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**Am. Sub. H. B. No. 508**

**Representative Beck**

**Cosponsors: Representatives Amstutz, Stautberg, Anielski, Antonio, Baker, Blessing, Boose, Bubp, Combs, Damschroder, Derickson, Garland, Gerberry, Grossman, Hackett, Hagan, R., Hayes, Huffman, Kozlowski, Lynch, Martin, McClain, Ruhl, Sears, Smith, Sprague, Stebelton, Terhar, Thompson, Young**

**Speaker Batchelder**

**Senators Beagle, Coley, Hite, Manning**

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**A B I L L**

To amend sections 122.85, 131.02, 349.01, 1545.21, 1  
1701.86, 1702.47, 3769.28, 4301.42, 4303.33, 2  
4701.01, 4701.04, 5703.261, 5703.37, 5703.47, 3  
5705.313, 5709.084, 5709.40, 5709.41, 5709.73, 4  
5709.78, 5727.84, 5727.86, 5731.39, 5733.056, 5  
5735.02, 5735.03, 5735.35, 5739.01, 5739.02, 6  
5739.021, 5739.023, 5739.026, 5739.04, 5739.17, 7  
5741.08, 5743.20, 5743.61, 5743.66, 5747.082, 8  
5751.01, 5751.011, 5751.012, 5751.03, 5751.04, 9  
5751.05, 5751.051, 5751.12, 5751.20, and 5751.22, 10  
to enact section 5703.061, and to repeal section 11  
5751.032 of the Revised Code to make changes to 12  
the laws governing the assessment, levy, and 13  
collection of taxes in the state and to the laws 14  
governing public accounting firm peer review. 15

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

**Section 1.** That sections 122.85, 131.02, 349.01, 1545.21, 16  
1701.86, 1702.47, 3769.28, 4301.42, 4303.33, 4701.01, 4701.04, 17  
5703.261, 5703.37, 5703.47, 5705.313, 5709.084, 5709.40, 5709.41, 18  
5709.73, 5709.78, 5727.84, 5727.86, 5731.39, 5733.056, 5735.02, 19  
5735.03, 5735.35, 5739.01, 5739.02, 5739.021, 5739.023, 5739.026, 20  
5739.04, 5739.17, 5741.08, 5743.20, 5743.61, 5743.66, 5747.082, 21  
5751.01, 5751.011, 5751.012, 5751.03, 5751.04, 5751.05, 5751.051, 22  
5751.12, 5751.20, and 5751.22 be amended and section 5703.061 of 23  
the Revised Code be enacted to read as follows: 24

**Sec. 122.85.** (A) As used in this section and in sections 25  
5733.59 and 5747.66 of the Revised Code: 26

(1) "Tax credit-eligible production" means a motion picture 27  
production certified by the director of development under division 28  
(B) of this section as qualifying the motion picture company for a 29  
tax credit under section 5733.59 or 5747.66 of the Revised Code. 30

(2) "Certificate owner" means a motion picture company to 31  
which a tax credit certificate is issued. 32

(3) "Motion picture company" means an individual, 33  
corporation, partnership, limited liability company, or other form 34  
of business association producing a motion picture. 35

(4) "Eligible production expenditures" means expenditures 36  
made after June 30, 2009, for goods or services purchased and 37  
consumed in this state by a motion picture company directly for 38  
the production of a tax credit-eligible production. 39

"Eligible production expenditures" includes, but is not 40  
limited to, expenditures for resident and nonresident cast and 41  
crew wages, accommodations, costs of set construction and 42  
operations, editing and related services, photography, sound 43  
synchronization, lighting, wardrobe, makeup and accessories, film 44  
processing, transfer, sound mixing, special and visual effects, 45

music, location fees, and the purchase or rental of facilities and 46  
equipment. 47

(5) "Motion picture" means entertainment content created in 48  
whole or in part within this state for distribution or exhibition 49  
to the general public, including, but not limited to, 50  
feature-length films; documentaries; long-form, specials, 51  
miniseries, series, and interstitial television programming; 52  
interactive web sites; sound recordings; videos; music videos; 53  
interactive television; interactive games; ~~videogames~~ video games; 54  
commercials; any format of digital media; and any trailer, pilot, 55  
video teaser, or demo created primarily to stimulate the sale, 56  
marketing, promotion, or exploitation of future investment in 57  
either a product or a motion picture by any means and media in any 58  
digital media format, film, or videotape, provided the motion 59  
picture qualifies as a motion picture. "Motion picture" does not 60  
include any television program created primarily as news, weather, 61  
or financial market reports, a production featuring current events 62  
or sporting events, an awards show or other gala event, a 63  
production whose sole purpose is fundraising, a long-form 64  
production that primarily markets a product or service or in-house 65  
corporate advertising or other similar productions, a production 66  
for purposes of political advocacy, or any production for which 67  
records are required to be maintained under 18 U.S.C. 2257 with 68  
respect to sexually explicit content. 69

