section, 3506
but may direct the board of elections to submit the question of 3507
repealing the tax or increase in the rate of the tax to the 3508
electors of the county at the next general election in the county 3509
occurring not less than ninety days after a certified copy of the 3510
resolution is transmitted to the board of elections. Upon 3511
transmission of the resolution to the board of elections, the 3512
board of county commissioners shall notify the tax commissioner in 3513
writing of the levy question to be submitted to the electors. The 3514
ballot question shall be the same as that prescribed in section 3515
5739.022 of the Revised Code. The board of elections shall notify 3516
the board of county commissioners and the tax commissioner of the 3517
result of the election immediately after the result has been 3518
declared. If a majority of the qualified electors voting on the 3519
question of repealing the tax or increase in the rate of the tax 3520
vote for repeal of the tax or repeal of the increase, the board of 3521
county commissioners, on the first day of a calendar quarter 3522
following the expiration of sixty-five days after the date the 3523
board and tax commissioner receive notice of the result of the 3524
election, shall, in the case of a repeal of the tax, cease to levy 3525
the tax, or, in the case of a repeal of an increase in the rate of 3526
the tax, cease to levy the increased rate and levy the tax at the 3527
rate at which it was imposed immediately prior to the increase in 3528
rate. 3529

(3) If a vendor ~~that is registered with the central~~ 3530
~~electronic registration system provided for in section 5740.05 of~~ 3531
~~the Revised Code~~ makes a sale in this state by printed catalog and 3532
the consumer computed the tax on the sale based on local rates 3533
published in the catalog, any tax levied or repealed or rate 3534
changed under this section shall not apply to such a sale until 3535

the first day of a calendar quarter following the expiration of 3536
one hundred twenty days from the date of notice by the tax 3537
commissioner pursuant to division (H) of this section. 3538

(C) If a resolution is rejected at a referendum or if a 3539
resolution adopted after January 1, 1982, as an emergency measure 3540
is repealed by the electors pursuant to division (B)(2) of this 3541
section or section 5739.022 of the Revised Code, then for one year 3542
after the date of the election at which the resolution was 3543
rejected or repealed the board of county commissioners may not 3544
adopt any resolution authorized by this section as an emergency 3545
measure. 3546

(D) The board of county commissioners, at any time while a 3547
tax levied under this section is in effect, may by resolution 3548
reduce the rate at which the tax is levied to a lower rate 3549
authorized by this section. Any reduction in the rate at which the 3550
tax is levied shall be made effective on the first day of a 3551
calendar quarter next following the sixty-fifth day after a 3552
certified copy of the resolution is delivered to the tax 3553
commissioner. 3554

(E) The tax on every retail sale subject to a tax levied 3555
pursuant to this section shall be in addition to the tax levied by 3556
section 5739.02 of the Revised Code and any tax levied pursuant to 3557
section 5739.023 or 5739.026 of the Revised Code. 3558

A county that levies a tax pursuant to this section shall 3559
levy a tax at the same rate pursuant to section 5741.021 of the 3560
Revised Code. 3561

The additional tax levied by the county shall be collected 3562
pursuant to section 5739.025 of the Revised Code. If the 3563
additional tax or some portion thereof is levied for the purpose 3564
of criminal and administrative justice services, the revenue from 3565
the tax, or the amount or rate apportioned to that purpose, shall 3566

be credited to a special fund created in the county treasury for 3567
receipt of that revenue. 3568

Any tax levied pursuant to this section is subject to the 3569
exemptions provided in section 5739.02 of the Revised Code and in 3570
addition shall not be applicable to sales not within the taxing 3571
power of a county under the Constitution of the United States or 3572
the Ohio Constitution. 3573

(F) For purposes of this section, a copy of a resolution is 3574
"certified" when it contains a written statement attesting that 3575
the copy is a true and exact reproduction of the original 3576
resolution. 3577

(G) If a board of commissioners intends to adopt a resolution 3578
to levy a tax in whole or in part for the purpose of criminal and 3579
administrative justice services, the board shall prepare and make 3580
available at the first public hearing at which the resolution is 3581
considered a statement containing the following information: 3582

(1) For each of the two preceding fiscal years, the amount of 3583
expenditures made by the county from the county general fund for 3584
the purpose of criminal and administrative justice services; 3585

(2) For the fiscal year in which the resolution is adopted, 3586
the board's estimate of the amount of expenditures to be made by 3587
the county from the county general fund for the purpose of 3588
criminal and administrative justice services; 3589

(3) For each of the two fiscal years after the fiscal year in 3590
which the resolution is adopted, the board's preliminary plan for 3591
expenditures to be made from the county general fund for the 3592
purpose of criminal and administrative justice services, both 3593
under the assumption that the tax will be imposed for that purpose 3594
and under the assumption that the tax would not be imposed for 3595
that purpose, and for expenditures to be made from the special 3596
fund created under division (E) of this section under the 3597

assumption that the tax will be imposed for that purpose. 3598

The board shall prepare the statement and the preliminary 3599
plan using the best information available to the board at the time 3600
the statement is prepared. Neither the statement nor the 3601
preliminary plan shall be used as a basis to challenge the 3602
validity of the tax in any court of competent jurisdiction, nor 3603
shall the statement or preliminary plan limit the authority of the 3604
board to appropriate, pursuant to section 5705.38 of the Revised 3605
Code, an amount different from that specified in the preliminary 3606
plan. 3607

(H) Upon receipt from a board of county commissioners of a 3608
certified copy of a resolution required by division (A) or (D) of 3609
this section, or from the board of elections of a notice of the 3610
results of an election required by division (A) or (B)(1) or (2) 3611
of this section, the tax commissioner shall provide notice of a 3612
tax rate change in a manner that is reasonably accessible to all 3613
affected vendors. The commissioner shall provide this notice at 3614
least sixty days prior to the effective date of the rate change. 3615
The commissioner, by rule, may establish the method by which 3616
notice will be provided. 3617

(I) As used in this section, "criminal and administrative 3618
justice services" means the exercise by the county sheriff of all 3619
powers and duties vested in that office by law; the exercise by 3620
the county prosecuting attorney of all powers and duties vested in 3621
that office by law; the exercise by any court in the county of all 3622
powers and duties vested in that court; the exercise by the clerk 3623
of the court of common pleas, any clerk of a municipal court 3624
having jurisdiction throughout the county, or the clerk of any 3625
county court of all powers and duties vested in the clerk by law 3626
except, in the case of the clerk of the court of common pleas, the 3627
titling of motor vehicles or watercraft pursuant to Chapter 1548. 3628
or 4505. of the Revised Code; the exercise by the county coroner 3629

of all powers and duties vested in that office by law; making 3630
payments to any other public agency or a private, nonprofit 3631
agency, the purposes of which in the county include the diversion, 3632
adjudication, detention, or rehabilitation of criminals or 3633
juvenile offenders; the operation and maintenance of any detention 3634
facility, as defined in section 2921.01 of the Revised Code; and 3635
the construction, acquisition, equipping, or repair of such a 3636
detention facility, including the payment of any debt charges 3637
incurred in the issuance of securities pursuant to Chapter 133. of 3638
the Revised Code for the purpose of constructing, acquiring, 3639
equipping, or repairing such a facility. 3640

Sec. 5739.023. (A)(1) For the purpose of providing additional 3641
general revenues for a transit authority and paying the expenses 3642
of administering such levy, any transit authority as defined in 3643
division (U) of section 5739.01 of the Revised Code may levy a tax 3644
upon every retail sale made in the territory of the transit 3645
authority, except sales of watercraft and outboard motors required 3646
to be titled pursuant to Chapter 1548. of the Revised Code and 3647
sales of motor vehicles, at a rate of not more than one and 3648
one-half per cent at any multiple of one-fourth of one per cent 3649
and may increase the existing rate of tax to not more than one and 3650
one-half per cent at any multiple of one-fourth of one per cent. 3651
The tax shall be levied and the rate increased pursuant to a 3652
resolution of the legislative authority of the transit authority 3653
and a certified copy of the resolution shall be delivered by the 3654
fiscal officer to the board of elections as provided in section 3655
3505.071 of the Revised Code and to the tax commissioner. The 3656
resolution shall specify the number of years for which the tax is 3657
to be in effect or that the tax is for a continuing period of 3658
time, and the date of the election on the question of the tax 3659
pursuant to section 306.70 of the Revised Code. The board of 3660
elections shall certify the results of the election to the transit 3661

authority and tax commissioner. 3662

(2) Except as provided in division (C) of this section, the 3663
tax levied by the resolution shall become effective on the first 3664
day of a calendar quarter next following the sixty-fifth day 3665
following the date the tax commissioner receives from the board of 3666
elections the certification of the results of the election on the 3667
question of the tax. 3668

(B) The legislative authority may, at any time while the tax 3669
is in effect, by resolution fix the rate of the tax at any rate 3670
authorized by this section and not in excess of that approved by 3671
the voters pursuant to section 306.70 of the Revised Code. Except 3672
as provided in division (C) of this section, any change in the 3673
rate of the tax shall be made effective on the first day of a 3674
calendar quarter next following the sixty-fifth day following the 3675
date the tax commissioner receives the certification of the 3676
resolution; provided, that in any case where bonds, or notes in 3677
anticipation of bonds, of a regional transit authority have been 3678
issued under section 306.40 of the Revised Code without a vote of 3679
the electors while the tax proposed to be reduced was in effect, 3680
the board of trustees of the regional transit authority shall 3681
continue to levy and collect under authority of the original 3682
election authorizing the tax a rate of tax that the board of 3683
trustees reasonably estimates will produce an amount in that year 3684
equal to the amount of principal of and interest on those bonds as 3685
is payable in that year. 3686

(C) Upon receipt from the board of elections of the 3687
certification of the results of the election required by division 3688
(A) of this section, or from the legislative authority of the 3689
certification of a resolution under division (B) of this section, 3690
the tax commissioner shall provide notice of a tax rate change in 3691
a manner that is reasonably accessible to all affected vendors. 3692
The commissioner shall provide this notice at least sixty days 3693

prior to the effective date of the rate change. The commissioner, 3694
by rule, may establish the method by which notice will be 3695
provided. 3696

(D) If a vendor ~~that is registered with the central~~ 3697
~~electronic registration system provided for in section 5740.05 of~~ 3698
~~the Revised Code~~ makes a sale in this state by printed catalog and 3699
the consumer computed the tax on the sale based on local rates 3700
published in the catalog, any tax levied or rate changed under 3701
this section shall not apply to such a sale until the first day of 3702
a calendar quarter following the expiration of one hundred twenty 3703
days from the date of notice by the tax commissioner pursuant to 3704
division (C) of this section. 3705

(E) The tax on every retail sale subject to a tax levied 3706
pursuant to this section is in addition to the tax levied by 3707
section 5739.02 of the Revised Code and any tax levied pursuant to 3708
section 5739.021 or 5739.026 of the Revised Code. 3709

(F) The additional tax levied by the transit authority shall 3710
be collected pursuant to section 5739.025 of the Revised Code. 3711

(G) Any tax levied pursuant to this section is subject to the 3712
exemptions provided in section 5739.02 of the Revised Code and in 3713
addition shall not be applicable to sales not within the taxing 3714
power of a transit authority under the constitution of the United 3715
States or the constitution of this state. 3716

(H) The rate of a tax levied under this section is subject to 3717
reduction under section 5739.028 of the Revised Code, if a ballot 3718
question is approved by voters pursuant to that section. 3719

Sec. 5739.026. (A) A board of county commissioners may levy a 3720
tax of one-fourth or one-half of one per cent on every retail sale 3721
in the county, except sales of watercraft and outboard motors 3722
required to be titled pursuant to Chapter 1548. of the Revised 3723

Code and sales of motor vehicles, and may increase an existing 3724
rate of one-fourth of one per cent to one-half of one per cent, to 3725
pay the expenses of administering the tax and, except as provided 3726
in division (A)(6) of this section, for any one or more of the 3727
following purposes provided that the aggregate levy for all such 3728
purposes does not exceed one-half of one per cent: 3729

(1) To provide additional revenues for the payment of bonds 3730
or notes issued in anticipation of bonds issued by a convention 3731
facilities authority established by the board of county 3732
commissioners under Chapter 351. of the Revised Code and to 3733
provide additional operating revenues for the convention 3734
facilities authority; 3735

(2) To provide additional revenues for a transit authority 3736
operating in the county; 3737

(3) To provide additional revenue for the county's general 3738
fund; 3739

(4) To provide additional revenue for permanent improvements 3740
within the county to be distributed by the community improvements 3741
board in accordance with section 307.283 and to pay principal, 3742
interest, and premium on bonds issued under section 307.284 of the 3743
Revised Code; 3744

(5) To provide additional revenue for the acquisition, 3745
construction, equipping, or repair of any specific permanent 3746
improvement or any class or group of permanent improvements, which 3747
improvement or class or group of improvements shall be enumerated 3748
in the resolution required by division (D) of this section, and to 3749
pay principal, interest, premium, and other costs associated with 3750
the issuance of bonds or notes in anticipation of bonds issued 3751
pursuant to Chapter 133. of the Revised Code for the acquisition, 3752
construction, equipping, or repair of the specific permanent 3753
improvement or class or group of permanent improvements; 3754

(6) To provide revenue for the implementation and operation 3755
of a 9-1-1 system in the county. If the tax is levied or the rate 3756
increased exclusively for such purpose, the tax shall not be 3757
levied or the rate increased for more than five years. At the end 3758
of the last year the tax is levied or the rate increased, any 3759
balance remaining in the special fund established for such purpose 3760
shall remain in that fund and be used exclusively for such purpose 3761
until the fund is completely expended, and, notwithstanding 3762
section 5705.16 of the Revised Code, the board of county 3763
commissioners shall not petition for the transfer of money from 3764
such special fund, and the tax commissioner shall not approve such 3765
a petition. 3766

If the tax is levied or the rate increased for such purpose 3767
for more than five years, the board of county commissioners also 3768
shall levy the tax or increase the rate of the tax for one or more 3769
of the purposes described in divisions (A)(1) to (5) of this 3770
section and shall prescribe the method for allocating the revenues 3771
from the tax each year in the manner required by division (C) of 3772
this section. 3773

(7) To provide additional revenue for the operation or 3774
maintenance of a detention facility, as that term is defined under 3775
division (F) of section 2921.01 of the Revised Code; 3776

(8) To provide revenue to finance the construction or 3777
renovation of a sports facility, but only if the tax is levied for 3778
that purpose in the manner prescribed by section 5739.028 of the 3779
Revised Code. 3780

As used in division (A)(8) of this section: 3781

(a) "Sports facility" means a facility intended to house 3782
major league professional athletic teams. 3783

(b) "Constructing" or "construction" includes providing 3784
fixtures, furnishings, and equipment. 3785

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall

be given by publication in a newspaper of general circulation in 3818
the county, or as provided in section 7.16 of the Revised Code, 3819
once a week on the same day of the week for two consecutive weeks. 3820
The second publication shall be no fewer than ten nor more than 3821
thirty days prior to the first hearing. Except as provided in 3822
division (E) of this section, the resolution shall be subject to a 3823
referendum as provided in sections 305.31 to 305.41 of the Revised 3824
Code. If the resolution is adopted as an emergency measure 3825
necessary for the immediate preservation of the public peace, 3826
health, or safety, it must receive an affirmative vote of all of 3827
the members of the board of county commissioners and shall state 3828
the reasons for the necessity. 3829

If the tax is for more than one of the purposes set forth in 3830
divisions (A)(1) to (7), (9), and (10) of this section, or is 3831
exclusively for one of the purposes set forth in division (A)(1), 3832
(2), (4), (5), (6), (7), (9), or (10) of this section, the 3833
resolution shall not go into effect unless it is approved by a 3834
majority of the electors voting on the question of the tax. 3835

(B) The board of county commissioners shall adopt a 3836
resolution under section 351.02 of the Revised Code creating the 3837
convention facilities authority, or under section 307.283 of the 3838
Revised Code creating the community improvements board, before 3839
adopting a resolution levying a tax for the purpose of a 3840
convention facilities authority under division (A)(1) of this 3841
section or for the purpose of a community improvements board under 3842
division (A)(4) of this section. 3843

(C)(1) If the tax is to be used for more than one of the 3844
purposes set forth in divisions (A)(1) to (7), (9), and (10) of 3845
this section, the board of county commissioners shall establish 3846
the method that will be used to determine the amount or proportion 3847
of the tax revenue received by the county during each year that 3848
will be distributed for each of those purposes, including, if 3849

applicable, provisions governing the reallocation of a convention 3850
facilities authority's allocation if the authority is dissolved 3851
while the tax is in effect. The allocation method may provide that 3852
different proportions or amounts of the tax shall be distributed 3853
among the purposes in different years, but it shall clearly 3854
describe the method that will be used for each year. Except as 3855
otherwise provided in division (C)(2) of this section, the 3856
allocation method established by the board is not subject to 3857
amendment during the life of the tax. 3858

(2) Subsequent to holding a public hearing on the proposed 3859
amendment, the board of county commissioners may amend the 3860
allocation method established under division (C)(1) of this 3861
section for any year, if the amendment is approved by the 3862
governing board of each entity whose allocation for the year would 3863
be reduced by the proposed amendment. In the case of a tax that is 3864
levied for a continuing period of time, the board may not so amend 3865
the allocation method for any year before the sixth year that the 3866
tax is in effect. 3867

(a) If the additional revenues provided to the convention 3868
facilities authority are pledged by the authority for the payment 3869
of convention facilities authority revenue bonds for as long as 3870
such bonds are outstanding, no reduction of the authority's 3871
allocation of the tax shall be made for any year except to the 3872
extent that the reduced authority allocation, when combined with 3873
the authority's other revenues pledged for that purpose, is 3874
sufficient to meet the debt service requirements for that year on 3875
such bonds. 3876