(B) For the purpose of encouraging and developing a strong 70  
film industry in this state, the director of development may 71  
certify a motion picture produced by a motion picture company as a 72  
tax credit-eligible production. In the case of a television 73  
series, the director may certify the production of each episode of 74  
the series as a separate tax credit-eligible production. A motion 75  
picture company shall apply for certification of a motion picture 76  
as a tax credit-eligible production on a form and in the manner 77

prescribed by the director. Each application shall include the	78
following information:	79
(1) The name and telephone number of the motion picture	80
production company;	81
(2) The name and telephone number of the company's contact	82
person;	83
(3) A list of the first preproduction date through the last	84
production date in Ohio;	85
(4) The Ohio production office address and telephone number;	86
(5) The total production budget of the motion picture;	87
(6) The total budgeted eligible production expenditures and	88
the percentage that amount is of the total production budget of	89
the motion picture;	90
(7) The total percentage of the motion picture being shot in	91
Ohio;	92
(8) The level of employment of cast and crew who reside in	93
Ohio;	94
(9) A synopsis of the script;	95
(10) The shooting script;	96
(11) A creative elements list that includes the names of the	97
principal cast and crew and the producer and director;	98
(12) Documentation of financial ability to undertake and	99
complete the motion picture;	100
(13) Estimated value of the tax credit based upon total	101
budgeted eligible production expenditures;	102
(14) Any other information considered necessary by the	103
director.	104
Within ninety days after certification of a motion picture as	105

a tax credit-eligible production, and any time thereafter upon the 106  
director's request, the motion picture company shall present to 107  
the director of development sufficient evidence of reviewable 108  
progress. If the motion picture company fails to present 109  
sufficient evidence, the director of development may rescind the 110  
certification. Upon rescission, the director shall notify the 111  
applicant that the certification has been rescinded. Nothing in 112  
this section prohibits an applicant whose tax credit-eligible 113  
production certification has been rescinded from submitting a 114  
subsequent application for certification. 115

(C)(1) A motion picture company whose motion picture has been 116  
certified as a tax credit-eligible production may apply to the 117  
director of development on or after July 1, 2009, for a refundable 118  
credit against the tax imposed by section 5733.06 or 5747.02 of 119  
the Revised Code. The director in consultation with the tax 120  
commissioner shall prescribe the form and manner of the 121  
application and the information or documentation required to be 122  
submitted with the application. 123

The credit is determined as follows: 124

(a) If the total budgeted eligible production expenditures 125  
stated in the application submitted under division (B) of this 126  
section or the actual eligible production expenditures as finally 127  
determined under division (D) of this section, whichever is least, 128  
is less than or equal to three hundred thousand dollars, no credit 129  
is allowed; 130

(b) If the total budgeted eligible production expenditures 131  
stated in the application submitted under division (B) of this 132  
section or the actual eligible production expenditures as finally 133  
determined under division (D) of this section, whichever is least, 134  
is greater than three hundred thousand dollars, the credit equals 135  
the sum of the following, subject to the limitation in division 136  
(C)(4) of this section: 137

(i) Twenty-five per cent of the least of such budgeted or 138  
actual eligible expenditure amounts excluding budgeted or actual 139  
eligible expenditures for resident cast and crew wages; 140

(ii) Thirty-five per cent of budgeted or actual eligible 141  
expenditures for resident cast and crew wages. 142

(2) Except as provided in division (C)(4) of this section, if 143  
the director of development approves a motion picture company's 144  
application for a credit, the director shall issue a tax credit 145  
certificate to the company. The director in consultation with the 146  
tax commissioner shall prescribe the form and manner of issuing 147  
certificates. The director shall assign a unique identifying 148  
number to each tax credit certificate and shall record the 149  
certificate in a register devised and maintained by the director 150  
for that purpose. The certificate shall state the amount of the 151  
eligible production expenditures on which the credit is based and 152  
the amount of the credit. Upon the issuance of a certificate, the 153  
director shall certify to the tax commissioner the name of the 154  
applicant, the amount of eligible production expenditures shown on 155  
the certificate, and any other information required by the rules 156  
adopted to administer this section. 157