(b) If the additional revenues provided to the county are 3877
pledged by the county for the payment of bonds or notes described 3878
in division (A)(4) or (5) of this section, for as long as such 3879
bonds or notes are outstanding, no reduction of the county's or 3880
the community improvements board's allocation of the tax shall be 3881

made for any year, except to the extent that the reduced county or
community improvements board allocation is sufficient to meet the
debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit
authority are pledged by the authority for the payment of revenue
bonds issued under section 306.37 of the Revised Code, for as long
as such bonds are outstanding, no reduction of the authority's
allocation of tax shall be made for any year, except to the extent
that the authority's reduced allocation, when combined with the
authority's other revenues pledged for that purpose, is sufficient
to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are
pledged by the county for the payment of bonds or notes issued
under section 133.60 of the Revised Code, for so long as the bonds
or notes are outstanding, no reduction of the county's allocation
of the tax shall be made for any year, except to the extent that
the reduced county allocation is sufficient to meet the debt
service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate
of tax shall state the rate of the tax or the rate of the
increase; the purpose or purposes for which it is to be levied;
the number of years for which it is to be levied or that it is for
a continuing period of time; the allocation method required by
division (C) of this section; and if required to be submitted to
the electors of the county under division (A) of this section, the
date of the election at which the proposal shall be submitted to
the electors of the county, which shall be not less than ninety
days after the certification of a copy of the resolution to the
board of elections and, if the tax is to be levied exclusively for
the purpose set forth in division (A)(3) of this section, shall
not occur in February or August of any year. Upon certification of
the resolution to the board of elections, the board of county

commissioners shall notify the tax commissioner in writing of the 3914
levy question to be submitted to the electors. If approved by a 3915
majority of the electors, the tax shall become effective on the 3916
first day of a calendar quarter next following the sixty-fifth day 3917
following the date the board of county commissioners and tax 3918
commissioner receive from the board of elections the certification 3919
of the results of the election, except as provided in division (E) 3920
of this section. 3921

(2)(a) A resolution specifying that the tax is to be used 3922
exclusively for the purpose set forth in division (A)(3) of this 3923
section that is not adopted as an emergency measure may direct the 3924
board of elections to submit the question of levying the tax or 3925
increasing the rate of the tax to the electors of the county at a 3926
special election held on the date specified by the board of county 3927
commissioners in the resolution, provided that the election occurs 3928
not less than ninety days after the resolution is certified to the 3929
board of elections and the election is not held in February or 3930
August of any year. Upon certification of the resolution to the 3931
board of elections, the board of county commissioners shall notify 3932
the tax commissioner in writing of the levy question to be 3933
submitted to the electors. No resolution adopted under division 3934
(D)(2)(a) of this section shall go into effect unless approved by 3935
a majority of those voting upon it and, except as provided in 3936
division (E) of this section, not until the first day of a 3937
calendar quarter following the expiration of sixty-five days from 3938
the date the tax commissioner receives notice from the board of 3939
elections of the affirmative vote. 3940

(b) A resolution specifying that the tax is to be used 3941
exclusively for the purpose set forth in division (A)(3) of this 3942
section that is adopted as an emergency measure shall become 3943
effective as provided in division (A) of this section, but may 3944
direct the board of elections to submit the question of repealing 3945

the tax or increase in the rate of the tax to the electors of the 3946
county at the next general election in the county occurring not 3947
less than ninety days after the resolution is certified to the 3948
board of elections. Upon certification of the resolution to the 3949
board of elections, the board of county commissioners shall notify 3950
the tax commissioner in writing of the levy question to be 3951
submitted to the electors. The ballot question shall be the same 3952
as that prescribed in section 5739.022 of the Revised Code. The 3953
board of elections shall notify the board of county commissioners 3954
and the tax commissioner of the result of the election immediately 3955
after the result has been declared. If a majority of the qualified 3956
electors voting on the question of repealing the tax or increase 3957
in the rate of the tax vote for repeal of the tax or repeal of the 3958
increase, the board of county commissioners, on the first day of a 3959
calendar quarter following the expiration of sixty-five days after 3960
the date the board and tax commissioner received notice of the 3961
result of the election, shall, in the case of a repeal of the tax, 3962
cease to levy the tax, or, in the case of a repeal of an increase 3963
in the rate of the tax, cease to levy the increased rate and levy 3964
the tax at the rate at which it was imposed immediately prior to 3965
the increase in rate. 3966

(c) A board of county commissioners, by resolution, may 3967
reduce the rate of a tax levied exclusively for the purpose set 3968
forth in division (A)(3) of this section to a lower rate 3969
authorized by this section. Any such reduction shall be made 3970
effective on the first day of the calendar quarter next following 3971
the sixty-fifth day after the tax commissioner receives a 3972
certified copy of the resolution from the board. 3973

(E) If a vendor ~~that is registered with the central~~ 3974
~~electronic registration system provided for in section 5740.05 of~~ 3975
~~the Revised Code~~ makes a sale in this state by printed catalog and 3976
the consumer computed the tax on the sale based on local rates 3977

published in the catalog, any tax levied or repealed or rate 3978
changed under this section shall not apply to such a sale until 3979
the first day of a calendar quarter following the expiration of 3980
one hundred twenty days from the date of notice by the tax 3981
commissioner pursuant to division (G) of this section. 3982

(F) The tax levied pursuant to this section shall be in 3983
addition to the tax levied by section 5739.02 of the Revised Code 3984
and any tax levied pursuant to section 5739.021 or 5739.023 of the 3985
Revised Code. 3986

A county that levies a tax pursuant to this section shall 3987
levy a tax at the same rate pursuant to section 5741.023 of the 3988
Revised Code. 3989

The additional tax levied by the county shall be collected 3990
pursuant to section 5739.025 of the Revised Code. 3991

Any tax levied pursuant to this section is subject to the 3992
exemptions provided in section 5739.02 of the Revised Code and in 3993
addition shall not be applicable to sales not within the taxing 3994
power of a county under the Constitution of the United States or 3995
the Ohio Constitution. 3996

(G) Upon receipt from a board of county commissioners of a 3997
certified copy of a resolution required by division (A) of this 3998
section, or from the board of elections a notice of the results of 3999
an election required by division (D)(1), (2)(a), (b), or (c) of 4000
this section, the tax commissioner shall provide notice of a tax 4001
rate change in a manner that is reasonably accessible to all 4002
affected vendors. The commissioner shall provide this notice at 4003
least sixty days prior to the effective date of the rate change. 4004
The commissioner, by rule, may establish the method by which 4005
notice will be provided. 4006

Sec. 5739.04. If modification of a county's jurisdictional 4007

boundaries or a transit authority's territory results in a change 4008
in the tax rate levied under section 5739.021, 5739.023, or 4009
5739.026 of the Revised Code, the tax commissioner, within thirty 4010
days of such change, shall notify any vendor ~~that is registered~~ 4011
~~with the central electronic registration system provided for in~~ 4012
~~section 5740.05 of the Revised Code~~ or the vendor's certified 4013
service provider, if the vendor has selected one, of such change. 4014
The rate change shall not apply to sales made by such vendor until 4015
the first day of a calendar quarter following the expiration of 4016
sixty days from the date of notice by the ~~tax~~ commissioner. 4017

Sec. 5739.17. (A) No person shall engage in making retail 4018
sales subject to a tax imposed by or pursuant to section 5739.02, 4019
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 4020
without having a license therefor, except as otherwise provided in 4021
divisions (A)(1), (2), and (3) of this section. 4022

(1) In the dissolution of a partnership by death, the 4023
surviving partner may operate under the license of the partnership 4024
for a period of sixty days. 4025

(2) The heirs or legal representatives of deceased persons, 4026
and receivers and trustees in bankruptcy, appointed by any 4027
competent authority, may operate under the license of the person 4028
so succeeded in possession. 4029

(3) Two or more persons who are not partners may operate a 4030
single place of business under one license. In such case neither 4031
the retirement of any such person from business at that place of 4032
business, nor the entrance of any person, under an existing 4033
arrangement, shall affect the license or require the issuance of a 4034
new license, unless the person retiring from the business is the 4035
individual named on the vendor's license. 4036

Except as otherwise provided in this section, each applicant 4037
for a license shall make out and deliver to the county auditor of 4038

each county in which the applicant desires to engage in business, 4039
upon a blank to be furnished by such auditor for that purpose, a 4040
statement showing the name of the applicant, each place of 4041
business in the county where the applicant will make retail sales, 4042
the nature of the business, and any other information the tax 4043
commissioner reasonably prescribes in the form of a statement 4044
prescribed by the commissioner. 4045

At the time of making the application, the applicant shall 4046
pay into the county treasury a license fee in the sum of 4047
twenty-five dollars for each fixed place of business in the county 4048
that will be the situs of retail sales. Upon receipt of the 4049
application and exhibition of the county treasurer's receipt, 4050
showing the payment of the license fee, the county auditor shall 4051
issue to the applicant a license for each fixed place of business 4052
designated in the application, authorizing the applicant to engage 4053
in business at that location. ~~If~~ 4054

(B) If a vendor's identity changes, the vendor shall apply 4055
for a new license. If a vendor wishes to move an existing fixed 4056
place of business to a new location within the same county, the 4057
vendor shall obtain a new vendor's license or submit a request to 4058
the ~~tax~~ commissioner to transfer the existing vendor's license to 4059
the new location. When the new location has been verified as being 4060
within the same county, the commissioner shall authorize the 4061
transfer and notify the county auditor of the change of location. 4062
If a vendor wishes to move an existing fixed place of business to 4063
another county, the vendor's license shall not transfer and the 4064
vendor shall obtain a new vendor's license from the county in 4065
which the business is to be located. The form of the license shall 4066
be prescribed by the commissioner. The fees collected shall be 4067
credited to the general fund of the county. If a vendor fails to 4068
notify the commissioner of a change of location of its fixed place 4069
of business or that its business has closed, the commissioner may 4070

cancel the vendor's license if ordinary mail sent to the location 4071
shown on the license is returned because of an undeliverable 4072
address. 4073

(C) The ~~tax~~ commissioner may establish or participate in a 4074
registration system whereby any vendor may obtain a vendor's 4075
license by submitting to the commissioner a vendor's license 4076
application and a license fee of twenty-five dollars for each 4077
fixed place of business at which the vendor intends to make retail 4078
sales. Under this registration system, the commissioner shall 4079
issue a vendor's license to the applicant on behalf of the county 4080
auditor of the county in which the applicant desires to engage in 4081
business, and shall forward a copy of the application and license 4082
fee to that county. All such license fees received by the 4083
commissioner for the issuance of vendor's licenses shall be 4084
deposited into the vendor's license application fund, which is 4085
hereby created in the state treasury. The commissioner shall 4086
certify to the director of budget and management within ten 4087
business days after the close of a month the license fees to be 4088
transmitted to each county from the vendor's license application 4089
fund for vendor's license applications received by the 4090
commissioner during that month. License fees transmitted to a 4091
county for which payment was not received by the commissioner may 4092
be netted against a future distribution to that county, including 4093
distributions made pursuant to section 5739.21 of the Revised 4094
Code. 4095

A vendor that makes retail sales subject to tax under Chapter 4096
5739. of the Revised Code pursuant to a permit issued by the 4097
division of liquor control shall obtain a vendor's license in the 4098
identical name and for the identical address as shown on the 4099
permit. 4100

Except as otherwise provided in this section, if a vendor has 4101
no fixed place of business and sells from a vehicle, each vehicle 4102

intended to be used within a county constitutes a place of 4103
business for the purpose of this section. 4104

~~(B)~~(D) As used in this ~~division~~ section, "transient vendor" 4105
means any person who makes sales of tangible personal property 4106
from vending machines located on land owned by others, who leases 4107
titled motor vehicles, titled watercraft, or titled outboard 4108
motors, who effectuates leases that are taxed according to 4109
division (A)(2) of section 5739.02 of the Revised Code, or who, in 4110
the usual course of the person's business, transports inventory, 4111
stock of goods, or similar tangible personal property to a 4112
temporary place of business or temporary exhibition, show, fair, 4113
flea market, or similar event in a county in which the person has 4114
no fixed place of business, for the purpose of making retail sales 4115
of such property. A "temporary place of business" means any public 4116
or quasi-public place including, but not limited to, a hotel, 4117
rooming house, storeroom, building, part of a building, tent, 4118
vacant lot, railroad car, or motor vehicle that is temporarily 4119
occupied for the purpose of making retail sales of goods to the 4120
public. A place of business is not temporary if the same person 4121
conducted business at the place continuously for more than six 4122
months or occupied the premises as the person's permanent 4123
residence for more than six months, or if the person intends it to 4124
be a fixed place of business. 4125

Any transient vendor, in lieu of obtaining a vendor's license 4126
under division (A) of this section for counties in which the 4127
transient vendor has no fixed place of business, may apply to the 4128
tax commissioner, on a form prescribed by the commissioner, for a 4129
transient vendor's license. The transient vendor's license 4130
authorizes the transient vendor to make retail sales in any county 4131
in which the transient vendor does not maintain a fixed place of 4132
business. Any holder of a transient vendor's license shall not be 4133
required to obtain a separate vendor's license from the county 4134

auditor in that county. Upon the commissioner's determination that 4135
an applicant is a transient vendor, the applicant shall pay a 4136
license fee in the amount of twenty-five dollars, at which time 4137
the tax commissioner shall issue the license. The tax commissioner 4138
may require a vendor to be licensed as a transient vendor if, in 4139
the opinion of the commissioner, such licensing is necessary for 4140
the efficient administration of the tax. 4141

Any holder of a valid transient vendor's license may make 4142
retail sales at a temporary place of business or temporary 4143
exhibition, show, fair, flea market, or similar event, held 4144
anywhere in the state without complying with any provision of 4145
section 311.37 of the Revised Code. Any holder of a valid vendor's 4146
license may make retail sales as a transient vendor at a temporary 4147
place of business or temporary exhibition, show, fair, flea 4148
market, or similar event held in any county in which the vendor 4149
maintains a fixed place of business for which the vendor holds a 4150
vendor's license without obtaining a transient vendor's license. 4151

~~(C) As used in this division, "service vendor" means any 4152
person who, in the usual course of the person's business, sells 4153
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 4154
(k), (l), (m), (p), or (t) of section 5739.01 of the Revised Code. 4155~~

~~Every service vendor shall make application to the tax 4156
commissioner for a service vendor's license. Each applicant shall 4157
pay a license fee in the amount of twenty five dollars. Upon the 4158
commissioner's determination that an applicant is a service vendor 4159
and payment of the fee, the commissioner shall issue the applicant 4160
a service vendor's license. 4161~~

~~Only sales described in division (B)(3)(e), (f), (g), (h), 4162
(i), (j), (k), (l), (m), (p), or (t) of section 5739.01 of the 4163
Revised Code may be made under authority of a service vendor's 4164
license, and that license authorizes sales to be made at any place 4165
in this state. Any service vendor who makes sales of other 4166~~

~~services or tangible personal property subject to the sales tax 4167
also shall be licensed under division (A), (B), or (D) of this 4168
section. 4169~~

~~(D) As used in this division, "delivery vendor" means any 4170
vendor who engages in one or more of the activities described in 4171
divisions (D)(1) to (4) of this section, and who maintains no 4172
store, showroom, or similar fixed place of business or other 4173
location where merchandise regularly is offered for sale or 4174
displayed or shown in catalogs for selection or pick-up by 4175
consumers, or where consumers bring goods for repair or other 4176
service. 4177~~

~~(1) The vendor makes retail sales of tangible personal 4178
property; 4179~~

~~(2) The vendor rents or leases, at retail, tangible personal 4180
property, except titled motor vehicles, titled watercraft, or 4181
titled outboard motors; 4182~~

~~(3) The vendor provides a service, at retail, described in 4183
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 4184
Revised Code; or 4185~~

~~(4) The vendor makes retail sales of warranty, maintenance or 4186
service contracts, or similar agreements as described in division 4187
(B)(7) of section 5739.01 of the Revised Code. 4188~~

~~A transient vendor or a seller registered pursuant to section 4189
5741.17 of the Revised Code is not a delivery vendor. 4190~~

~~Delivery vendors shall apply to the tax commissioner, on a 4191
form prescribed by the commissioner, for a delivery vendor's 4192
license. Each applicant shall pay a license fee of twenty five 4193
dollars for each delivery vendor's license, to be credited to the 4194
general revenue fund. Upon the commissioner's determination that 4195
the applicant is a delivery vendor, the commissioner shall issue 4196
the license. A delivery vendor's license authorizes retail sales 4197~~

~~to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.~~

(E) Any ~~transient~~ vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the ~~transient~~ vendor. ~~Every~~

(F) No owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall fail to keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the ~~tax~~ commissioner.

(G) The commissioner may issue additional types of licenses if required to efficiently administer the tax imposed by this chapter.