(3) The amount of eligible production expenditures for which 158  
a tax credit may be claimed is subject to inspection and 159  
examination by the tax commissioner or employees of the 160  
commissioner under section 5703.19 of the Revised Code and any 161  
other applicable law. Once the eligible production expenditures 162  
are finally determined under section 5703.19 of the Revised Code 163  
and division (D) of this section, the credit amount is not subject 164  
to adjustment unless the director determines an error was 165  
committed in the computation of the credit amount. 166

(4) No tax credit certificate may be issued before the 167  
completion of the tax credit-eligible production. ~~For the fiscal~~ 168  
~~biennium beginning July 1, 2009, and ending June 30, 2011, not~~ 169

~~more than thirty million dollars of tax credit may be allowed, of~~ 170  
~~which not more than ten million dollars of tax credit may be~~ 171  
~~allowed in the first year of the biennium. In succeeding fiscal~~ 172  
~~biennia, not~~ Not more than ~~twenty~~ forty million dollars of tax 173  
credit may be allowed per fiscal biennium beginning on or after 174  
July 1, 2011, and not more than ~~ten~~ twenty million dollars may be 175  
allowed in the first year of the biennium. At any time, not more 176  
than five million dollars of tax credit may be allowed per tax 177  
credit-eligible production. 178

(D) A motion picture company whose motion picture has been 179  
certified as a tax credit-eligible production shall engage, at the 180  
company's expense, an independent certified public accountant to 181  
examine the company's production expenditures to identify the 182  
expenditures that qualify as eligible production expenditures. The 183  
certified public accountant shall issue a report to the company 184  
and to the director of development certifying the company's 185  
eligible production expenditures and any other information 186  
required by the director. Upon receiving and examining the report, 187  
the director may disallow any expenditure the director determines 188  
is not an eligible production expenditure. If the director 189  
disallows an expenditure, the director shall issue a written 190  
notice to the motion picture production company stating that the 191  
expenditure is disallowed and the reason for the disallowance. 192  
Upon examination of the report and disallowance of any 193  
expenditures, the director shall determine finally the lesser of 194  
the total budgeted eligible production expenditures stated in the 195  
application submitted under division (B) of this section or the 196  
actual eligible production expenditures for the purpose of 197  
computing the amount of the credit. 198

(E) No credit shall be allowed under section 5733.59 or 199  
5747.66 of the Revised Code unless the director has reviewed the 200  
report and made the determination prescribed by division (D) of 201

this section. 202

(F) This state reserves the right to refuse the use of this 203  
state's name in the credits of any tax credit-eligible motion 204  
picture production. 205

(G)(1) The director of development in consultation with the 206  
tax commissioner shall adopt rules for the administration of this 207  
section, including rules setting forth and governing the criteria 208  
for determining whether a motion picture production is a tax 209  
credit-eligible production; activities that constitute the 210  
production of a motion picture; reporting sufficient evidence of 211  
reviewable progress; expenditures that qualify as eligible 212  
production expenditures; a competitive process for approving 213  
credits; and consideration of geographic distribution of credits. 214  
The rules shall be adopted under Chapter 119. of the Revised Code. 215

(2) The director may require a reasonable application fee to 216  
cover administrative costs of the tax credit program. The fees 217  
collected shall be credited to the motion picture tax credit 218  
program operating fund, which is hereby created in the state 219  
treasury. The motion picture tax credit program operating fund 220  
shall consist of all grants, gifts, fees, and contributions made 221  
to the director of development for marketing and promotion of the 222  
motion picture industry within this state. The director of 223  
development shall use money in the fund to pay expenses related to 224  
the administration of the Ohio film office and the credit 225  
authorized by this section and sections 5733.59 and 5747.66 of the 226  
Revised Code. 227

**Sec. 131.02.** (A) Except as otherwise provided in section 228  
4123.37, section 5703.061, and division (K) of section 4123.511 of 229  
the Revised Code, whenever any amount is payable to the state, the 230  
officer, employee, or agent responsible for administering the law 231  
under which the amount is payable shall immediately proceed to 232

collect the amount or cause the amount to be collected and shall 233  
pay the amount into the state treasury or into the appropriate 234  
custodial fund in the manner set forth pursuant to section 113.08 235  
of the Revised Code. Except as otherwise provided in this 236  
division, if the amount is not paid within forty-five days after 237  
payment is due, the officer, employee, or agent shall certify the 238  
amount due to the attorney general, in the form and manner 239  
prescribed by the attorney general, and notify the director of 240  
budget and management thereof. In the case of an amount payable by 241  
a student enrolled in a state institution of higher education, the 242  
amount shall be certified within the later of forty-five days 243  
after the amount is due or the tenth day after the beginning of 244  
the next academic semester, quarter, or other session following 245  
the session for which the payment is payable. The attorney general 246  
may assess the collection cost to the amount certified in such 247  
manner and amount as prescribed by the attorney general. If an 248  
amount payable to a political subdivision is past due, the 249  
political subdivision may, with the approval of the attorney 250  
general, certify the amount to the attorney general pursuant to 251  
this section. 252

For the purposes of this section, the attorney general and 253  
the officer, employee, or agent responsible for administering the 254  
law under which the amount is payable shall agree on the time a 255  
payment is due, and that agreed upon time shall be one of the 256  
following times: 257

(1) If a law, including an administrative rule, of this state 258  
prescribes the time a payment is required to be made or reported, 259  
when the payment is required by that law to be paid or reported. 260

(2) If the payment is for services rendered, when the 261  
rendering of the services is completed. 262

(3) If the payment is reimbursement for a loss, when the loss 263  
is incurred. 264

(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.	265 266 267
(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.	268 269 270
(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.	271 272
(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.	273 274 275
(8) Upon proof of claim being filed in a bankruptcy case.	276
(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.	277 278 279 280 281
(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.	282 283 284
(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:	285 286 287
(a) The assessment or case number;	288
(b) The tax pursuant to which the assessment is made;	289
(c) The reason for the liability, including, if applicable, that a penalty or interest is due;	290 291
(d) An explanation of how and when interest will be added to the amount assessed;	292 293

(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.

(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.

(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.

(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:

(1) Compromise the claim;

(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.

(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.

(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:

(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. 324

(3) No initial action shall be commenced to collect any tax 325  
payable to the state that is administered by the tax commissioner, 326  
whether or not such tax is subject to division (B) of this 327  
section, or any penalty, interest, or additional charge on such 328  
tax, after the expiration of the period ending on the later of the 329  
dates specified in divisions (F)(3)(a) and (b) of this section, 330  
provided that such period shall be extended by the period of any 331  
stay to such collection or by any other period to which the 332  
parties mutually agree. If the initial action in aid of execution 333  
is commenced before the later of the dates specified in divisions 334  
(F)(3)(a) and (b) of this section, any and all subsequent actions 335  
may be pursued in aid of execution of judgment for as long as the 336  
debt exists. 337

(a) Seven years after the assessment of the tax, penalty, 338  
interest, or additional charge is issued. 339

(b) Four years after the assessment of the tax, penalty, 340  
interest, or additional charge becomes final. For the purposes of 341  
division (F)(3)(b) of this section, the assessment becomes final 342  
at the latest of the following: upon expiration of the period to 343  
petition for reassessment, or if applicable, to appeal a final 344  
determination of the commissioner or decision of the board of tax 345  
appeals or a court, or, if applicable, upon decision of the United 346  
States supreme court. 347

For the purposes of division (F)(3) of this section, an 348  
initial action to collect a tax debt is commenced at the time when 349  
any action, including any action in aid of execution on a 350  
judgment, commences after a certified copy of the tax 351  
commissioner's entry making an assessment final has been filed in 352  
the office of the clerk of court of common pleas in the county in 353  
which the taxpayer resides or has its principal place of business 354  
in this state, or in the office of the clerk of court of common 355

pleas of Franklin county, as provided in section 5739.13, 5741.14, 356  
5747.13, or 5751.09 of the Revised Code or in any other applicable 357  
law requiring such a filing. If an assessment has not been issued 358  
and there is no time limitation on the issuance of an assessment 359  
under applicable law, an action to collect a tax debt commences 360  
when the action is filed in the courts of this state to collect 361  
the liability. 362

(4) If information contained in a claim that is sold, 363  
conveyed, or transferred to a private entity pursuant to this 364  
section is confidential pursuant to federal law or a section of 365  
the Revised Code that implements a federal law governing 366  
confidentiality, such information remains subject to that law 367  
during and following the sale, conveyance, or transfer. 368

**Sec. 349.01.** As used in this chapter: 369

(A) "New community" means a community or an addition to an 370  
existing community planned pursuant to this chapter so that it 371  
includes facilities for the conduct of industrial, commercial, 372  
residential, cultural, educational, and recreational activities, 373  
and designed in accordance with planning concepts for the 374  
placement of utility, open space, and other supportive facilities. 375