Sec. 5741.08. If modification of a county's jurisdictional boundaries or a transit authority's territory results in a change in the tax rate levied under section 5741.021, 5741.022, or 5741.023 of the Revised Code, the tax commissioner, within thirty days of such change, shall notify any seller ~~that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code~~ or the seller's certified service provider, if the seller has selected one, of such change. The rate change shall not apply until the first day of a calendar quarter following the expiration of sixty days from the date of

notice by the ~~tax~~ commissioner. 4229

Sec. 5743.20. No person shall sell any cigarettes both as a 4230
retail dealer and as a wholesale dealer at the same place of 4231
business. No person other than a licensed wholesale dealer shall 4232
sell cigarettes to a licensed retail dealer. No retail dealer 4233
shall purchase cigarettes from any person other than a licensed 4234
wholesale dealer. 4235

Subject to section 5743.031 of the Revised Code, a licensed 4236
wholesale dealer may not sell cigarettes to any person in this 4237
state other than a licensed retail dealer, except a licensed 4238
wholesale dealer may sell cigarettes to another licensed wholesale 4239
dealer if the tax commissioner has authorized the sale of the 4240
cigarettes between those wholesale dealers and the wholesale 4241
dealer that sells the cigarettes received them directly from a 4242
licensed manufacturer or licensed importer. 4243

The tax commissioner shall adopt rules governing sales of 4244
cigarettes between licensed wholesale dealers, including rules 4245
establishing criteria for authorizing such sales. 4246

No manufacturer or importer shall sell cigarettes to any 4247
person in this state other than to a licensed wholesale dealer or 4248
licensed importer. No importer shall purchase cigarettes from any 4249
person other than a licensed manufacturer or licensed importer. 4250

A retail dealer may purchase other tobacco products only from 4251
a licensed distributor. A licensed distributor may sell tobacco 4252
products only to a retail dealer, except a licensed distributor 4253
may sell tobacco products to another licensed distributor if the 4254
tax commissioner has authorized the sale of the tobacco products 4255
between those distributors and the distributor that sells the 4256
tobacco products received them directly from a manufacturer or 4257
importer of tobacco products. 4258

The tax commissioner may adopt rules governing sales of 4259
tobacco products between licensed distributors, including rules 4260
establishing criteria for authorizing such sales. 4261

The identities of cigarette manufacturers and importers, 4262
licensed cigarette wholesalers, licensed distributors of other 4263
tobacco products, and registered manufacturers, and importers, ~~and~~ 4264
~~brokers~~ of other tobacco products are subject to public 4265
disclosure. The tax commissioner shall maintain an alphabetical 4266
list of all such manufacturers, importers, wholesalers, and 4267
distributors, ~~and brokers~~, shall post the list on a web site 4268
accessible to the public through the internet, and shall 4269
periodically update the web site posting. 4270

As used in this section, "licensed" means the manufacturer, 4271
importer, wholesale dealer, or distributor holds a current and 4272
valid license issued under section 5743.15 or 5743.61 of the 4273
Revised Code, and "registered" means registered with the ~~tax~~ 4274
commissioner under section 5743.66 of the Revised Code. 4275

Sec. 5743.61. (A) Except as otherwise provided in this 4276
division, no distributor shall engage in the business of 4277
distributing tobacco products within this state without having a 4278
license issued by the department of taxation to engage in that 4279
business. On the dissolution of a partnership by death, the 4280
surviving partner may operate under the license of the partnership 4281
until the expiration of the license, and the heirs or legal 4282
representatives of deceased persons, and receivers and trustees in 4283
bankruptcy appointed by any competent authority, may operate under 4284
the license of the person succeeded in possession by the heir, 4285
representative, receiver, or trustee in bankruptcy if the partner 4286
or successor notifies the department of taxation of the 4287
dissolution or succession within thirty days after the dissolution 4288
or succession. 4289

(B)(1) Each applicant for a license to engage in the business of distributing tobacco products, annually, on or before the first day of February, shall make and deliver to the tax commissioner, upon a form furnished by the commissioner for that purpose, a statement showing the name of the applicant, each physical place from which the applicant distributes to distributors, retail dealers, or wholesale dealers, and any other information the commissioner considers necessary for the administration of sections 5743.51 to 5743.66 of the Revised Code.

(2) At the time of making the license application, the applicant shall pay an application fee of one thousand dollars for each place listed on the application where the applicant proposes to carry on that business. The fee charged for the application shall accompany the application and shall be made payable to the treasurer of state for deposit into the cigarette tax enforcement fund.

(3) Upon receipt of the application and payment of any licensing fee required by this section, the commissioner shall issue to the applicant a license for each place of distribution designated in the application authorizing the applicant to engage in business at that location for one year commencing on the first day of February. For licenses issued after the first day of February, the license application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars. If the original license is lost, destroyed, or defaced, a duplicate license may be obtained from the commissioner upon payment of a license replacement fee of twenty-five dollars.

(C) The holder of a tobacco products license may transfer the license to a place of business on condition that the licensee's ownership and business structure remains unchanged and the

licensee applies to the commissioner for the transfer on a form 4322
issued by the commissioner, and pays a transfer fee of twenty-five 4323
dollars. 4324

(D) If a distributor fails to file forms as required under 4325
Chapter 1346. or section 5743.52 of the Revised Code or pay the 4326
tax due for two consecutive periods or three periods during any 4327
twelve-month period, the commissioner may suspend the license 4328
issued to the distributor under this section. The suspension is 4329
effective ten days after the commissioner notifies the distributor 4330
of the suspension in writing personally or by certified mail. The 4331
commissioner shall lift the suspension when the distributor files 4332
the delinquent forms and pays the tax due, including any 4333
penalties, interest, and additional charges. The commissioner may 4334
refuse to issue the annual renewal of the license required by this 4335
section and may refuse to issue a new license for the same 4336
location until all delinquent forms are filed and outstanding 4337
taxes are paid. This division does not apply to any unpaid or 4338
underpaid tax liability that is the subject of a petition or 4339
appeal filed pursuant to section 5743.56, 5717.02, or 5717.04 of 4340
the Revised Code. 4341

(E)(1) The tax commissioner may impose a penalty of up to one 4342
thousand dollars on any person found to be engaging in the 4343
business of distributing tobacco products without a license as 4344
required by this section. 4345

(2) Any person engaging in the business of distributing 4346
tobacco products without a license as required by this section 4347
shall comply with divisions (B)(1) and (2) of this section within 4348
ten days after being notified of the requirement to do so. Failure 4349
to comply with division (E)(2) of this section subjects a person 4350
to penalties imposed under section 5743.99 of the Revised Code. 4351

Sec. 5743.66. (A) Each manufacturer, or importer, ~~or broker~~ 4352

of tobacco products shall register with the tax commissioner 4353
before it sells or distributes tobacco products to distributors in 4354
this state, and, upon the request of the ~~tax~~ commissioner, shall 4355
provide complete information on sales made to distributors in this 4356
state and a current list of prices charged for tobacco products 4357
sold to distributors in this state. 4358

(B) On or before the last day of each month, every 4359
manufacturer, or importer, ~~or broker~~ of tobacco products shall 4360
file a report with the commissioner listing all sales of tobacco 4361
products to distributors located in this state during the 4362
preceding month and any other information the commissioner finds 4363
necessary for the proper administration of sections 5743.51 to 4364
5743.66 of the Revised Code. 4365

Sec. 5747.082. (A) As used in this section: 4366

(1) "Electronic technology" means electronic technology 4367
acceptable to the tax commissioner under division (B) of this 4368
section. 4369

(2) "Original tax return" means any report, return, or other 4370
tax document required to be filed under this chapter for the 4371
purpose of reporting the taxes due under, and withholdings 4372
required by, this chapter. "Original tax return" does not include 4373
an amended return or any declaration or form required by or filed 4374
in connection with section 5747.09 of the Revised Code. 4375

(3) "Related member" has the same meaning as in section 4376
5733.042 of the Revised Code. 4377

(4) "Tax return preparer" means any person that operates a 4378
business that prepares, or directly or indirectly employs another 4379
person to prepare, for a taxpayer an original tax return in 4380
exchange for compensation or remuneration from the taxpayer or the 4381
taxpayer's related member. With respect to the preparation of a 4382

return or application for refund under this chapter, "tax return preparer" does not include an individual who performs only one or more of the following activities:

(a) Furnishes typing, reproducing, or other mechanical assistance;

(b) Prepares an application for refund or a return on behalf of an employer by whom the individual is regularly and continuously employed, or on behalf of an officer or employee of that employer;

(c) Prepares as a fiduciary an application for refund or a return;

(d) Prepares an application for refund or a return for a taxpayer in response to a notice of deficiency issued to the taxpayer or the taxpayer's related member, or in response to a waiver of restriction after the commencement of an audit of the taxpayer or the taxpayer's related member.

(B) Divisions (C) and (D) of this section apply to the filing of original tax returns that are due in a calendar year only if the tax commissioner, by the last day of the calendar year immediately preceding the calendar year in which such returns are due, has published on the department of taxation's official internet web site at least one method of electronic technology acceptable to the commissioner for filing such returns.

(C) A tax return preparer that prepares more than seventy-five original tax returns during any calendar year that ~~begins on or after January 1, 2008~~ ends before January 1, 2013, or that prepares more than eleven original tax returns during any calendar year that begins on or after January 1, 2013, shall ~~beginning January 1, 2010,~~ use electronic technology to file with the tax commissioner all original tax returns prepared by the tax return preparer. This division does not apply to a tax return

preparer ~~for a~~ in any calendar year that ends before January 1, 4414
2013, if, during the previous calendar year, the tax return 4415
preparer prepared no more than twenty-five original tax returns. 4416
This division does not apply to a tax return preparer in any 4417
calendar year that begins on or after January 1, 2013, if, during 4418
the previous calendar year, the tax return preparer prepared not 4419
more than ten original tax returns. 4420

(D) If a tax return preparer required by this section to 4421
submit original tax returns by electronic technology files an 4422
original tax return by some means other than by electronic 4423
technology, the tax commissioner shall impose a penalty of fifty 4424
dollars for each return, in excess of seventy-five in a calendar 4425
year 2010, 2011, or 2012, or in excess of eleven in any calendar 4426
year thereafter, that is not filed by electronic technology. Upon 4427
good cause shown by the tax return preparer, the tax commissioner 4428
may waive all or any portion of the penalty or may refund all or 4429
any portion of the penalty the tax return preparer has paid. 4430

Sec. 5747.11. (A) The tax commissioner shall refund to 4431
employers, qualifying entities, or taxpayers, with respect to any 4432
tax imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 4433
5748. of the Revised Code: 4434

(1) Overpayments of more than one dollar; 4435

(2) Amounts in excess of one dollar paid illegally or 4436
erroneously; 4437

(3) Amounts in excess of one dollar paid on an illegal, 4438
erroneous, or excessive assessment. 4439

(B) Except as otherwise provided under divisions ~~(D)~~(E) and 4440
~~(E)~~(F) of this section, applications for refund shall be filed 4441
with the tax commissioner, on the form prescribed by the 4442
commissioner, within four years from the date of the illegal, 4443

erroneous, or excessive payment of the tax, or within any 4444
additional period allowed by division (B)(3)(b) of section 4445
5747.05, division (B) of section 5747.10, division (A) of section 4446
5747.13, or division (C) of section 5747.45 of the Revised Code. 4447

On filing of the refund application, the commissioner shall 4448
determine the amount of refund due and certify such amount to the 4449
director of budget and management and treasurer of state for 4450
payment from the tax refund fund created by section 5703.052 of 4451
the Revised Code. Payment shall be made as provided in division 4452
(C) of section 126.35 of the Revised Code. 4453

(C) If a taxpayer claims a refundable credit against the tax 4454
imposed under section 5747.02 of the Revised Code, any payment 4455
that is refunded to the taxpayer as a result of the allowance of 4456
the credit shall not be considered an illegal, erroneous, or 4457
excessive payment for purposes of division (B) of this section. No 4458
interest shall be allowed on an amount refunded to a taxpayer to 4459
the extent that the refund results from the allowance of a 4460
refundable credit. 4461

(D)(1) Interest shall be allowed and paid upon any illegal or 4462
erroneous assessment in excess of one dollar in respect of the tax 4463
imposed under section 5747.02 or Chapter 5748. of the Revised Code 4464
at the rate per annum prescribed by section 5703.47 of the Revised 4465
Code from the date of the payment of the illegal or erroneous 4466
assessment until the date the refund of such amount is paid. If 4467
such refund results from the filing of a return or report, or the 4468
payment accompanying such return or report, by an employer or 4469
taxpayer, rather than from an assessment by the commissioner, such 4470
interest shall run from a period ninety days after the final 4471
filing date of the annual return until the date the refund is 4472
paid. 4473

(2) Interest shall be allowed and paid at the rate per annum 4474
prescribed by section 5703.47 of the Revised Code upon any 4475

overpayment in excess of one dollar in respect of the tax imposed 4476
under section 5747.02 or Chapter 5748. of the Revised Code from 4477
the date of the overpayment until the date of the refund of the 4478
overpayment, except that if any overpayment is refunded within 4479
ninety days after the final filing date of the annual return or 4480
ninety days after the return is filed, whichever is later, no 4481
interest shall be allowed on such overpayment. If the overpayment 4482
results from the carryback of a net operating loss or net capital 4483
loss to a previous taxable year, the overpayment is deemed not to 4484
have been made prior to the filing date, including any extension 4485
thereof, for the taxable year in which the net operating loss or 4486
net capital loss arises. For purposes of the payment of interest 4487
on overpayments, no amount of tax, for any taxable year, shall be 4488
treated as having been paid before the date on which the tax 4489
return for that year was due without regard to any extension of 4490
time for filing such return. 4491

(3) Interest shall be allowed at the rate per annum 4492
prescribed by section 5703.47 of the Revised Code on amounts 4493
refunded with respect to the taxes imposed under sections 5733.41 4494
and 5747.41 of the Revised Code. The interest shall run from 4495
whichever of the following days is the latest until the day the 4496
refund is paid: the day the illegal, erroneous, or excessive 4497
payment was made; the ninetieth day after the final day the annual 4498
report was required to be filed under section 5747.42 of the 4499
Revised Code; or the ninetieth day after the day that report was 4500
filed. 4501

~~(D)~~(4) If an amount refunded with respect to any tax imposed 4502
under section 5733.41, 5747.02, or 5747.41 or Chapter 5748. of the 4503
Revised Code results from the filing of an amended return or 4504
report, or the payment accompanying an amended return or report, 4505
by an employer or taxpayer, interest on the amount refunded shall 4506
run from the date the amended return or report was filed, as 4507

determined under division (H) of section 5747.08 of the Revised Code, until the date the refund is paid. 4508
4509

(E) "Ninety days" shall be substituted for "four years" in 4510
division (B) of this section if the taxpayer satisfies both of the 4511
following conditions: 4512

(1) The taxpayer has applied for a refund based in whole or 4513
in part upon section 5747.059 of the Revised Code; 4514

(2) The taxpayer asserts that either the imposition or 4515
collection of the tax imposed or charged by this chapter or any 4516
portion of such tax violates the Constitution of the United States 4517
or the Constitution of Ohio. 4518

~~(E)~~(F)(1) Division ~~(E)~~(F)(2) of this section applies only if 4519
all of the following conditions are satisfied: 4520

(a) A qualifying entity pays an amount of the tax imposed by 4521
section 5733.41 or 5747.41 of the Revised Code; 4522

(b) The taxpayer is a qualifying investor as to that 4523
qualifying entity; 4524

(c) The taxpayer did not claim the credit provided for in 4525
section 5747.059 of the Revised Code as to the tax described in 4526
division ~~(E)~~(F)(1)(a) of this section; 4527

(d) The four-year period described in division (B) of this 4528
section has ended as to the taxable year for which the taxpayer 4529
otherwise would have claimed that credit. 4530

(2) A taxpayer shall file an application for refund pursuant 4531
to division ~~(E)~~(F) of this section within one year after the date 4532
the payment described in division ~~(E)~~(F)(1)(a) of this section is 4533
made. An application filed under division ~~(E)~~(F)(2) of this 4534
section shall claim refund only of overpayments resulting from the 4535
taxpayer's failure to claim the credit described in division 4536
~~(E)~~(F)(1)(c) of this section. Nothing in division ~~(E)~~(F) of this 4537

section shall be construed to relieve a taxpayer from complying 4538
with division (A)(16) of section 5747.01 of the Revised Code. 4539

Sec. 5751.01. As used in this chapter: 4540

(A) "Person" means, but is not limited to, individuals, 4541
combinations of individuals of any form, receivers, assignees, 4542
trustees in bankruptcy, firms, companies, joint-stock companies, 4543
business trusts, estates, partnerships, limited liability 4544
partnerships, limited liability companies, associations, joint 4545
ventures, clubs, societies, for-profit corporations, S 4546
corporations, qualified subchapter S subsidiaries, qualified 4547
subchapter S trusts, trusts, entities that are disregarded for 4548
federal income tax purposes, and any other entities. 4549

(B) "Consolidated elected taxpayer" means a group of two or 4550
more persons treated as a single taxpayer for purposes of this 4551
chapter as the result of an election made under section 5751.011 4552
of the Revised Code. 4553

(C) "Combined taxpayer" means a group of two or more persons 4554
treated as a single taxpayer for purposes of this chapter under 4555
section 5751.012 of the Revised Code. 4556

(D) "Taxpayer" means any person, or any group of persons in 4557
the case of a consolidated elected taxpayer or combined taxpayer 4558
treated as one taxpayer, required to register or pay tax under 4559
this chapter. "Taxpayer" does not include excluded persons. 4560

(E) "Excluded person" means any of the following: 4561

(1) Any person with not more than one hundred fifty thousand 4562
dollars of taxable gross receipts during the calendar year. 4563
Division (E)(1) of this section does not apply to a person that is 4564
a member of a consolidated elected taxpayer; 4565

(2) A public utility that paid the excise tax imposed by 4566
section 5727.24 or 5727.30 of the Revised Code based on one or 4567

more measurement periods that include the entire tax period under 4568
this chapter, except that a public utility that is a combined 4569
company is a taxpayer with regard to the following gross receipts: 4570

(a) Taxable gross receipts directly attributed to a public 4571
utility activity, but not directly attributed to an activity that 4572
is subject to the excise tax imposed by section 5727.24 or 5727.30 4573
of the Revised Code; 4574

(b) Taxable gross receipts that cannot be directly attributed 4575
to any activity, multiplied by a fraction whose numerator is the 4576
taxable gross receipts described in division (E)(2)(a) of this 4577
section and whose denominator is the total taxable gross receipts 4578
that can be directly attributed to any activity; 4579

(c) Except for any differences resulting from the use of an 4580
accrual basis method of accounting for purposes of determining 4581
gross receipts under this chapter and the use of the cash basis 4582
method of accounting for purposes of determining gross receipts 4583
under section 5727.24 of the Revised Code, the gross receipts 4584
directly attributed to the activity of a natural gas company shall 4585
be determined in a manner consistent with division (D) of section 4586
5727.03 of the Revised Code. 4587

As used in division (E)(2) of this section, "combined 4588
company" and "public utility" have the same meanings as in section 4589
5727.01 of the Revised Code. 4590

(3) A financial institution, as defined in section 5725.01 of 4591
the Revised Code, that paid the corporation franchise tax charged 4592
by division (D) of section 5733.06 of the Revised Code based on 4593
one or more taxable years that include the entire tax period under 4594
this chapter; 4595

(4) A dealer in intangibles, as defined in section 5725.01 of 4596
the Revised Code, that paid the dealer in intangibles tax levied 4597
by division (D) of section 5707.03 of the Revised Code based on 4598

one or more measurement periods that include the entire tax period 4599
under this chapter; 4600

(5) A financial holding company as defined in the "Bank 4601
Holding Company Act," 12 U.S.C. 1841(p); 4602

(6) A bank holding company as defined in the "Bank Holding 4603
Company Act," 12 U.S.C. 1841(a); 4604

(7) A savings and loan holding company as defined in the 4605
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 4606
only in activities or investments permissible for a financial 4607
holding company under 12 U.S.C. 1843(k); 4608