In the case of a new community authority established within 376  
three years after March 22, 2012, the effective date of H.B. 225 377  
of the 129th general assembly, "new community" may mean a 378  
community or development of property planned under this chapter in 379  
relation to an existing community so that the community includes 380  
facilities for the conduct of community activities, and is 381  
designed in accordance with planning concepts for the placement of 382  
utility, open space, and other supportive facilities for the 383  
community. 384

(B) "New community development program" means a program for 385  
the development of a new community characterized by well-balanced 386

and diversified land use patterns and which includes land 387  
acquisition and land development, the acquisition, construction, 388  
operation, and maintenance of community facilities, and the 389  
provision of services authorized in this chapter. 390

In the case of a new community authority established within 391  
three years after March 22, 2012, the effective date of H.B. 225 392  
of the 129th general assembly, a new community development program 393  
may take into account any existing community in relation to which 394  
a new community is developed for purposes of being characterized 395  
by well-balanced and diversified land use patterns. 396

(C) "New community district" means the area of land described 397  
by the developer in the petition as set forth in division (A) of 398  
section 349.03 of the Revised Code for development as a new 399  
community and any lands added to the district by amendment of the 400  
resolution establishing the community authority. 401

(D) "New community authority" means a body corporate and 402  
politic in this state, established pursuant to section 349.03 of 403  
the Revised Code and governed by a board of trustees as provided 404  
in section 349.04 of the Revised Code. 405

(E) "Developer" means any person, organized for carrying out 406  
a new community development program who owns or controls, through 407  
leases of at least seventy-five years' duration, options, or 408  
contracts to purchase, the land within a new community district, 409  
or any municipal corporation, county, or port authority that owns 410  
the land within a new community district, or has the ability to 411  
acquire such land, either by voluntary acquisition or condemnation 412  
in order to eliminate slum, blighted, and deteriorated or 413  
deteriorating areas and to prevent the recurrence thereof. In the 414  
case of a new community authority established within three years 415  
after March 22, 2012, the effective date of H.B. 225 of the 129th 416  
general assembly, "developer" may mean a person, municipal 417  
corporation, county, or port authority that controls land within a 418

new community district through leases of at least forty years' 419  
duration. 420

(F) "Organizational board of commissioners" means, if the new 421  
community district is located in only one county, the board of 422  
county commissioners of such county; if located in more than one 423  
county, a board consisting of the members of the board of county 424  
commissioners of each of the counties in which the district is 425  
located, provided that action of such board shall require a 426  
majority vote of the members of each separate board of county 427  
commissioners; or, if more than half of the new community district 428  
is located within the boundaries of the most populous municipal 429  
corporation of a county, the legislative authority of the 430  
municipal corporation. 431

(G) "Land acquisition" means the acquisition of real property 432  
and interests in real property as part of a new community 433  
development program. 434

(H) "Land development" means the process of clearing and 435  
grading land, making, installing, or constructing water 436  
distribution systems, sewers, sewage collection systems, steam, 437  
gas, and electric lines, roads, streets, curbs, gutters, 438  
sidewalks, storm drainage facilities, and other installations or 439  
work, whether within or without the new community district, and 440  
the construction of community facilities. 441

(I)(1) "Community facilities" means all real property, 442  
buildings, structures, or other facilities, including related 443  
fixtures, equipment, and furnishings, to be owned, operated, 444  
financed, constructed, and maintained under this chapter, 445  
including public, community, village, neighborhood, or town 446  
buildings, centers and plazas, auditoriums, day care centers, 447  
recreation halls, educational facilities, hospital facilities as 448  
defined in section 140.01 of the Revised Code, recreational 449  
facilities, natural resource facilities, including parks and other 450

open space land, lakes and streams, cultural facilities, community 451  
streets, pathway and bikeway systems, pedestrian underpasses and 452  
overpasses, lighting facilities, design amenities, or other 453  
community facilities, and buildings needed in connection with 454  
water supply or sewage disposal installations or steam, gas, or 455  
electric lines or installation. 456

(2) In the case of a new community authority established 457  
within three years after March 22, 2012, the effective date of 458  
H.B. 225 of the 129th general assembly, "community facilities" may 459  
mean, in addition to the facilities authorized in division (I)(1) 460  
of this section, any community facilities that are owned, 461  
operated, financed, constructed, or maintained for, relating to, 462  
or in furtherance of community activities, including, but not 463  
limited to, town buildings or other facilities, health care 464  
facilities including, but limited to, hospital facilities, and 465  
off-street parking facilities. 466

(J) "Cost" as applied to a new community development program 467  
means all costs related to land acquisition and land development, 468  
the acquisition, construction, maintenance, and operation of 469  
community facilities and offices of the community authority, and 470  
of providing furnishings and equipment therefor, financing charges 471  
including interest prior to and during construction and for the 472  
duration of the new community development program, planning 473  
expenses, engineering expenses, administrative expenses including 474  
working capital, and all other expenses necessary and incident to 475  
the carrying forward of the new community development program. 476

(K) "Income source" means any and all sources of income to 477  
the community authority, including community development charges 478  
of which the new community authority is the beneficiary as 479  
provided in section 349.07 of the Revised Code, rentals, user fees 480  
and other charges received by the new community authority, any 481  
gift or grant received, any moneys received from any funds 482

invested by or on behalf of the new community authority, and 483  
proceeds from the sale or lease of land and community facilities. 484

(L) "Community development charge" means: 485

(1) A dollar amount which shall be determined on the basis of 486  
the assessed valuation of real property or interests in real 487  
property in a new community district sold, leased, or otherwise 488  
conveyed by the developer or the new community authority, the 489  
income of the residents of such property subject to such charge 490  
under section 349.07 of the Revised Code, if such property is 491  
devoted to residential uses or to the profits of any business, a 492  
uniform fee on each parcel of such real property originally sold, 493  
leased, or otherwise conveyed by the developer or new community 494  
authority, or any combination of the foregoing bases. 495

(2) For a new community authority that is established within 496  
three years after March 22, 2012, the effective date of H.B. 225 497  
of the 129th general assembly, "community development charge" 498  
includes, in addition to the charges authorized in division (L)(1) 499  
of this section, a charge determined on the basis of all or a part 500  
of the income of the residents of real property within the new 501  
community district if such property is devoted to residential 502  
uses, or all or a part of the profits, gross receipts, or other 503  
revenues of any business operating in the new community district, 504  
including rentals received from leases of real property located in 505  
the district. If a new community authority imposes a community 506  
development charge determined on the basis of rentals received 507  
from leases of real property, improvements of any real property 508  
located in the new community district and subject to that charge 509  
may not be exempted from taxation under section 5709.40, 5709.41, 510  
5709.73, or 5709.78 of the Revised Code. 511

(M) "Proximate city" means any city that, as of the date of 512  
filing of the petition under section 349.03 of the Revised Code, 513  
is the city with the greatest population located in the county in 514

which the proposed new community district is located, is the city 515  
with the greatest population located in an adjoining county if any 516  
portion of such city is within five miles of any part of the 517  
boundaries of such district, or exercises extraterritorial 518  
subdivision authority under section 711.09 of the Revised Code 519  
with respect to any part of such district. 520

In the case of a new community authority that is established 521  
within three years after March 22, 2012, the effective date of 522  
H.B. 225 of the 129th general assembly, "proximate city" may mean 523  
a municipal corporation in which, at the time of filing the 524  
petition under section 349.03 of the Revised Code, any portion of 525  
the proposed new community district is located, or, if at the time 526  
of that filing more than one-half of the proposed district is 527  
contained within a joint economic development district created 528  
under sections 715.70 to 715.83 of the Revised Code, the township 529  
containing the greatest portion of the territory of the joint 530  
economic development district. 531

(N) "Community activities" means cultural, educational, 532  
governmental, recreational, residential, industrial, commercial, 533  
distribution and research activities, or any combination thereof 534  
that includes residential activities. 535

**Sec. 1545.21.** The board of park commissioners, by resolution, 536  
may submit to the electors of the park district the question of 537  
levying taxes for the use of the district. The resolution shall 538  
declare the necessity of levying such taxes, shall specify the 539  
purpose for which such taxes shall be used, the annual rate 540  
proposed, and the number of consecutive years the rate shall be 541  
levied. Such resolution shall be forthwith certified to the board 542  
of elections in each county in which any part of such district is 543  
located, not later than the ninetieth day before the day of the 544  
election, and the question of the levy of taxes as provided in 545

such resolution shall be submitted to the electors of the district 546  
at a special election to be held on whichever of the following 547  
occurs first: 548