(8) A person directly or indirectly owned by one or more 4609
financial institutions, financial holding companies, bank holding 4610
companies, or savings and loan holding companies described in 4611
division (E)(3), (5), (6), or (7) of this section that is engaged 4612
in activities permissible for a financial holding company under 12 4613
U.S.C. 1843(k), except that any such person held pursuant to 4614
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 4615
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 4616
directly or indirectly owned by one or more insurance companies 4617
described in division (E)(9) of this section that is authorized to 4618
do the business of insurance in this state. 4619

For the purposes of division (E)(8) of this section, a person 4620
owns another person under the following circumstances: 4621

(a) In the case of corporations issuing capital stock, one 4622
corporation owns another corporation if it owns fifty per cent or 4623
more of the other corporation's capital stock with current voting 4624
rights; 4625

(b) In the case of a limited liability company, one person 4626
owns the company if that person's membership interest, as defined 4627
in section 1705.01 of the Revised Code, is fifty per cent or more 4628
of the combined membership interests of all persons owning such 4629

interests in the company; 4630

(c) In the case of a partnership, trust, or other 4631
unincorporated business organization other than a limited 4632
liability company, one person owns the organization if, under the 4633
articles of organization or other instrument governing the affairs 4634
of the organization, that person has a beneficial interest in the 4635
organization's profits, surpluses, losses, or distributions of 4636
fifty per cent or more of the combined beneficial interests of all 4637
persons having such an interest in the organization; 4638

(d) In the case of multiple ownership, the ownership 4639
interests of more than one person may be aggregated to meet the 4640
fifty per cent ownership tests in this division only when each 4641
such owner is described in division (E)(3), (5), (6), or (7) of 4642
this section and is engaged in activities permissible for a 4643
financial holding company under 12 U.S.C. 1843(k) or is a person 4644
directly or indirectly owned by one or more insurance companies 4645
described in division (E)(9) of this section that is authorized to 4646
do the business of insurance in this state. 4647

(9) A domestic insurance company or foreign insurance 4648
company, as defined in section 5725.01 of the Revised Code, that 4649
paid the insurance company premiums tax imposed by section 5725.18 4650
or Chapter 5729. of the Revised Code based on one or more 4651
measurement periods that include the entire tax period under this 4652
chapter; 4653

(10) A person that solely facilitates or services one or more 4654
securitizations or similar transactions for any person described 4655
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 4656
For purposes of this division, "securitization" means transferring 4657
one or more assets to one or more persons and then issuing 4658
securities backed by the right to receive payment from the asset 4659
or assets so transferred. 4660

(11) Except as otherwise provided in this division, a 4661
pre-income tax trust as defined in division (FF)(4) of section 4662
5747.01 of the Revised Code and any pass-through entity of which 4663
such pre-income tax trust owns or controls, directly, indirectly, 4664
or constructively through related interests, more than five per 4665
cent of the ownership or equity interests. If the pre-income tax 4666
trust has made a qualifying pre-income tax trust election under 4667
division (FF)(3) of section 5747.01 of the Revised Code, then the 4668
trust and the pass-through entities of which it owns or controls, 4669
directly, indirectly, or constructively through related interests, 4670
more than five per cent of the ownership or equity interests, 4671
shall not be excluded persons for purposes of the tax imposed 4672
under section 5751.02 of the Revised Code. 4673

(12) Nonprofit organizations or the state and its agencies, 4674
instrumentalities, or political subdivisions. 4675

(F) Except as otherwise provided in divisions (F)(2), (3), 4676
and (4) of this section, "gross receipts" means the total amount 4677
realized by a person, without deduction for the cost of goods sold 4678
or other expenses incurred, ~~that contributes to the production of~~ 4679
~~gross income of the person,~~ including the fair market value of any 4680
property and any services received, and any debt transferred or 4681
forgiven as consideration. 4682

(1) The following are examples of gross receipts: 4683

(a) Amounts realized from the sale, exchange, or other 4684
disposition of the taxpayer's property to or with another; 4685

(b) Amounts realized from the taxpayer's performance of 4686
services for another; 4687

(c) Amounts realized from another's use or possession of the 4688
taxpayer's property or capital; 4689

(d) Any combination of the foregoing amounts. 4690

(2) "Gross receipts" excludes the following amounts:	4691
(a) Interest income except interest on credit sales;	4692
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	4693 4694 4695 4696
(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.	4697 4698 4699 4700 4701 4702 4703 4704 4705 4706 4707 4708 4709 4710 4711 4712 4713 4714
(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;	4715 4716 4717
(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;	4718 4719 4720
(f) Contributions received by a trust, plan, or other	4721

arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and 4753
reimbursements for the tax imposed under this chapter made by 4754
entities that are part of the same combined taxpayer or 4755
consolidated elected taxpayer group, and reimbursements made by 4756
entities that are not members of a combined taxpayer or 4757
consolidated elected taxpayer group that are required to be made 4758
for economic parity among multiple owners of an entity whose tax 4759
obligation under this chapter is required to be reported and paid 4760
entirely by one owner, pursuant to the requirements of sections 4761
5751.011 and 5751.012 of the Revised Code; 4762

(n) Pension reversions; 4763

(o) Contributions to capital; 4764

(p) Sales or use taxes collected as a vendor or an 4765
out-of-state seller on behalf of the taxing jurisdiction from a 4766
consumer or other taxes the taxpayer is required by law to collect 4767
directly from a purchaser and remit to a local, state, or federal 4768
tax authority; 4769

(q) In the case of receipts from the sale of cigarettes or 4770
tobacco products by a wholesale dealer, retail dealer, 4771
distributor, manufacturer, or seller, all as defined in section 4772
5743.01 of the Revised Code, an amount equal to the federal and 4773
state excise taxes paid by any person on or for such cigarettes or 4774
tobacco products under subtitle E of the Internal Revenue Code or 4775
Chapter 5743. of the Revised Code; 4776

(r) In the case of receipts from the sale of motor fuel by a 4777
licensed motor fuel dealer, licensed retail dealer, or licensed 4778
permissive motor fuel dealer, all as defined in section 5735.01 of 4779
the Revised Code, an amount equal to federal and state excise 4780
taxes paid by any person on such motor fuel under section 4081 of 4781
the Internal Revenue Code or Chapter 5735. of the Revised Code; 4782

(s) In the case of receipts from the sale of beer or 4783

intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by

the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all

warehouses or other similar facilities that are operated by 4847
persons in the same taxpayer group and that are located within one 4848
mile of each other shall be treated as one qualified distribution 4849
center. 4850

(IV) "Qualifying year" means the calendar year to which the 4851
qualifying certificate applies. 4852

(V) "Qualifying period" means the period of the first day of 4853
July of the second year preceding the qualifying year through the 4854
thirtieth day of June of the year preceding the qualifying year. 4855

(VI) "Qualifying certificate" means the certificate issued by 4856
the tax commissioner after the operator of a distribution center 4857
files an annual application with the commissioner. The application 4858
and annual fee shall be filed and paid for each qualified 4859
distribution center on or before the first day of September before 4860
the qualifying year or within forty-five days after the 4861
distribution center opens, whichever is later. 4862

The applicant must substantiate to the commissioner's 4863
satisfaction that, for the qualifying period, all persons 4864
operating the distribution center have more than fifty per cent of 4865
the cost of the qualified property shipped to a location such that 4866
it would be situated outside this state under the provisions of 4867
division (E) of section 5751.033 of the Revised Code. The 4868
applicant must also substantiate that the distribution center 4869
cumulatively had costs from its suppliers equal to or exceeding 4870
five hundred million dollars during the qualifying period. (For 4871
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 4872
excludes any person that is part of the consolidated elected 4873
taxpayer group, if applicable, of the operator of the qualified 4874
distribution center.) The commissioner may require the applicant 4875
to have an independent certified public accountant certify that 4876
the calculation of the minimum thresholds required for a qualified 4877
distribution center by the operator of a distribution center has 4878

been made in accordance with generally accepted accounting 4879
principles. The commissioner shall issue or deny the issuance of a 4880
certificate within sixty days after the receipt of the 4881
application. A denial is subject to appeal under section 5717.02 4882
of the Revised Code. If the operator files a timely appeal under 4883
section 5717.02 of the Revised Code, the operator shall be granted 4884
a qualifying certificate, provided that the operator is liable for 4885
any tax, interest, or penalty upon amounts claimed as qualifying 4886
distribution center receipts, other than those receipts exempt 4887
under division (C)(1) of section 5751.011 of the Revised Code, 4888
that would have otherwise not been owed by its suppliers if the 4889
qualifying certificate was valid. 4890

(VII) "Ohio delivery percentage" means the proportion of the 4891
total property delivered to a destination inside Ohio from the 4892
qualified distribution center during the qualifying period 4893
compared with total deliveries from such distribution center 4894
everywhere during the qualifying period. 4895

(ii) If the distribution center is new and was not open for 4896
the entire qualifying period, the operator of the distribution 4897
center may request that the commissioner grant a qualifying 4898
certificate. If the certificate is granted and it is later 4899
determined that more than fifty per cent of the qualified property 4900
during that year was not shipped to a location such that it would 4901
be situated outside of this state under the provisions of division 4902
(E) of section 5751.033 of the Revised Code or if it is later 4903
determined that the person that operates the distribution center 4904
had average monthly costs from its suppliers of less than forty 4905
million dollars during that year, then the operator of the 4906
distribution center shall be liable for any tax, interest, or 4907
penalty upon amounts claimed as qualifying distribution center 4908
receipts, other than those receipts exempt under division (C)(1) 4909
of section 5751.011 of the Revised Code, that would have not 4910

otherwise been owed by its suppliers during the qualifying year if 4911
the qualifying certificate was valid. (For purposes of division 4912
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 4913
is part of the consolidated elected taxpayer group, if applicable, 4914
of the operator of the qualified distribution center.) 4915

(iii) When filing an application for a qualifying certificate 4916
under division (F)(2)(z)(i)(VI) of this section, the operator of a 4917
qualified distribution center also shall provide documentation, as 4918
the commissioner requires, for the commissioner to ascertain the 4919
Ohio delivery percentage. The commissioner, upon issuing the 4920
qualifying certificate, also shall certify the Ohio delivery 4921
percentage. The operator of the qualified distribution center may 4922
appeal the commissioner's certification of the Ohio delivery 4923
percentage in the same manner as an appeal is taken from the 4924
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 4925
of this section. 4926

Within thirty days after all appeals have been exhausted, the 4927
operator of the qualified distribution center shall notify the 4928
affected suppliers of qualified property that such suppliers are 4929
required to file, within sixty days after receiving notice from 4930
the operator of the qualified distribution center, amended reports 4931
for the impacted calendar quarter or quarters or calendar year, 4932
whichever the case may be. Any additional tax liability or tax 4933
overpayment shall be subject to interest but shall not be subject 4934
to the imposition of any penalty so long as the amended returns 4935
are timely filed. The supplier of tangible personal property 4936
delivered to the qualified distribution center shall include in 4937
its report of taxable gross receipts the receipts from the total 4938
sales of property delivered to the qualified distribution center 4939
for the calendar quarter or calendar year, whichever the case may 4940
be, multiplied by the Ohio delivery percentage for the qualifying 4941
year. Nothing in division (F)(2)(z)(iii) of this section shall be 4942

construed as imposing liability on the operator of a qualified 4943
distribution center for the tax imposed by this chapter arising 4944
from any change to the Ohio delivery percentage. 4945

(iv) In the case where the distribution center is new and not 4946
open for the entire qualifying period, the operator shall make a 4947
good faith estimate of an Ohio delivery percentage for use by 4948
suppliers in their reports of taxable gross receipts for the 4949
remainder of the qualifying period. The operator of the facility 4950
shall disclose to the suppliers that such Ohio delivery percentage 4951
is an estimate and is subject to recalculation. By the due date of 4952
the next application for a qualifying certificate, the operator 4953
shall determine the actual Ohio delivery percentage for the 4954
estimated qualifying period and proceed as provided in division 4955
(F)(2)(z)(iii) of this section with respect to the calculation and 4956
recalculation of the Ohio delivery percentage. The supplier is 4957
required to file, within sixty days after receiving notice from 4958
the operator of the qualified distribution center, amended reports 4959
for the impacted calendar quarter or quarters or calendar year, 4960
whichever the case may be. Any additional tax liability or tax 4961
overpayment shall be subject to interest but shall not be subject 4962
to the imposition of any penalty so long as the amended returns 4963
are timely filed. 4964

(v) Qualifying certificates and Ohio delivery percentages 4965
issued by the commissioner shall be open to public inspection and 4966
shall be timely published by the commissioner. A supplier relying 4967
in good faith on a certificate issued under this division shall 4968
not be subject to tax on the qualifying distribution center 4969
receipts under division (F)(2)(z) of this section. A person 4970
receiving a qualifying certificate is responsible for paying the 4971
tax, interest, and penalty upon amounts claimed as qualifying 4972
distribution center receipts that would not otherwise have been 4973
owed by the supplier if the qualifying certificate were available 4974

when it is later determined that the qualifying certificate should 4975
not have been issued because the statutory requirements were in 4976
fact not met. 4977

(vi) The annual fee for a qualifying certificate shall be one 4978
hundred thousand dollars for each qualified distribution center. 4979
If a qualifying certificate is not issued, the annual fee is 4980
subject to refund after the exhaustion of all appeals provided for 4981
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 4982
under this division may be assessed in the same manner as the tax 4983
imposed under this chapter. The first one hundred thousand dollars 4984
of the annual application fees collected each calendar year shall 4985
be credited to the ~~commercial activity tax administrative~~ revenue
enhancement fund. The remainder of the annual application fees 4986
collected shall be distributed in the same manner required under 4987
section 5751.20 of the Revised Code. 4988
4989

(vii) The tax commissioner may require that adequate security 4990
be posted by the operator of the distribution center on appeal 4991
when the commissioner disagrees that the applicant has met the 4992
minimum thresholds for a qualified distribution center as set 4993
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 4994
section. 4995

(aa) Receipts of an employer from payroll deductions relating 4996
to the reimbursement of the employer for advancing moneys to an 4997
unrelated third party on an employee's behalf; 4998

(bb) Cash discounts allowed and taken; 4999

(cc) Returns and allowances; 5000

(dd) Bad debts from receipts on the basis of which the tax 5001
imposed by this chapter was paid in a prior quarterly tax payment 5002
period. For the purpose of this division, "bad debts" means any 5003
debts that have become worthless or uncollectible between the 5004
preceding and current quarterly tax payment periods, have been 5005

uncollected for at least six months, and that may be claimed as a 5006
deduction under section 166 of the Internal Revenue Code and the 5007
regulations adopted under that section, or that could be claimed 5008
as such if the taxpayer kept its accounts on the accrual basis. 5009
"Bad debts" does not include repossessed property, uncollectible 5010
amounts on property that remains in the possession of the taxpayer 5011
until the full purchase price is paid, or expenses in attempting 5012
to collect any account receivable or for any portion of the debt 5013
recovered; 5014

(ee) Any amount realized from the sale of an account 5015
receivable to the extent the receipts from the underlying 5016
transaction giving rise to the account receivable were included in 5017
the gross receipts of the taxpayer; 5018

(ff) Any receipts directly attributed to providing public 5019
services pursuant to sections 126.60 to 126.605 of the Revised 5020
Code, or any receipts directly attributed to a transfer agreement 5021
or to the enterprise transferred under that agreement under 5022
section 4313.02 of the Revised Code. 5023

~~(gg) Any receipts for which the tax imposed by this chapter 5024
is prohibited by the Constitution or laws of the United States or 5025
the Constitution of Ohio. 5026~~

~~(hh)~~(i) As used in this division: 5027

(I) "Qualified uranium receipts" means receipts from the 5028
sale, exchange, lease, loan, production, processing, or other 5029
disposition of uranium within a uranium enrichment zone certified 5030
by the tax commissioner under division ~~(F)(2)(hh)(ii)~~ 5031
(F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does 5032
not include any receipts with a situs in this state outside a 5033
uranium enrichment zone certified by the tax commissioner under 5034
division ~~(F)(2)(hh)(ii)~~ (F)(2)(gg)(ii) of this section. 5035

(II) "Uranium enrichment zone" means all real property that 5036

is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division ~~(F)(2)(hh)~~ (F)(2)(gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division ~~(F)(2)(hh)~~ (F)(2)(gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

~~(ii)~~(hh) Amounts realized by licensed motor fuel dealers or licensed permissive motor fuel dealers from the exchange of petroleum products, including motor fuel, between such dealers, provided that delivery of the petroleum products occurs at a

refinery, terminal, pipeline, or marine vessel and that the 5069
exchanging dealers agree neither dealer shall require monetary 5070
compensation from the other for the value of the exchanged 5071
petroleum products other than such compensation for differences in 5072
product location or grade. Division ~~(F)(2)(ii)~~ (F)(2)(hh) of this 5073
section does not apply to amounts realized as a result of 5074
differences in location or grade of exchanged petroleum products 5075
or from handling, lubricity, dye, or other additive injections 5076
fees, pipeline security fees, or similar fees. As used in this 5077
division, "motor fuel," "licensed motor fuel dealer," "licensed 5078
permissive motor fuel dealer," and "terminal" have the same 5079
meanings as in section 5735.01 of the Revised Code. 5080

~~(hh)~~(ii) In the case of amounts collected by a licensed 5081
casino operator from casino gaming, amounts in excess of the 5082
casino operator's gross casino revenue. In this division, "casino 5083
operator" and "casino gaming" have the meanings defined in section 5084
3772.01 of the Revised Code, and "gross casino revenue" has the 5085
meaning defined in section 5753.01 of the Revised Code. 5086

(jj) Any receipts for which the tax imposed by this chapter 5087
is prohibited by the constitution or laws of the United States or 5088
the constitution of this state. 5089

(3) In the case of a taxpayer when acting as a real estate 5090
broker, "gross receipts" includes only the portion of any fee for 5091
the service of a real estate broker, or service of a real estate 5092
salesperson associated with that broker, that is retained by the 5093
broker and not paid to an associated real estate salesperson or 5094
another real estate broker. For the purposes of this division, 5095
"real estate broker" and "real estate salesperson" have the same 5096
meanings as in section 4735.01 of the Revised Code. 5097