(A) The day of the next general election; 549

(B) The first Tuesday after the first Monday in May in any 550  
calendar year, except that if a presidential primary election is 551  
held in that calendar year, then the day of that election. The 552  
ballot shall set forth the purpose for which the taxes shall be 553  
levied, the annual rate of levy, and the number of years of such 554  
levy. If the tax is to be placed on the current tax list, the form 555  
of the ballot shall state that the tax will be levied in the 556  
current tax year and shall indicate the first calendar year the 557  
tax will be due. If the resolution of the board of park 558  
commissioners provides that an existing levy will be canceled upon 559  
the passage of the new levy, the ballot may include a statement 560  
that: "an existing levy of ... mills (stating the original levy 561  
millage), having ... years remaining, will be canceled and 562  
replaced upon the passage of this levy." In such case, the ballot 563  
may refer to the new levy as a "replacement levy" if the new 564  
millage does not exceed the original millage of the levy being 565  
canceled or as a "replacement and additional levy" if the new 566  
millage exceeds the original millage of the levy being canceled. 567  
If a majority of the electors voting upon the question of such 568  
levy vote in favor thereof, such taxes shall be levied and shall 569  
be in addition to the taxes authorized by section 1545.20 of the 570  
Revised Code, and all other taxes authorized by law. The rate 571  
submitted to the electors at any one time shall not exceed two 572  
mills annually upon each dollar of valuation unless the purpose of 573  
the levy includes providing operating revenues for one of Ohio's 574  
major metropolitan zoos, as defined in section 4503.74 of the 575  
Revised Code, in which case the rate shall not exceed three mills 576  
annually upon each dollar of valuation. When a tax levy has been 577

authorized as provided in this section or in section 1545.041 of 578  
the Revised Code, the board of park commissioners may issue bonds 579  
pursuant to section 133.24 of the Revised Code in anticipation of 580  
the collection of such levy, provided that such bonds shall be 581  
issued only for the purpose of acquiring and improving lands. Such 582  
levy, when collected, shall be applied in payment of the bonds so 583  
issued and the interest thereon. The amount of bonds so issued and 584  
outstanding at any time shall not exceed one per cent of the total 585  
tax valuation in such district. Such bonds shall bear interest at 586  
a rate not to exceed the rate determined as provided in section 587  
9.95 of the Revised Code. 588

**Sec. 1701.86.** (A) A corporation may be dissolved voluntarily 589  
in the manner provided in this section, provided the provisions of 590  
Chapter 1704. of the Revised Code do not prevent the dissolution 591  
from being effected. 592

(B) A resolution of dissolution for a corporation shall set 593  
forth that the corporation elects to be dissolved. The resolution 594  
also may include any of the following: 595

(1) The date on which the certificate of dissolution is to be 596  
filed or the conditions or events that will result in the filing 597  
of the certificate; 598

(2) Authorization for the officers or directors to abandon 599  
the proposed dissolution before the filing of the certificate of 600  
dissolution; 601

(3) Any additional provision considered necessary with 602  
respect to the proposed dissolution and winding up. 603

(C) If an initial stated capital is not set forth in the 604  
articles then before the corporation begins business, or if an 605  
initial stated capital is set forth in the articles then before 606  
subscriptions to shares shall have been received in the amount of 607

that initial stated capital, the incorporators or a majority of 608  
them may adopt, by a writing signed by each of them, a resolution 609  
of dissolution. 610

(D) The directors may adopt a resolution of dissolution in 611  
any of the following cases: 612

(1) When the corporation has been adjudged bankrupt or has 613  
made a general assignment for the benefit of creditors; 614

(2) By leave of the court, when a receiver has been appointed 615  
in a general creditors' suit or in any suit in which the affairs 616  
of the corporation are to be wound up; 617

(3) When substantially all of the assets have been sold at 618  
judicial sale or otherwise; 619

(4) When the articles have been canceled for failure to file 620  
annual franchise or excise tax returns or for failure to pay 621  
franchise or excise taxes and the corporation has not been 622  
reinstated or does not desire to be reinstated; 623

(5) When the period of existence of the corporation specified 624  
in its articles has expired. 625

(E) The shareholders at a meeting held for such purpose may 626  
adopt a resolution of dissolution by the affirmative vote of the 627  
holders of shares entitling them to exercise two-thirds of the 628  
voting power of the corporation on such proposal or, if the 629  
articles provide or permit, by the affirmative vote of a greater 630  
or lesser proportion, though not less than a majority, of such 631  
voting power, and by such affirmative vote of the holders of 632  
shares of any particular class as is required by the articles. 633  
Notice of the meeting of the shareholders shall be given to all 634  
the shareholders whether or not entitled to vote at it. 635

(F) Upon the adoption of a resolution of dissolution, a 636  
certificate shall be prepared, on a form prescribed by the 637

secretary of state, setting forth all of the following: 638

(1) The name of the corporation; 639

(2) A statement that a resolution of dissolution has been 640  
adopted; 641

(3) A statement of the manner of adoption of such resolution, 642  
and, in the case of its adoption by the incorporators or 643  
directors, a statement of the basis for such adoption; 644