(4) A taxpayer's method of accounting for gross receipts for 5098
a tax period shall be the same as the taxpayer's method of 5099
accounting for federal income tax purposes for the taxpayer's 5100

federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

(1) Owns or uses a part or all of its capital in this state;

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;

(3) Has bright-line presence in this state;

(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work

done in this state; and 5131

(c) Any amount the person pays for services performed in this 5132
state on its behalf by another. 5133

(3) Has during the calendar year taxable gross receipts of at 5134
least five hundred thousand dollars. 5135

(4) Has at any time during the calendar year within this 5136
state at least twenty-five per cent of the person's total 5137
property, total payroll, or total gross receipts. 5138

(5) Is domiciled in this state as an individual or for 5139
corporate, commercial, or other business purposes. 5140

(J) "Tangible personal property" has the same meaning as in 5141
section 5739.01 of the Revised Code. 5142

(K) "Internal Revenue Code" means the Internal Revenue Code 5143
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 5144
this chapter that is not otherwise defined has the same meaning as 5145
when used in a comparable context in the laws of the United States 5146
relating to federal income taxes unless a different meaning is 5147
clearly required. Any reference in this chapter to the Internal 5148
Revenue Code includes other laws of the United States relating to 5149
federal income taxes. 5150

(L) "Calendar quarter" means a three-month period ending on 5151
the thirty-first day of March, the thirtieth day of June, the 5152
thirtieth day of September, or the thirty-first day of December. 5153

(M) "Tax period" means the calendar quarter or calendar year 5154
on the basis of which a taxpayer is required to pay the tax 5155
imposed under this chapter. 5156

(N) "Calendar year taxpayer" means a taxpayer for which the 5157
tax period is a calendar year. 5158

(O) "Calendar quarter taxpayer" means a taxpayer for which 5159
the tax period is a calendar quarter. 5160

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments;

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;

(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;

(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:

(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related

interests, by common owners during all or any portion of the tax 5191
period, together with the common owners. 5192

A group making its initial election on the basis of the 5193
eighty per cent ownership test may change its election so that its 5194
consolidated elected taxpayer group is formed on the basis of the 5195
fifty per cent ownership test if all of the following are 5196
satisfied: 5197

(a) When the initial election was made, the group did not 5198
have any persons satisfying the fifty per cent ownership test; 5199

(b) One or more of the persons in the initial group 5200
subsequently acquires ownership interests in a person such that 5201
the fifty per cent ownership test is satisfied, the eighty per 5202
cent ownership test is not satisfied, and the acquired person 5203
would be required to be included in a combined taxpayer group 5204
under section 5751.012 of the Revised Code; 5205

(c) The group requests the change in ~~a written request~~ 5206
writing to the ~~tax~~ commissioner ~~on or before the due date for~~ 5207
~~filing the first return due under section 5751.051 of the Revised~~ 5208
~~Code after the date of the acquisition as required by division (D)~~ 5209
of this section; 5210

(d) The group has not previously changed its election. 5211

At the election of the group, all entities that are not 5212
incorporated or formed under the laws of a state or of the United 5213
States and that meet the consolidated elected ownership test shall 5214
either be included in the group or all shall be excluded from the 5215
group. If, at the time of registration, the group does not include 5216
any such entities that meet the consolidated elected ownership 5217
test, the group shall elect to either include or exclude the newly 5218
acquired entities before the due date of the first return due 5219
after the date of the acquisition. 5220

~~Each group shall notify the tax commissioner of the foregoing~~ 5221

~~elections before the due date of the return for the period in~~ 5222
~~which the election becomes binding.~~ If fifty per cent of the value 5223
of a person's ownership interests is owned or controlled by each 5224
of two consolidated elected taxpayer groups formed under the fifty 5225
per cent ownership or control test, that person is a member of 5226
each group for the purposes of this section, and each group shall 5227
include in the group's taxable gross receipts fifty per cent of 5228
that person's taxable gross receipts. Otherwise, all of that 5229
person's taxable gross receipts shall be included in the taxable 5230
gross receipts of the consolidated elected taxpayer group of which 5231
the person is a member. In no event shall the ownership or control 5232
of fifty per cent of the value of a person's ownership interests 5233
by two otherwise unrelated groups form the basis for consolidating 5234
the groups into a single consolidated elected taxpayer group or 5235
permit any exclusion under division (C) of this section of taxable 5236
gross receipts between members of the two groups. Division (A)(3) 5237
of this section applies with respect to the elections described in 5238
this division. 5239

(2) The group makes the election to be treated as a 5240
consolidated elected taxpayer in the manner prescribed under 5241
division (D) of this section. 5242

(3) Subject to review and audit by the tax commissioner, the 5243
group agrees that all of the following apply: 5244

(a) The group shall file reports as a single taxpayer for at 5245
least the next eight calendar quarters following the election so 5246
long as at least two or more of the members of the group meet the 5247
requirements of division (A)(1) of this section. 5248

(b) Before the expiration of the eighth such calendar 5249
quarter, the group shall notify the commissioner if it elects to 5250
cancel its designation as a consolidated elected taxpayer. If the 5251
group does not so notify the tax commissioner, the election 5252
remains in effect for another eight calendar quarters. 5253

(c) If, at any time during any of those eight calendar 5254
quarters following the election, a former member of the group no 5255
longer meets the requirements under division (A)(1) of this 5256
section, that member shall report and pay the tax imposed under 5257
this chapter separately, as a member of a combined taxpayer, or, 5258
if the former member satisfies such requirements with respect to 5259
another consolidated elected group, as a member of that 5260
consolidated elected group. 5261

(d) The group agrees to the application of division (B) of 5262
this section. 5263

(B) A group of persons making the election under this section 5264
shall report and pay tax on all of the group's taxable gross 5265
receipts even if substantial nexus with this state does not exist 5266
for one or more persons in the group. 5267

(C)(1)(a) Members of a consolidated elected taxpayer group 5268
shall exclude gross receipts among persons included in the 5269
consolidated elected taxpayer group. 5270

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 5271
section, nothing in this section shall have the effect of 5272
requiring a consolidated elected taxpayer group to include gross 5273
receipts received by a person enumerated in divisions (E)(2) to 5274
(10) of section 5751.01 of the Revised Code if that person is a 5275
member of the group pursuant to the elections made by the group 5276
under division (A)(1) of this section. 5277

(c)(i) As used in division (C)(1)(c) of this section, "dealer 5278
transfer" means a transfer of property that satisfies both of the 5279
following: (I) the property is directly transferred by any means 5280
from one member of the group to another member of the group that 5281
is a dealer in intangibles but is not a qualifying dealer as 5282
defined in section 5707.031 of the Revised Code; and (II) the 5283
property is subsequently delivered by the dealer in intangibles to 5284

a person that is not a member of the group. 5285

(ii) In the event of a dealer transfer, a consolidated 5286
elected taxpayer group shall not exclude, under division (C) of 5287
this section, gross receipts from the transfer described in 5288
division (C)(1)(c)(i)(I) of this section. 5289

(2) Gross receipts related to the sale or transmission of 5290
electricity through the use of an intermediary regional 5291
transmission organization approved by the federal energy 5292
regulatory commission shall be excluded from taxable gross 5293
receipts under division (C)(1) of this section if all other 5294
requirements of that division are met, even if the receipts are 5295
from and to the same member of the group. 5296

(D) To make the election to be a consolidated elected 5297
taxpayer, a group of persons shall notify the ~~tax~~ commissioner of 5298
the election ~~in the manner prescribed by the commissioner and pay~~ 5299
~~the commissioner a registration fee equal to the lesser of two~~ 5300
~~hundred dollars or twenty dollars for each person in the group. No~~ 5301
~~additional fee shall be imposed for the addition of new members to~~ 5302
~~the group once the group has remitted a fee in the amount of two~~ 5303
~~hundred dollars. The election on a form prescribed by the 5304
commissioner for that purpose, which shall be signed by one or 5305
more individuals with authority, separately or together, to make a 5306
binding election on behalf of all persons in the group. Elections 5307
under division (A) of this section shall be made and the fee paid 5308
on or before the beginning of due date for filing the first 5309
ealendar quarter to which return due after the election applies. 5310
The fee shall be collected and used in the same manner as provided 5311
in section 5751.04 of the Revised Code. 5312~~

~~The election shall be made on a form prescribed by the tax 5313
commissioner for that purpose and shall be signed by one or more 5314
individuals with authority, separately or together, to make a 5315
binding election on behalf of all persons in the group. 5316~~

Any person acquired or formed after the filing of the 5317
registration shall be included in the group if the person meets 5318
the requirements of division (A)(1) of this section, and the group 5319
shall notify the ~~tax~~ commissioner of any additions to the group 5320
~~with the next tax return it files with~~ on a form prescribed by the 5321
commissioner for such purpose. 5322

Sec. 5751.012. (A) All persons, other than persons enumerated 5323
in divisions (E)(2) to (10) of section 5751.01 of the Revised 5324
Code, having more than fifty per cent of the value of their 5325
ownership interest owned or controlled, directly or constructively 5326
through related interests, by common owners during all or any 5327
portion of the tax period, together with the common owners, shall 5328
be members of a combined taxpayer group if those persons are not 5329
members of a consolidated elected taxpayer group pursuant to an 5330
election under section 5751.011 of the Revised Code. 5331

(B) A combined taxpayer group shall register, file returns, 5333
and pay taxes under this chapter as a single taxpayer- 5334

~~(C) A combined taxpayer and~~ shall neither exclude taxable 5335
gross receipts between its members nor from others that are not 5336
members. 5337

~~(D) A combined taxpayer shall pay to the tax commissioner a~~ 5338
~~registration fee equal to the lesser of two hundred dollars or~~ 5339
~~twenty dollars for each person in the group. No additional fee~~ 5340
~~shall be imposed for the addition of new members to the group once~~ 5341
~~the group has remitted a fee in the amount of two hundred dollars.~~ 5342
~~The fee shall be timely paid before the later of the beginning of~~ 5343
~~the first calendar quarter or November 15, 2005. The fee shall be~~ 5344
~~collected and used in the same manner as provided in section~~ 5345
~~5751.04 of the Revised Code.~~ 5346

(C) Any person acquired or formed after the filing of the 5347

registration shall be included in the group if the person meets 5348
the requirements of division (A) of this section, and the group 5349
must notify the ~~tax~~ commissioner of any additions ~~with the next~~ 5350
~~quarterly tax return it files with~~ to the group on a form 5351
prescribed by the commissioner for such purpose. 5352

Sec. 5751.03. (A) Except as provided in ~~divisions~~ division 5353
(B) ~~and (D)~~ of this section and in ~~sections~~ section 5751.031 ~~and~~ 5354
~~5751.032~~ of the Revised Code, the tax levied under this section 5355
for each tax period shall be the product of two and six-tenths 5356
mills per dollar times the remainder of the taxpayer's taxable 5357
gross receipts for the tax period after subtracting the exclusion 5358
amount provided for in division (C) of this section. 5359

(B) Notwithstanding division (C) of this section, the tax on 5360
the first one million dollars in taxable gross receipts each 5361
calendar year shall be one hundred fifty dollars. ~~For calendar~~ 5362
~~year 2006, the tax imposed under this division shall be paid not~~ 5363
~~later than May 10, 2006, by both calendar year taxpayers and~~ 5364
~~calendar quarter taxpayers. For calendar years 2007, 2008, and~~ 5365
~~2009, the tax imposed under this division shall be paid with the~~ 5366
~~fourth quarter tax return or annual tax return for the prior~~ 5367
~~calendar year by both calendar year taxpayers and calendar quarter~~ 5368
~~taxpayers. For calendar years 2010 and thereafter, the~~ The tax 5369
imposed under this division shall be paid not later than the tenth 5370
day of May of each year along with the first quarter or annual tax 5371
return, as applicable. 5372

(C)(1) Each ~~calendar quarter~~ taxpayer may exclude the first 5373
~~two hundred fifty thousand~~ one million dollars of taxable gross 5374
receipts for a calendar ~~quarter~~ year. Calendar quarter taxpayers 5375
may apply the full exclusion amount to the first calendar quarter 5376
return the taxpayer files that calendar year and may carry forward 5377
and apply any unused exclusion amount to ~~the three~~ subsequent 5378

calendar quarters within that same calendar year. ~~Each calendar~~ 5379
~~year taxpayer may exclude the first one million dollars of taxable~~ 5380
~~gross receipts for a calendar year.~~ 5381

(2) A taxpayer switching from a calendar year tax period to a 5382
calendar quarter tax period may, for the first quarter of the 5383
change, apply the ~~prior calendar quarter~~ full one-million-dollar 5384
~~exclusion amounts amount~~ to the first calendar quarter return the 5385
taxpayer files that calendar year. Such taxpayers may carry 5386
forward and apply any unused exclusion amount to subsequent 5387
calendar quarters within that same calendar year. The tax rate 5388
shall be based on the rate imposed that calendar quarter when the 5389
taxpayer switches from a calendar year to a calendar quarter tax 5390
period. 5391

~~(D) There is hereby allowed a credit against the tax imposed~~ 5392
~~under this chapter for each of the following calendar years if a~~ 5393
~~transfer was made in the preceding calendar year from the general~~ 5394
~~revenue fund to the commercial activity tax refund fund under~~ 5395
~~division (D) of section 5751.032 of the Revised Code: calendar~~ 5396
~~years 2008, 2010, and 2012. The credit is allowed for taxpayers~~ 5397
~~that paid in full the tax imposed under this chapter for the~~ 5398
~~calendar year in which the transfer was made. The amount of a~~ 5399
~~taxpayer's credit equals the amount computed under division (D) of~~ 5400
~~section 5751.032 of the Revised Code~~ (3) A taxpayer shall not 5401
exclude more than one million dollars pursuant to division (C) of 5402
this section in a calendar year. 5403

Sec. 5751.04. (A) As used in this section, "person" includes 5404
a reporting person. 5405

(B) Not later than thirty days after a person first has more 5406
than one hundred fifty thousand dollars in taxable gross receipts 5407
in a calendar year, each person subject to this chapter shall 5408
register with the tax commissioner on the form prescribed by the 5409

commissioner. The form shall include the following:	5410
(1) The person's name;	5411
(2) If applicable, the name of the state or country under the laws of which the person is incorporated;	5412 5413
(3) If applicable, the location of a person's principal office and the name and address of the officer or agent of the corporation in charge of the business;	5414 5415 5416
(4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each;	5417 5418 5419 5420
(5) <u>The person's primary address;</u>	5421
(3) The kind of business in which the person is engaged, including applicable business or industry codes <u>for the person;</u>	5422 5423
(6) If required by the tax commissioner, the date of the beginning of the person's annual accounting period that includes the first day of January of the taxable calendar year;	5424 5425 5426
(7) If the person is not a corporation or a sole proprietor, the names of the person's owners and officers, if required by the tax commissioner;	5427 5428 5429
(8)(4) <u>The person's federal employer identification number or numbers or, if those are not applicable, the person's social security number or equivalent, as applicable;</u>	5430 5431 5432
(9)(5) <u>The person's organizational type;</u>	5433
(6) <u>The date the person is first subject to the tax imposed by this chapter;</u>	5434 5435
(7) <u>The names, addresses, federal identification numbers or social security numbers or equivalents, and organization types of each member that is commonly owned in a consolidated elected</u>	5436 5437 5438

taxpayer or combined taxpayer group; 5439

(8) All other information that the commissioner requires to 5440
administer and enforce this chapter. 5441

~~(C) Except as otherwise provided in this division, each 5442
person registering with the tax commissioner as required by 5443
division (B) of this section shall pay a registration fee. The fee 5444
shall be in the amount of fifteen dollars if a person registers 5445
electronically and twenty dollars if a person does not register 5446
electronically. The registration fee shall be paid in the manner 5447
prescribed by the tax commissioner at the same time the 5448
registration is due if a person is subject to the tax imposed 5449
under this chapter before January 1, 2006. If a person first 5450
becomes subject to the tax after that date, the registration fee 5451
is payable with the first tax period return the person is required 5452
to file as prescribed by section 5751.051 of the Revised Code. If 5453
(1) To help defray the costs of administering the tax imposed by 5454
this chapter, the commissioner shall collect a registration fee in 5455
the amount of twenty dollars per person up to a maximum of two 5456
hundred dollars per consolidated elected taxpayer or combined 5457
taxpayer group. The commissioner shall systematically deduct and 5458
collect the fee from the first tax payment each taxpayer makes 5459
after registering or adding members, as applicable. No separate 5460
registration fee may be collected in addition to the tax imposed 5461
by this chapter. 5462~~

(2) If a person does not register within the time prescribed 5463
by this section, an additional fee is imposed in the amount of one 5464
hundred dollars per month or part thereof that the fee is 5465
outstanding, not to exceed one thousand dollars. The tax 5466
commissioner may abate the additional fee. The fee imposed under 5467
this division may be assessed in the same manner as the tax 5468
imposed under this chapter. Proceeds 5469

(D) Proceeds from the fee imposed under division (C) of this 5470

~~section~~ shall be credited to the ~~commercial activity tax~~ 5471
~~administrative revenue enhancement~~ fund, which is hereby created 5472
in the state treasury ~~for the commissioner to use in implementing~~ 5473
~~and administering the tax imposed under this chapter.~~ 5474

~~Registration fees paid under this section, excluding any~~ 5475
~~additional fee imposed for a person's failure to timely register,~~ 5476
~~shall be credited against the first payment of tax payable under~~ 5477
~~section 5751.03 of the Revised Code.~~ 5478

~~(D)(E)~~ If a person that has registered under this section is 5479
no longer a taxpayer subject to this chapter, ~~including no longer~~ 5480
~~being a taxpayer because of the application of division (E)(1) of~~ 5481
~~section 5751.01 of the Revised Code,~~ the person shall notify the 5482
commissioner that the person's registration should be cancelled. 5483

~~(E)(F)~~ With respect to registrations received by the 5484
commissioner before ~~the effective date of the amendment of this~~ 5485
~~section by the main operating appropriations act of the 128th~~ 5486
~~general assembly October 16, 2009,~~ the taxpayer listed as the 5487
primary taxpayer on the registration shall be the reporting person 5488
until the taxpayer notifies the commissioner otherwise. 5489

Sec. 5751.05. (A) If a person subject to this chapter 5490
anticipates that the person's taxable gross receipts will be more 5491
than one million dollars in a calendar year, the person shall 5492
notify the tax commissioner on the person's initial registration 5493
form and file on a quarterly basis as a calendar quarter taxpayer. 5494
Any taxpayer with taxable gross receipts of one million dollars or 5495
less shall register as a calendar year taxpayer and shall file 5496
annually. 5497

(B) Any person that is a calendar year taxpayer under 5498
division (A) of this section shall become a calendar quarter 5499
taxpayer in the subsequent calendar year if the person's taxable 5500
gross receipts for the prior calendar year are more than one 5501

million dollars, and shall remain a calendar quarter taxpayer 5502
until the person notifies the ~~tax~~ commissioner, and receives 5503
approval in writing from the ~~tax~~ commissioner, to switch back to 5504
being a calendar year taxpayer. ~~Nothing in this division prohibits~~ 5505
~~a person that has elected to be a calendar year taxpayer from~~ 5506
~~notifying the tax commissioner, using the procedures prescribed by~~ 5507
~~the commissioner, that it is switching back to being a calendar~~ 5508
~~quarter taxpayer.~~ 5509

(C) ~~Any taxpayer that is not a calendar quarter taxpayer~~ 5510
~~pursuant to this section is a calendar year taxpayer.~~ The 5511
commissioner may grant written approval for a calendar quarter 5512
taxpayer to use an alternative reporting schedule or estimate the 5513
amount of tax due for a calendar quarter if the taxpayer 5514
demonstrates to the commissioner the need for such a deviation. 5515
The commissioner may adopt a rule to apply division (C) of this 5516
section to a group of taxpayers without the taxpayers having to 5517
receive written approval from the commissioner. 5518

Sec. 5751.051. (A)(1) Not later than the tenth day of the 5519
second month after the end of each calendar quarter, every 5520
taxpayer other than a calendar year taxpayer shall file with the 5521
tax commissioner a tax return in such form as the commissioner 5522
prescribes. The return shall include, but is not limited to, the 5523
amount of the taxpayer's taxable gross receipts for the calendar 5524
quarter and shall indicate the amount of tax due under section 5525
5751.03 of the Revised Code for the calendar quarter. 5526

(2)(a) Subject to division (C) of section 5751.05 of the 5527
Revised Code, a calendar quarter taxpayer shall report the taxable 5528
gross receipts for that calendar quarter. 5529

(b) With respect to taxable gross receipts incorrectly 5530
reported in a calendar quarter that has a lower tax rate, the tax 5531
shall be computed at the tax rate in effect for the quarterly 5532

return in which such receipts should have been reported. Nothing 5533
in division (A)(2)(b) of this section prohibits a taxpayer from 5534
filing an application for refund under section 5751.08 of the 5535
Revised Code with regard to the incorrect reporting of taxable 5536
gross receipts discovered after filing the annual return described 5537
in division (A)(3) of this section. 5538

A tax return shall not be deemed to be an incorrect reporting 5539
of taxable gross receipts for the purposes of division (A)(2)(b) 5540
of this section if the return reflects between ninety-five and one 5541
hundred five per cent of the actual taxable gross receipts for the 5542
calendar quarter. 5543

(3) For the purposes of division (A)(2)(b) of this section, 5544
the tax return filed for the fourth calendar quarter of a calendar 5545
year is the annual return for the privilege tax imposed by this 5546
chapter. Such return shall report any additional taxable gross 5547
receipts not previously reported in the calendar year and shall 5548
adjust for any over-reported taxable gross receipts in the 5549
calendar year. If the taxpayer ceases to be a taxpayer before the 5550
end of the calendar year, the last return the taxpayer is required 5551
to file shall be the annual return for the taxpayer and the 5552
taxpayer shall report any additional taxable gross receipts not 5553
previously reported in the calendar year and shall adjust for any 5554
over-reported taxable gross receipts in the calendar year. 5555

(4) Because the tax imposed by this chapter is a privilege 5556
tax, the tax rate with respect to taxable gross receipts for a 5557
calendar quarter is not fixed until the end of the measurement 5558
period for each calendar quarter. Subject to division (A)(2)(b) of 5559
this section, the total amount of taxable gross receipts reported 5560
for a given calendar quarter shall be subject to the tax rate in 5561
effect in that quarter. 5562

(5) Not later than the tenth day of May following the end of 5563
each calendar year, every calendar year taxpayer shall file with 5564

the tax commissioner a tax return in such form as the commissioner 5565
prescribes. The return shall include, but is not limited to, the 5566
amount of the taxpayer's taxable gross receipts for the calendar 5567
year and shall indicate the amount of tax due under section 5568
5751.03 of the Revised Code for the calendar year. 5569

(B)(1) A person that first becomes subject to the tax imposed 5570
under this chapter shall pay the minimum tax imposed under 5571
division (B) of section 5751.03 of the Revised Code ~~along with the~~ 5572
~~registration fee imposed under this section, if applicable,~~ on or 5573
before the day the return is required to be filed for that quarter 5574
under division (A)(1) of this section, regardless of whether the 5575
person ~~elects to be~~ registers as a calendar year taxpayer under 5576
section 5751.05 of the Revised Code. 5577

(2) The amount of the minimum tax for a person subject to 5578
division (B)(1) of this section shall be reduced to seventy-five 5579
dollars if the registration is timely filed after the first day of 5580
May and before the first day of January of the following calendar 5581
year. 5582

Sec. 5751.08. (A) An application for refund to the taxpayer 5583
of the amount of taxes imposed under this chapter that are 5584
overpaid, paid illegally or erroneously, or paid on any illegal or 5585
erroneous assessment shall be filed by the reporting person with 5586
the tax commissioner, on the form prescribed by the commissioner, 5587
within four years after the date of the illegal or erroneous 5588
payment of the tax, or within any additional period allowed under 5589
division (F) of section 5751.09 of the Revised Code. The applicant 5590
shall provide the amount of the requested refund along with the 5591
claimed reasons for, and documentation to support, the issuance of 5592
a refund. 5593

(B) On the filing of the refund application, the tax 5594
commissioner shall determine the amount of refund to which the 5595

applicant is entitled. If the amount is not less than that 5596
claimed, the commissioner shall certify the amount to the director 5597
of budget and management and treasurer of state for payment from 5598
the tax refund fund created under section 5703.052 of the Revised 5599
Code. If the amount is less than that claimed, the commissioner 5600
shall proceed in accordance with section 5703.70 of the Revised 5601
Code. 5602

(C) ~~Interest~~ Except as provided in division (F) of this 5603
section, interest on a refund applied for under this section, 5604
computed at the rate provided for in section 5703.47 of the 5605
Revised Code, shall be allowed from the later of the date the tax 5606
was paid or when the tax payment was due. 5607

(D) A calendar quarter taxpayer with more than one million 5608
dollars in taxable gross receipts in a calendar year other than 5609
calendar year 2005 and that is not able to exclude one million 5610
dollars in taxable gross receipts because of the operation of the 5611
taxpayer's business in that calendar year may file for a refund 5612
under this section to obtain the full exclusion of one million 5613
dollars in taxable gross receipts for that calendar year. 5614

(E) Except as provided in section 5751.081 of the Revised 5615
Code, the tax commissioner may, with the consent of the taxpayer, 5616
provide for the crediting against tax due for a tax year the 5617
amount of any refund due the taxpayer under this chapter for a 5618
preceding tax year. 5619

(F) If a taxpayer claims a refundable credit against the tax 5620
imposed under section 5751.02 of the Revised Code, any payment 5621
that is refunded to the taxpayer as a result of the allowance of 5622
the credit shall not be considered an illegal, erroneous, or 5623
excessive payment for purposes of division (A) of this section. No 5624
interest shall be allowed on an amount refunded to a taxpayer to 5625
the extent that the refund results from the allowance of a 5626
refundable credit. 5627

Sec. 5751.12. The tax commissioner may prescribe requirements 5628
for the keeping of records and other pertinent documents, the 5629
filing of copies of federal income tax returns and determinations, 5630
and computations reconciling federal income tax returns with the 5631
returns and reports required by section ~~5751.05~~ 5751.051 of the 5632
Revised Code. The commissioner may require any person, by rule or 5633
notice served on that person, to keep those records that the 5634
commissioner considers necessary to show whether, and the extent 5635
to which, a person is subject to this chapter. Those records and 5636
other documents shall be open during business hours to the 5637
inspection of the commissioner, and shall be preserved for a 5638
period of four years unless the commissioner, in writing, consents 5639
to their destruction within that period, or by order requires that 5640
they be kept longer. If such records are normally kept by the 5641
person electronically, the person shall provide such records to 5642
the commissioner electronically at the commissioner's request. 5643

5644
Any information required by the ~~tax~~ commissioner under this 5645
chapter is confidential as provided for in section 5703.21 of the 5646
Revised Code. However, the commissioner shall make public an 5647
electronic list of all actively registered persons required to 5648
remit the tax under this chapter, including legal names, trade 5649
names, addresses, and account numbers. In addition, such list 5650
shall include all persons that cancelled their registration at any 5651
time during the preceding four calendar years, including the 5652
effective date of the registration was cancelled cancellation. 5653

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 5654
the Revised Code: 5655

(1) "School district," "joint vocational school district," 5656
"local taxing unit," "recognized valuation," "fixed-rate levy," 5657
and "fixed-sum levy" have the same meanings as used in section 5658

5727.84 of the Revised Code. 5659

(2) "State education aid" for a school district means the 5660
following: 5661

(a) For fiscal years prior to fiscal year 2010, the sum of 5662
state aid amounts computed for the district under the following 5663
provisions, as they existed for the applicable fiscal year: 5664
division (A) of section 3317.022 of the Revised Code, including 5665
the amounts calculated under sections 3317.029 and 3317.0217 of 5666
the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of 5667
section 3317.022; divisions (B), (C), and (D) of section 3317.023; 5668
divisions (L) and (N) of section 3317.024; section 3317.0216; and 5669
any unit payments for gifted student services paid under sections 5670
3317.05, 3317.052, and 3317.053 of the Revised Code; except that, 5671
for fiscal years 2008 and 2009, the amount computed for the 5672
district under Section 269.20.80 of H.B. 119 of the 127th general 5673
assembly and as that section subsequently may be amended shall be 5674
substituted for the amount computed under division (D) of section 5675
3317.022 of the Revised Code, and the amount computed under 5676
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 5677
that section subsequently may be amended shall be included. 5678

(b) For fiscal years 2010 and 2011, the sum of the amounts 5679
computed under former sections 3306.052, 3306.12, 3306.13, 5680
3306.19, 3306.191, and 3306.192 of the Revised Code; 5681

(c) For fiscal years 2012 and 2013, the amount paid in 5682
accordance with ~~the section~~ Section 267.30.50 of H.B. 153 of the 5683
129th general assembly entitled "FUNDING FOR CITY, EXEMPTED 5684
VILLAGE, AND LOCAL SCHOOL DISTRICTS." 5685

(3) "State education aid" for a joint vocational school 5686
district means the following: 5687

(a) For fiscal years prior to fiscal year 2010, the sum of 5688
the state aid computed for the district under division (N) of 5689

section 3317.024 and section 3317.16 of the Revised Code, except 5690
that, for fiscal years 2008 and 2009, the amount computed under 5691
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 5692
that section subsequently may be amended shall be included. 5693

(b) For fiscal years 2010 and 2011, the amount paid in 5694
accordance with ~~the section~~ Section 265.30.50 of H.B. 1 of the 5695
128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL 5696
SCHOOL DISTRICTS." 5697

(c) For fiscal years 2012 and 2013, the amount paid in 5698
accordance with ~~the section~~ Section 267.30.60 of H.B. 153 of the 5699
129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL 5700
SCHOOL DISTRICTS." 5701

(4) "State education aid offset" means the amount determined 5702
for each school district or joint vocational school district under 5703
division (A)(1) of section 5751.21 of the Revised Code. 5704

(5) "Machinery and equipment property tax value loss" means 5705
the amount determined under division (C)(1) of this section. 5706

(6) "Inventory property tax value loss" means the amount 5707
determined under division (C)(2) of this section. 5708

(7) "Furniture and fixtures property tax value loss" means 5709
the amount determined under division (C)(3) of this section. 5710

(8) "Machinery and equipment fixed-rate levy loss" means the 5711
amount determined under division (D)(1) of this section. 5712

(9) "Inventory fixed-rate levy loss" means the amount 5713
determined under division (D)(2) of this section. 5714

(10) "Furniture and fixtures fixed-rate levy loss" means the 5715
amount determined under division (D)(3) of this section. 5716

(11) "Total fixed-rate levy loss" means the sum of the 5717
machinery and equipment fixed-rate levy loss, the inventory 5718
fixed-rate levy loss, the furniture and fixtures fixed-rate levy 5719

loss, and the telephone company fixed-rate levy loss.	5720
(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section.	5721 5722
(13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.	5723 5724 5725
(14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.	5726 5727 5728
(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code.	5729 5730 5731
(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.	5732 5733 5734 5735 5736 5737
(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.	5738 5739 5740 5741
(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.	5742 5743
(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.	5744 5745
(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but before the reductions required by sections 319.302 and 323.152 of the Revised Code.	5746 5747 5748 5749

(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero.

(22) "Total resources," in the case of a school district, means the sum of the amounts in divisions (A)(22)(a) to (h) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code, excluding the portion of such payments attributable to levies for joint vocational school district purposes;

(c) The sum of fixed-sum levy loss payments received by the school district in fiscal year 2010 pursuant to division (E)(1) of section 5727.85 and division (E)(1) of section 5751.21 of the Revised Code for fixed-sum levies ~~imposed~~ charged and payable for a purpose other than paying debt charges;

(d) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008, including taxes charged and payable from emergency levies ~~imposed~~ charged and payable under section 5709.194 of the Revised Code and excluding taxes levied for joint vocational school district purposes;

(e) Fifty per cent of the school district's taxes charged and

payable against all property on the tax list of real and public utility property for current expenses for tax year 2009, including taxes charged and payable from emergency levies and excluding taxes levied for joint vocational school district purposes;	5781 5782 5783 5784
(f) The school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009, including taxes charged and payable from emergency levies;	5785 5786 5787 5788
(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;	5789 5790
(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.	5791 5792
(23) "Total resources," in the case of a joint vocational school district, means the sum of amounts in divisions (A)(23)(a) to (g) of this section less any reduction required under division (A)(32) of this section.	5793 5794 5795 5796
(a) The state education aid for fiscal year 2010;	5797
(b) The sum of the payments received by the joint vocational school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code;	5798 5799 5800 5801
(c) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008;	5802 5803 5804 5805
(d) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009;	5806 5807 5808 5809
(e) Fifty per cent of a city, local, or exempted village	5810

school district's taxes charged and payable against all property 5811
on the tax list of real and public utility property for current 5812
expenses of the joint vocational school district for tax year 5813
2008; 5814

(f) Fifty per cent of a city, local, or exempted village 5815
school district's taxes charged and payable against all property 5816
on the tax list of real and public utility property for current 5817
expenses of the joint vocational school district for tax year 5818
2009; 5819

(g) The joint vocational school district's taxes charged and 5820
payable against all property on the general tax list of personal 5821
property for current expenses for tax year 2009. 5822

(24) "Total resources," in the case of county mental health 5823
and disability related functions, means the sum of the amounts in 5824
divisions (A)(24)(a) and (b) of this section less any reduction 5825
required under division (A)(32) of this section. 5826

(a) The sum of the payments received by the county for mental 5827
health and developmental disability related functions in calendar 5828
year 2010 under division (A)(1) of section 5727.86 and ~~division~~ 5829
divisions (A)(1) and (2) of section 5751.22 of the Revised Code as 5830
they existed at that time; 5831

(b) With respect to taxes levied by the county for mental 5832
health and developmental disability related purposes, the taxes 5833
charged and payable for such purposes against all property on the 5834
tax list of real and public utility property for tax year 2009. 5835

(25) "Total resources," in the case of county senior services 5836
related functions, means the sum of the amounts in divisions 5837
(A)(25)(a) and (b) of this section less any reduction required 5838
under division (A)(32) of this section. 5839

(a) The sum of the payments received by the county for senior 5840
services related functions in calendar year 2010 under division 5841

(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(28) "Total resources," in the case of all county functions 5872
not included in divisions (A)(24) to (27) of this section, means 5873
the sum of the amounts in divisions (A)(28)(a) to (d) of this 5874
section less any reduction required under division (A)(32) or (33) 5875
of this section. 5876

(a) The sum of the payments received by the county for all 5877
other purposes in calendar year 2010 under division (A)(1) of 5878
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 5879
the Revised Code as they existed at that time; 5880

(b) The county's percentage share of county undivided local 5881
government fund allocations as certified to the tax commissioner 5882
for calendar year 2010 by the county auditor under division (J) of 5883
section 5747.51 of the Revised Code or division (F) of section 5884
5747.53 of the Revised Code multiplied by the total amount 5885
actually distributed in calendar year 2010 from the county 5886
undivided local government fund; 5887

(c) With respect to taxes levied by the county for all other 5888
purposes, the taxes charged and payable for such purposes against 5889
all property on the tax list of real and public utility property 5890
for tax year 2009, excluding taxes charged and payable for the 5891
purpose of paying debt charges; 5892

(d) The sum of the amounts distributed to the county in 5893
calendar year 2010 for the taxes levied pursuant to sections 5894
5739.021 and 5741.021 of the Revised Code. 5895

(29) "Total resources," in the case of a municipal 5896
corporation, means the sum of the amounts in divisions (A)(29)(a) 5897
to (g) of this section less any reduction required under division 5898
(A)(32) or (33) of this section. 5899

(a) The sum of the payments received by the municipal 5900
corporation in calendar year 2010 for current expense levy losses 5901
under division (A)(1) of section 5727.86 and divisions (A)(1) and 5902

(2) of section 5751.22 of the Revised Code as they existed at that time; 5903
5904

(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund; 5905
5906
5907
5908
5909
5910
5911

(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code; 5912
5913
5914

(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)~~(33)~~(35) of this section, for tax year 2009; 5915
5916
5917
5918
5919

(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner; 5920
5921
5922
5923
5924

(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner; 5925
5926
5927
5928
5929

(g) The municipal corporation's median estate tax collections. 5930
5931

(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section 5932
5933

less any reduction required under division (A)(32) or (33) of this 5934
section. 5935

(a) The sum of the payments received by the township in 5936
calendar year 2010 pursuant to division (A)(1) of section 5727.86 5937
of the Revised Code and divisions (A)(1) and (2) of section 5938
5751.22 of the Revised Code as they existed at that time, 5939
excluding payments received for debt purposes; 5940

(b) The township's percentage share of county undivided local 5941
government fund allocations as certified to the tax commissioner 5942
for calendar year 2010 by the county auditor under division (J) of 5943
section 5747.51 of the Revised Code or division (F) of section 5944
5747.53 of the Revised Code multiplied by the total amount 5945
actually distributed in calendar year 2010 from the county 5946
undivided local government fund; 5947

(c) With respect to taxes levied by the township, the taxes 5948
charged and payable against all property on the tax list of real 5949
and public utility property for tax year 2009 excluding taxes 5950
charged and payable for the purpose of paying debt charges. 5951

(31) "Total resources," in the case of a local taxing unit 5952
that is not a county, municipal corporation, or township, means 5953
the sum of the amounts in divisions (A)(31)(a) to (e) of this 5954
section less any reduction required under division (A)(32) of this 5955
section. 5956

(a) The sum of the payments received by the local taxing unit 5957
in calendar year 2010 pursuant to division (A)(1) of section 5958
5727.86 of the Revised Code and divisions (A)(1) and (2) of 5959
section 5751.22 of the Revised Code as they existed at that time; 5960

(b) The local taxing unit's percentage share of county 5961
undivided local government fund allocations as certified to the 5962
tax commissioner for calendar year 2010 by the county auditor 5963
under division (J) of section 5747.51 of the Revised Code or 5964

division (F) of section 5747.53 of the Revised Code multiplied by 5965
the total amount actually distributed in calendar year 2010 from 5966
the county undivided local government fund; 5967

(c) With respect to taxes levied by the local taxing unit, 5968
the taxes charged and payable against all property on the tax list 5969
of real and public utility property for tax year 2009 excluding 5970
taxes charged and payable for the purpose of paying debt charges; 5971

(d) The amount received from the tax commissioner during 5972
calendar year 2010 for sales or use taxes authorized under 5973
sections 5739.023 and 5741.022 of the Revised Code; 5974

(e) For institutions of higher education receiving tax 5975
revenue from a local levy, as identified in section 3358.02 of the 5976
Revised Code, the final state share of instruction allocation for 5977
fiscal year 2010 as calculated by the board of regents and 5978
reported to the state controlling board. 5979

(32) If a fixed-rate levy that is a qualifying levy is not 5980
~~imposed~~ charged and payable in any year after tax year 2010, 5981
"total resources" used to compute payments to be made under 5982
division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) 5983
of section 5751.22 of the Revised Code in the tax years following 5984
the last year the levy is ~~imposed~~ charged and payable shall be 5985
reduced ~~by the amount of~~ to the extent that the payments are 5986
attributable to the fixed-rate levy loss of that levy as would be 5987
computed under division (C)(2) of section 5727.85, division (A)(1) 5988
of section 5727.85, divisions (C)(8) and (9) of section 5751.21, 5989
or division (A)(1) of section 5751.22 of the Revised Code. 5990

(33) In the case of a county, municipal corporation, school 5991
district, or township with fixed-rate levy losses attributable to 5992
a tax levied under section 5705.23 of the Revised Code, "total 5993
resources" used to compute payments to be made under division 5994
(C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, 5995

division (C)(12) of section 5751.21, or division (A)(1)(c) of 5996
section 5751.22 of the Revised Code shall be reduced by the 5997
amounts described in divisions (A)(34)(a) to (c) of this section 5998
to the extent that those amounts were included in calculating the 5999
"total resources" of the school district or local taxing unit 6000
under division (A)(22), (28), (29), or (30) of this section. 6001

(34) "Total library resources," in the case of a county, 6002
municipal corporation, school district, or township public library 6003
that receives the proceeds of a tax levied under section 5705.23 6004
of the Revised Code, means the sum of the amounts in divisions 6005
(A)(34)(a) to (c) of this section less any reduction required 6006
under division (A)(32) of this section. 6007

(a) The sum of the payments received by the county, municipal 6008
corporation, school district, or township public library in 6009
calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the 6010
Revised Code, as they existed at that time, for fixed-rate levy 6011
losses attributable to a tax levied under section 5705.23 of the 6012
Revised Code for the benefit of the public library; 6013

(b) The public library's percentage share of county undivided 6014
local government fund allocations as certified to the tax 6015
commissioner for calendar year 2010 by the county auditor under 6016
division (J) of section 5747.51 of the Revised Code or division 6017
(F) of section 5747.53 of the Revised Code multiplied by the total 6018
amount actually distributed in calendar year 2010 from the county 6019
undivided local government fund; 6020

(c) With respect to a tax levied pursuant to section 5705.23 6021
of the Revised Code for the benefit of the public library, the 6022
amount of such tax that is charged and payable against all 6023
property on the tax list of real and public utility property for 6024
tax year 2009 excluding any tax that is charged and payable for 6025
the purpose of paying debt charges. 6026

(35) "Municipal current expense property tax levies" means 6027
all property tax levies of a municipality, except those with the 6028
following levy names: airport resurfacing; bond or any levy name 6029
including the word "bond"; capital improvement or any levy name 6030
including the word "capital"; debt or any levy name including the 6031
word "debt"; equipment or any levy name including the word 6032
"equipment," unless the levy is for combined operating and 6033
equipment; employee termination fund; fire pension or any levy 6034
containing the word "pension," including police pensions; 6035
fireman's fund or any practically similar name; sinking fund; road 6036
improvements or any levy containing the word "road"; fire truck or 6037
apparatus; flood or any levy containing the word "flood"; 6038
conservancy district; county health; note retirement; sewage, or 6039
any levy containing the words "sewage" or "sewer"; park 6040
improvement; parkland acquisition; storm drain; street or any levy 6041
name containing the word "street"; lighting, or any levy name 6042
containing the word "lighting"; and water. 6043

~~(34)~~(36) "Current expense TPP allocation" means, in the case 6044
of a school district or joint vocational school district, the sum 6045
of the payments received by the school district in fiscal year 6046
2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of 6047
the Revised Code to the extent paid for current expense levies. In 6048
the case of a municipal corporation, "current expense TPP 6049
allocation" means the sum of the payments received by the 6050
municipal corporation in calendar year 2010 pursuant to divisions 6051
(A)(1) and (2) of section 5751.22 of the Revised Code to the 6052
extent paid for municipal current expense property tax levies as 6053
defined in division (A)~~(33)~~(35) of this section, excluding any 6054
such payments received for current expense levy losses 6055
attributable to a tax levied under section 5705.23 of the Revised 6056
Code. If a fixed-rate levy that is a qualifying levy is not 6057
~~imposed~~ charged and payable in any year after tax year 2010, 6058
"current expense TPP allocation" used to compute payments to be 6059

made under division (C)(12) of section 5751.21 or division 6060
(A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax 6061
years following the last year the levy is ~~imposed~~ charged and 6062
payable shall be reduced ~~by the amount of~~ to the extent that the 6063
payments are attributable to the fixed-rate levy loss of that levy 6064
as would be computed under divisions (C)(10) and (11) of section 6065
5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 6066

~~(35)~~(37) "TPP allocation" means the sum of payments received 6067
by a local taxing unit in calendar year 2010 pursuant to divisions 6068
(A)(1) and (2) of section 5751.22 of the Revised Code, excluding 6069
any such payments received for fixed-rate levy losses attributable 6070
to a tax levied under section 5705.23 of the Revised Code. If a 6071
fixed-rate levy that is a qualifying levy is not ~~imposed~~ charged 6072
and payable in any year after tax year 2010, "TPP allocation" used 6073
to compute payments to be made under division (A)(1)(b) or (c) of 6074
section 5751.22 of the Revised Code in the tax years following the 6075
last year the levy is ~~imposed~~ charged and payable shall be reduced 6076
~~by the amount of payment~~ to the extent that the payments are 6077
attributable to the fixed-rate levy loss of that levy as would be 6078
computed under division (A)(1) of that section. 6079

~~(36)~~(38) "Total TPP allocation" means, in the case of a 6080
school district or joint vocational school district, the sum of 6081
the amounts received in fiscal year 2011 pursuant to divisions 6082
(C)(10) and (11) and (D) of section 5751.21 of the Revised Code. 6083
In the case of a local taxing unit, "total TPP allocation" means 6084
the sum of payments received by the unit in calendar year 2010 6085
pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of 6086
the Revised Code. If a fixed-rate levy that is a qualifying levy 6087
is not ~~imposed~~ charged and payable in any year after tax year 6088
2010, "total TPP allocation" used to compute payments to be made 6089
under division (C)(12) of section 5751.21 or division (A)(1)(b) or 6090
(c) of section 5751.22 of the Revised Code in the tax years 6091

following the last year the levy is ~~imposed~~ charged and payable 6092
shall be reduced ~~by the amount of~~ to the extent that the payments 6093
are attributable to the fixed-rate levy loss of that levy as would 6094
be computed under divisions (C)(10) and (11) of section 5751.21 or 6095
division (A)(1) of section 5751.22 of the Revised Code. 6096

~~(37)~~(39) "Non-current expense TPP allocation" means the 6097
difference of total TPP allocation minus the sum of current 6098
expense TPP allocation and the portion of total TPP allocation 6099
constituting reimbursement for debt levies, pursuant to division 6100
(D) of section 5751.21 of the Revised Code in the case of a school 6101
district or joint vocational school district and pursuant to 6102
division (A)(3) of section 5751.22 of the Revised Code in the case 6103
of a municipal corporation. 6104

~~(38)~~(40) "TPP allocation for library purposes" means the sum 6105
of payments received by a county, municipal corporation, school 6106
district, or township public library in calendar year 2010 6107
pursuant to section 5751.22 of the Revised Code for fixed-rate 6108
levy losses attributable to a tax levied under section 5705.23 of 6109
the Revised Code. If a fixed-rate levy authorized under section 6110
5705.23 of the Revised Code that is a qualifying levy is not 6111
charged and payable in any year after tax year 2010, "TPP 6112
allocation for library purposes" used to compute payments to be 6113
made under division (A)(1)(d) of section 5751.22 of the Revised 6114
Code in the tax years following the last year the levy is charged 6115
and payable shall be reduced to the extent that the payments are 6116
attributable to the fixed-rate levy loss of that levy as would be 6117
computed under division (A)(1) of section 5751.22 of the Revised 6118
Code. 6119

(41) "Threshold per cent" means, in the case of a school 6120
district or joint vocational school district, two per cent for 6121
fiscal year 2012 and four per cent for fiscal years 2013 and 6122
thereafter. In the case of a local taxing unit or public library 6123

that receives the proceeds of a tax levied under section 5705.23 6124
of the Revised Code, "threshold per cent" means two per cent for 6125
 tax year 2011, four per cent for tax year 2012, and six per cent 6126
 for tax years 2013 and thereafter. 6127

(B) The commercial activities tax receipts fund is hereby 6128
 created in the state treasury and shall consist of money arising 6129
 from the tax imposed under this chapter. Eighty-five 6130
 one-hundredths of one per cent of the money credited to that fund 6131
 shall be credited to the ~~tax reform system implementation~~ revenue 6132
enhancement fund, ~~which is hereby created in the state treasury,~~ 6133
 and shall be used to defray the costs incurred by the department 6134
 of taxation in administering the tax imposed by this chapter and 6135
 in implementing tax reform measures. The remainder in the 6136
 commercial activities tax receipts fund shall be credited for each 6137
 fiscal year in the following percentages to the general revenue 6138
 fund, to the school district tangible property tax replacement 6139
 fund, which is hereby created in the state treasury for the 6140
 purpose of making the payments described in section 5751.21 of the 6141
 Revised Code, and to the local government tangible property tax 6142
 replacement fund, which is hereby created in the state treasury 6143
 for the purpose of making the payments described in section 6144
 5751.22 of the Revised Code, in the following percentages: 6145

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	6146
2007	0%	70.0%	30.0%	6148
2008	0%	70.0%	30.0%	6149
2009	0%	70.0%	30.0%	6150
2010	0%	70.0%	30.0%	6151
2011	0%	70.0%	30.0%	6152

2012	25.0%	52.5%	22.5%	6153
2013 and thereafter	50.0%	35.0%	15.0%	6154

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, thirty-three and eight-tenths per cent;

(b) For tax year 2007, sixty-one and three-tenths per cent;

(c) For tax year 2008, eighty-three per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;

(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;

(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;

(d) For tax year 2009 and thereafter a fraction, the

numerator of which is seventeen and the denominator of which is 6182
twenty-three. 6183

(3) Furniture and fixtures property tax value loss is the 6184
taxable value of furniture and fixture property as reported by 6185
taxpayers for tax year 2004 multiplied by: 6186

(a) For tax year 2006, twenty-five per cent; 6187

(b) For tax year 2007, fifty per cent; 6188

(c) For tax year 2008, seventy-five per cent; 6189

(d) For tax year 2009 and thereafter, one hundred per cent. 6190

The taxable value of property reported by taxpayers used in 6191
divisions (C)(1), (2), and (3) of this section shall be such 6192
values as determined to be final by the tax commissioner as of 6193
August 31, 2005. Such determinations shall be final except for any 6194
correction of a clerical error that was made prior to August 31, 6195
2005, by the tax commissioner. 6196

(4) Telephone property tax value loss is the taxable value of 6197
telephone property as taxpayers would have reported that property 6198
for tax year 2004 if the assessment rate for all telephone 6199
property for that year were twenty-five per cent, multiplied by: 6200

(a) For tax year 2006, zero per cent; 6201

(b) For tax year 2007, zero per cent; 6202

(c) For tax year 2008, zero per cent; 6203

(d) For tax year 2009, sixty per cent; 6204

(e) For tax year 2010, eighty per cent; 6205

(f) For tax year 2011 and thereafter, one hundred per cent. 6206

(5) Division (C)(5) of this section applies to any school 6207
district, joint vocational school district, or local taxing unit 6208
in a county in which is located a facility currently or formerly 6209
devoted to the enrichment or commercialization of uranium or 6210

uranium products, and for which the total taxable value of 6211
property listed on the general tax list of personal property for 6212
any tax year from tax year 2001 to tax year 2004 was fifty per 6213
cent or less of the taxable value of such property listed on the 6214
general tax list of personal property for the next preceding tax 6215
year. 6216

In computing the fixed-rate levy losses under divisions 6217
(D)(1), (2), and (3) of this section for any school district, 6218
joint vocational school district, or local taxing unit to which 6219
division (C)(5) of this section applies, the taxable value of such 6220
property as listed on the general tax list of personal property 6221
for tax year 2000 shall be substituted for the taxable value of 6222
such property as reported by taxpayers for tax year 2004, in the 6223
taxing district containing the uranium facility, if the taxable 6224
value listed for tax year 2000 is greater than the taxable value 6225
reported by taxpayers for tax year 2004. For the purpose of making 6226
the computations under divisions (D)(1), (2), and (3) of this 6227
section, the tax year 2000 valuation is to be allocated to 6228
machinery and equipment, inventory, and furniture and fixtures 6229
property in the same proportions as the tax year 2004 values. For 6230
the purpose of the calculations in division (A) of section 5751.21 6231
of the Revised Code, the tax year 2004 taxable values shall be 6232
used. 6233

To facilitate the calculations required under division (C) of 6234
this section, the county auditor, upon request from the tax 6235
commissioner, shall provide by August 1, 2005, the values of 6236
machinery and equipment, inventory, and furniture and fixtures for 6237
all single-county personal property taxpayers for tax year 2004. 6238

(D) Not later than September 15, 2005, the tax commissioner 6239
shall determine for each tax year from 2006 through 2009 for each 6240
school district, joint vocational school district, and local 6241
taxing unit its machinery and equipment, inventory, and furniture 6242

and fixtures fixed-rate levy losses, and for each tax year from 6243
2006 through 2011 its telephone property fixed-rate levy loss. 6244
Except as provided in division (F) of this section, such losses 6245
are the applicable amounts described in divisions (D)(1), (2), 6246
(3), and (4) of this section: 6247

(1) The machinery and equipment fixed-rate levy loss is the 6248
machinery and equipment property tax value loss multiplied by the 6249
sum of the tax rates of fixed-rate qualifying levies. 6250

(2) The inventory fixed-rate loss is the inventory property 6251
tax value loss multiplied by the sum of the tax rates of 6252
fixed-rate qualifying levies. 6253

(3) The furniture and fixtures fixed-rate levy loss is the 6254
furniture and fixture property tax value loss multiplied by the 6255
sum of the tax rates of fixed-rate qualifying levies. 6256

(4) The telephone property fixed-rate levy loss is the 6257
telephone property tax value loss multiplied by the sum of the tax 6258
rates of fixed-rate qualifying levies. 6259

(E) Not later than September 15, 2005, the tax commissioner 6260
shall determine for each school district, joint vocational school 6261
district, and local taxing unit its fixed-sum levy loss. The 6262
fixed-sum levy loss is the amount obtained by subtracting the 6263
amount described in division (E)(2) of this section from the 6264
amount described in division (E)(1) of this section: 6265

(1) The sum of the machinery and equipment property tax value 6266
loss, the inventory property tax value loss, and the furniture and 6267
fixtures property tax value loss, and, for 2008 through 2010, the 6268
telephone property tax value loss of the district or unit 6269
multiplied by the sum of the fixed-sum tax rates of qualifying 6270
levies. For 2006 through 2010, this computation shall include all 6271
qualifying levies remaining in effect for the current tax year and 6272
any school district levies ~~imposed~~ charged and payable under 6273

section 5705.194 or 5705.213 of the Revised Code that are 6274
qualifying levies not remaining in effect for the current year. 6275
For 2011 through 2017 in the case of school district levies 6276
~~imposed~~ charged and payable under section 5705.194 or 5705.213 of 6277
the Revised Code and for all years after 2010 in the case of other 6278
fixed-sum levies, this computation shall include only qualifying 6279
levies remaining in effect for the current year. For purposes of 6280
this computation, a qualifying school district levy ~~imposed~~ 6281
charged and payable under section 5705.194 or 5705.213 of the 6282
Revised Code remains in effect in a year after 2010 only if, for 6283
that year, the board of education levies a school district levy 6284
~~imposed~~ charged and payable under section 5705.194, 5705.199, 6285
5705.213, or 5705.219 of the Revised Code for an annual sum at 6286
least equal to the annual sum levied by the board in tax year 2004 6287
less the amount of the payment certified under this division for 6288
2006. 6289

(2) The total taxable value in tax year 2004 less the sum of 6290
the machinery and equipment, inventory, furniture and fixtures, 6291
and telephone property tax value losses in each school district, 6292
joint vocational school district, and local taxing unit multiplied 6293
by one-half of one mill per dollar. 6294

(3) For the calculations in divisions (E)(1) and (2) of this 6295
section, the tax value losses are those that would be calculated 6296
for tax year 2009 under divisions (C)(1), (2), and (3) of this 6297
section and for tax year 2011 under division (C)(4) of this 6298
section. 6299

(4) To facilitate the calculation under divisions (D) and (E) 6300
of this section, not later than September 1, 2005, any school 6301
district, joint vocational school district, or local taxing unit 6302
that has a qualifying levy that was approved at an election 6303
conducted during 2005 before September 1, 2005, shall certify to 6304
the tax commissioner a copy of the county auditor's certificate of 6305

estimated property tax millage for such levy as required under 6306
division (B) of section 5705.03 of the Revised Code, which is the 6307
rate that shall be used in the calculations under such divisions. 6308

If the amount determined under division (E) of this section 6309
for any school district, joint vocational school district, or 6310
local taxing unit is greater than zero, that amount shall equal 6311
the reimbursement to be paid pursuant to division (E) of section 6312
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 6313
and the one-half of one mill that is subtracted under division 6314
(E)(2) of this section shall be apportioned among all contributing 6315
fixed-sum levies in the proportion that each levy bears to the sum 6316
of all fixed-sum levies within each school district, joint 6317
vocational school district, or local taxing unit. 6318

(F) If a school district levies a tax under section 5705.219 6319
of the Revised Code, the fixed-rate levy loss for qualifying 6320
levies, to the extent repealed under that section, shall equal the 6321
sum of the following amounts in lieu of the amounts computed for 6322
such levies under division (D) of this section: 6323

(1) The sum of the rates of qualifying levies to the extent 6324
so repealed multiplied by the sum of the machinery and equipment, 6325
inventory, and furniture and fixtures tax value losses for 2009 as 6326
determined under that division; 6327

(2) The sum of the rates of qualifying levies to the extent 6328
so repealed multiplied by the telephone property tax value loss 6329
for 2011 as determined under that division. 6330

The fixed-rate levy losses for qualifying levies to the 6331
extent not repealed under section 5705.219 of the Revised Code 6332
shall be as determined under division (D) of this section. The 6333
revised fixed-rate levy losses determined under this division and 6334
division (D) of this section first apply in the year following the 6335
first year the district levies the tax under section 5705.219 of 6336

the Revised Code. 6337

(G) Not later than October 1, 2005, the tax commissioner 6338
shall certify to the department of education for every school 6339
district and joint vocational school district the machinery and 6340
equipment, inventory, furniture and fixtures, and telephone 6341
property tax value losses determined under division (C) of this 6342
section, the machinery and equipment, inventory, furniture and 6343
fixtures, and telephone fixed-rate levy losses determined under 6344
division (D) of this section, and the fixed-sum levy losses 6345
calculated under division (E) of this section. The calculations 6346
under divisions (D) and (E) of this section shall separately 6347
display the levy loss for each levy eligible for reimbursement. 6348

(H) Not later than October 1, 2005, the tax commissioner 6349
shall certify the amount of the fixed-sum levy losses to the 6350
county auditor of each county in which a school district, joint 6351
vocational school district, or local taxing unit with a fixed-sum 6352
levy loss reimbursement has territory. 6353

(I) Not later than the twenty-eighth day of February each 6354
year beginning in 2011 and ending in 2014, the tax commissioner 6355
shall certify to the department of education for each school 6356
district first levying a tax under section 5705.219 of the Revised 6357
Code in the preceding year the revised fixed-rate levy losses 6358
determined under divisions (D) and (F) of this section. 6359

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 6360
commissioner shall compute the payments to be made to each local 6361
taxing unit, and to each public library that receives the proceeds 6362
of a tax levied under section 5705.23 of the Revised Code, for 6363
each year according to divisions (A)(1), (2), (3), and (4) of this 6364
section as this section existed on that date, and shall distribute 6365
the payments in the manner prescribed by division (C) of this 6366
section. The calculation of the fixed-sum levy loss shall cover a 6367

time period sufficient to include all fixed-sum levies for which 6368
the commissioner determined, pursuant to division (E) of section 6369
5751.20 of the Revised Code, that a fixed-sum levy loss is to be 6370
reimbursed. 6371

(1) Except as provided in division (A)(3) of this section, 6372
for fixed-rate levy losses determined under division (D) of 6373
section 5751.20 of the Revised Code, payments shall be made in an 6374
amount equal to the following: 6375

(a) For tax years 2006 through 2010, one hundred per cent of 6376
such losses; 6377

(b) For the payment in tax year 2011 to be made on or before 6378
the twentieth day of November, the sum of the amount in division 6379
(A)(1)(b)(i) or (ii) and division (A)(1)(b)(iii) of this section: 6380

(i) If the ratio of six-sevenths of the TPP allocation to 6381
total resources is equal to or less than the threshold per cent, 6382
zero; 6383

(ii) If the ratio of six-sevenths of the TPP allocation to 6384
total resources is greater than the threshold per cent, the 6385
difference of six-sevenths of the TPP allocation minus the product 6386
of total resources multiplied by the threshold per cent; 6387

(iii) In the case of a municipal corporation, six-sevenths of 6388
the product of the non-current expense TPP allocation multiplied 6389
by seventy-five per cent. 6390

(c) For tax years 2012 and thereafter, the sum of the amount 6391
in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of 6392
this section: 6393

(i) If the ratio of TPP allocation to total resources is 6394
equal to or less than the threshold per cent, zero; 6395

(ii) If the ratio of TPP allocation to total resources is 6396
greater than the threshold per cent, the TPP allocation minus the 6397

product of total resources multiplied by the threshold per cent; 6398

(iii) In the case of a municipal corporation, non-current 6399
expense TPP allocation multiplied by fifty per cent for tax year 6400
2012 and twenty-five per cent for tax years 2013 and thereafter; 6401

(d) For tax years 2012 and thereafter, in the case of a 6402
county, school district, municipal corporation, or township public 6403
library, the amount in division (A)(1)(d)(i) or (ii) of this 6404
section: 6405

(i) If the ratio of TPP allocation for library purposes to 6406
total library resources is equal to or less than the threshold per 6407
cent, zero; 6408

(ii) If the ratio of TPP allocation for library purposes to 6409
total library resources is greater than the threshold per cent, 6410
the TPP allocation for library purposes minus the product of total 6411
library resources multiplied by the threshold per cent. 6412

(2) For fixed-sum levy losses determined under division (E) 6413
of section 5751.20 of the Revised Code, payments shall be made in 6414
the amount of one hundred per cent of the fixed-sum levy loss for 6415
payments required to be made in 2006 ~~and thereafter~~ through 2011, 6416
except that no payments shall be made for qualifying levies that 6417
have expired. For payments required to be made in 2012 and 6418
thereafter, payments shall be made in the amount of fifty per cent 6419
of the fixed-sum levy loss until the qualifying levy has expired. 6420

(3) For taxes levied within the ten-mill limitation or 6421
pursuant to a municipal charter for debt purposes in tax year 6422
2005, payments shall be made based on the schedule in division 6423
(A)(1) of this section for each of the calendar years 2006 through 6424
2010. For each of the calendar years 2011 through 2017, the 6425
percentages for calendar year 2010 shall be used for taxes levied 6426
within the ten-mill limitation or pursuant to a municipal charter 6427
for debt purposes in tax year 2010, as long as such levies 6428

continue to be used for debt purposes. If the purpose of such a 6429
qualifying levy is changed, that levy becomes subject to the 6430
payment schedules in divisions (A)(1)(a) to (h) of this section. 6431
No payments shall be made for such levies after calendar year 6432
2017. For the purposes of this division, taxes levied pursuant to 6433
a municipal charter refer to taxes levied pursuant to a provision 6434
of a municipal charter that permits the tax to be levied without 6435
prior voter approval. 6436

(B) Beginning in 2007, by the thirty-first day of January of 6437
each year, the tax commissioner shall review the calculation 6438
originally made under division (A) of this section of the 6439
fixed-sum levy losses determined under division (E) of section 6440
5751.20 of the Revised Code. If the commissioner determines that a 6441
fixed-sum levy that had been scheduled to be reimbursed in the 6442
current year has expired, a revised calculation for that and all 6443
subsequent years shall be made. 6444

(C) Payments to local taxing units and public libraries 6445
required to be made under division (A) of this section shall be 6446
paid from the local government tangible property tax replacement 6447
fund to the county undivided income tax fund in the proper county 6448
treasury. From May 2006 through November 2010, one-seventh of the 6449
amount determined under that division shall be paid by the last 6450
day of May each year, and three-sevenths shall be paid by the last 6451
day of August and October each year. From May 2011 through 6452
November 2013, one-seventh of the amount determined under that 6453
division shall be paid on or before the last day of May each year, 6454
and six-sevenths shall be paid on or before the ~~twentieth~~ 6455
thirtieth day of November each year, except that in November 2011, 6456
the payment shall equal one hundred per cent of the amount 6457
calculated for that payment. Beginning in May 2014, one-half of 6458
the amount determined under that division shall be paid on or 6459
before the last day of May each year, and one-half shall be paid 6460

on or before the ~~twentieth~~ thirtieth day of November each year. 6461
Within ~~forty~~ thirty days after receipt of such payments, the 6462
county treasurer shall distribute amounts determined under 6463
division (A) of this section to the proper local taxing unit or 6464
public library as if they had been levied and collected as taxes, 6465
and the local taxing unit or public library shall apportion the 6466
amounts so received among its funds in the same proportions as if 6467
those amounts had been levied and collected as taxes. 6468

(D) For each of the fiscal years 2006 through 2018, if the 6469
total amount in the local government tangible property tax 6470
replacement fund is insufficient to make all payments under 6471
division (C) of this section at the times the payments are to be 6472
made, the director of budget and management shall transfer from 6473
the general revenue fund to the local government tangible property 6474
tax replacement fund the difference between the total amount to be 6475
paid and the amount in the local government tangible property tax 6476
replacement fund. For each fiscal year after 2018, at the time 6477
payments under division (A)(2) of this section are to be made, the 6478
director of budget and management shall transfer from the general 6479
revenue fund to the local government property tax replacement fund 6480
the amount necessary to make such payments. 6481

(E) On the fifteenth day of June of each year from 2006 6482
through 2018, the director of budget and management may transfer 6483
any balance in the local government tangible property tax 6484
replacement fund to the general revenue fund. 6485

(F) If all or a part of the territories of two or more local 6486
taxing units are merged, or unincorporated territory of a township 6487
is annexed by a municipal corporation, the tax commissioner shall 6488
adjust the payments made under this section to each of the local 6489
taxing units in proportion to the square mileage of the merged or 6490
annexed territory as a percentage of the total square mileage of 6491
the jurisdiction from which the territory originated, or as 6492

otherwise provided by a written agreement between the legislative 6493
authorities of the local taxing units certified to the 6494
commissioner not later than the first day of June of the calendar 6495
year in which the payment is to be made. 6496

Sec. 5753.03. (A) For the purpose of receiving and 6497
distributing, and accounting for, revenue received from the tax 6498
levied by section 5753.02 of the Revised Code, the following funds 6499
are created in the state treasury: 6500

(1) The casino tax revenue fund; 6501

(2) The gross casino revenue county fund; 6502

(3) The gross casino revenue county student fund; 6503

(4) The gross casino revenue host city fund; 6504

(5) The Ohio state racing commission fund; 6505

(6) The Ohio law enforcement training fund; 6506

(7) The problem casino gambling and addictions fund; 6507

(8) The casino control commission fund; 6508

(9) The casino tax administration fund; 6509

(10) The peace officer training academy fund; 6510

(11) The criminal justice services casino tax revenue fund. 6511

(B) All moneys collected from the tax levied under this 6512
chapter shall be deposited into the casino tax revenue fund. 6513

(C) From the casino tax revenue fund the director of budget 6514
and management shall transfer as needed to the tax refund fund 6515
amounts equal to the refunds certified by the tax commissioner 6516
under section 5753.06 of the Revised Code. 6517

(D) After making any transfers required by division (C) of 6518
this section, but not later than the fifteenth day of the month 6519
following the end of each calendar quarter, the director of budget 6520

and management shall transfer amounts to each fund as follows: 6521

(1) Fifty-one per cent to the gross casino revenue county 6522
fund to make payments as required by Section 6(C)(3)(a) of Article 6523
XV, Ohio Constitution; 6524

(2) Thirty-four per cent to the gross casino revenue county 6525
student fund to make payments as required by Section 6(C)(3)(b) of 6526
Article XV, Ohio Constitution; 6527

(3) Five per cent to the gross casino revenue host city fund 6528
for the benefit of the cities in which casino facilities are 6529
located; 6530

(4) Three per cent to the Ohio state racing commission fund 6531
to support the efforts and activities of the Ohio state racing 6532
commission to promote horse racing in this state at which the 6533
pari-mutuel system of wagering is conducted; 6534

(5) Two per cent to the Ohio law enforcement training fund to 6535
support law enforcement functions in the state; 6536

(6) Two per cent to the problem casino gambling and 6537
addictions fund to support efforts of the department of alcohol 6538
and drug addiction services to alleviate problem gambling and 6539
substance abuse and related research in the state under section 6540
3793.032 of the Revised Code; 6541

(7) Three per cent to the casino control commission fund to 6542
support the operations of the Ohio casino control commission and 6543
to defray the cost of administering the tax levied under section 6544
5753.02 of the Revised Code. 6545

Payments under divisions (D)(1), (2), and (3) of this section 6546
shall be made by the end of the month following the end of the 6547
quarterly period. The tax commissioner shall make the data 6548
available to the director of budget and management for this 6549
purpose. 6550

Of the money credited to the Ohio law enforcement training 6551
fund, the director of budget and management shall distribute 6552
eighty-five per cent of the money to the police officer training 6553
academy fund for the purpose of supporting the law enforcement 6554
training efforts of the Ohio peace officer training academy and 6555
fifteen per cent of the money to the criminal justice services 6556
casino tax revenue fund for the purpose of supporting the law 6557
enforcement training efforts of the division of criminal justice 6558
services. 6559

(E) The director of budget and management shall transfer one 6560
per cent of the money credited to the casino control commission 6561
fund to the casino tax administration fund. The tax commissioner 6562
shall use the casino tax administration fund to defray the costs 6563
incurred in administering the tax levied by this chapter. 6564

Section 2. That existing sections 131.02, 1701.86, 1702.47, 6565
3769.28, 4301.42, 4303.33, 4928.23, 4928.2314, 5703.261, 5703.37, 6566
5703.47, 5727.84, 5727.86, 5731.39, 5733.26, 5735.02, 5735.03, 6567
5735.35, 5739.01, 5739.02, 5739.021, 5739.023, 5739.026, 5739.04, 6568
5739.17, 5741.08, 5743.20, 5743.61, 5743.66, 5747.082, 5747.11, 6569
5751.01, 5751.011, 5751.012, 5751.03, 5751.04, 5751.05, 5751.051, 6570
5751.08, 5751.12, 5751.20, 5751.22, and 5753.03 and section 6571
5751.032 of the Revised Code are hereby repealed. 6572

Section 757.10. Notwithstanding sections 5713.01 and 5715.24 6573
of the Revised Code, for the purpose of equalizing and 6574
regionalizing real property assessment cycles, beginning in tax 6575
year 2014 and continuing for not more than five years, the Tax 6576
Commissioner may extend the revaluation of real property required 6577
in any county by not more than one year. 6578

Section 757.20. The Tax Commissioner is not required to issue 6579
the certifications that are or were otherwise required to be made 6580

on or before May 15, 2012, or June 1, 2012, under sections 6581
3317.026, 3317.027, 3317.028, and divisions (A)(4), (6), and (7) 6582
of section 3317.021 of the Revised Code. This section is intended 6583
to be remedial in nature and to be construed liberally to 6584
accomplish the purpose of avoiding unnecessary certifications. 6585

Section 757.30. Section 5751.01 of the Revised Code is 6586
presented in this act as a composite of the section as amended by 6587
both Am. Sub. H.B. 153 and Sub. H.B. 277 of the 129th General 6588
Assembly. The General Assembly, applying the principle stated in 6589
division (B) of section 1.52 of the Revised Code that amendments 6590
are to be harmonized if reasonably capable of simultaneous 6591
operation, finds that the composite is the resulting version of 6592
the section in effect prior to the effective date of the section 6593
as presented in this act. 6594

Section 806.10. The items of law contained in this act, and 6595
their applications, are severable. If any item of law contained in 6596
this act, or if any application of any item of law contained in 6597
this act, is held invalid, the invalidity does not affect other 6598
items of law contained in this act and their applications that can 6599
be given effect without the invalid item of law or application. 6600

Section 812.10. Sections subject to referendum: general 6601
effective date. Except as otherwise provided in this act, the 6602
amendment, enactment, or repeal by this act of a section is 6603
subject to the referendum under Ohio Constitution, Article II, 6604
Section 1c and therefore takes effect on the ninety-first day 6605
after this act is filed with the Secretary of State. 6606

Section 812.20. Sections exempt from referendum: general 6607
effective date. The amendment, enactment, or repeal by this act of 6608
the following sections is exempt from the referendum under Ohio 6609

Constitution, Article II, Section 1d and section 1.471 of the 6610
Revised Code and therefore takes effect immediately when this act 6611
becomes law: 6612

Sections 4928.23, 4928.2314, 5727.84, 5727.86, 5751.20, 6613
5751.22, and 5753.03 of the Revised Code. 6614

Section 757.20 of this act. 6615