(4) The place in this state where its principal office is or 645  
is to be located; 646

(5) The internet address of each domain name held or 647  
maintained by or on behalf of the corporation; 648

(6) The name and address of its statutory agent; 649

(7) The date of dissolution, if other than the filing date. 650  
The date of dissolution shall not be more than ninety days after 651  
the filing of the certificate of dissolution. 652

(G) When the resolution of dissolution is adopted by the 653  
incorporators, the certificate shall be signed by not less than a 654  
majority of them. In all other cases, the certificate shall be 655  
signed by any authorized officer, unless the officer fails to 656  
execute and file such certificate within thirty days after the 657  
date upon which such certificate is to be filed. In that latter 658  
event, the certificate of dissolution may be signed by any three 659  
shareholders or, if there are less than three shareholders, all of 660  
the shareholders and shall set forth a statement that the persons 661  
signing the certificate are shareholders and are filing the 662  
certificate because of the failure of the officers to do so. 663

(H) Except as otherwise provided in division (I) of this 664  
section, a certificate of dissolution, filed with the secretary of 665  
state, shall be accompanied by all of the following: 666

(1) An affidavit of one or more of the persons executing the 667

certificate of dissolution or of an officer of the corporation 668  
containing a statement of the counties, if any, in this state in 669  
which the corporation has personal property or a statement that 670  
the corporation is of a type required to pay personal property 671  
taxes to state authorities only; 672

(2) A certificate or other evidence from the department of 673  
taxation showing that the payment of all franchise, sales, use, 674  
and highway use taxes accruing up to the date of dissolution or 675  
showing that such payment has been adequately guaranteed, 676  
corporation has paid all taxes administered by and required to be 677  
paid to the tax commissioner that are or will be due from the 678  
corporation on the date of the dissolution or an affidavit of one 679  
or more of the persons executing the certificate of dissolution or 680  
of an officer of the corporation containing a statement that the 681  
corporation is not required to pay or the department of taxation 682  
has not assessed any tax for which such a certificate or other 683  
evidence is not provided; 684

(3) A certificate or other evidence showing the payment of 685  
all personal property ~~and commercial activity~~ taxes accruing up to 686  
the date of dissolution or showing that such payment has been 687  
adequately guaranteed, or an affidavit of one or more of the 688  
persons executing the certificate of dissolution or of an officer 689  
of the corporation containing a statement that the corporation is 690  
not required to pay or the department of taxation has not assessed 691  
any tax for which such a certificate or other evidence is not 692  
provided; 693

(4) A receipt, certificate, or other evidence from the 694  
director of job and family services showing that all contributions 695  
due from the corporation as an employer have been paid, or that 696  
such payment has been adequately guaranteed, or that the 697  
corporation is not subject to such contributions; 698

(5) A receipt, certificate, or other evidence from the bureau 699

of workers' compensation showing that all premiums due from the 700  
corporation as an employer have been paid, or that such payment 701  
has been adequately guaranteed, or that the corporation is not 702  
subject to such premium payments. 703

(I) In lieu of the receipt, certificate, or other evidence 704  
described in division (H)(2), (3), (4), or (5) of this section, an 705  
affidavit of one or more persons executing the certificate of 706  
dissolution or of an officer of the corporation containing a 707  
statement of the date upon which the particular department, 708  
agency, or authority was advised in writing of the scheduled 709  
effective date of the dissolution and was advised in writing of 710  
the acknowledgment by the corporation of the applicability of the 711  
provisions of section 1701.95 of the Revised Code. 712

(J) Upon the filing of a certificate of dissolution and such 713  
accompanying documents or on a later date specified in the 714  
certificate that is not more than ninety days after the filing, 715  
the corporation shall be dissolved. 716

**Sec. 1702.47.** (A) A corporation may be dissolved voluntarily 717  
in the manner provided in this section. 718

(B) A resolution of dissolution for a corporation shall set 719  
forth: 720

(1) That the corporation elects to be dissolved; 721

(2) Any additional provision deemed necessary with respect to 722  
the proposed dissolution and winding up. 723

(C) The directors may adopt a resolution of dissolution in 724  
the following cases: 725

(1) When the corporation has been adjudged bankrupt or has 726  
made a general assignment for the benefit of creditors; 727

(2) By leave of the court, when a receiver has been appointed 728  
in a general creditors' suit or in any suit in which the affairs 729

of the corporation are to be wound up; 730

(3) When substantially all of the assets have been sold at 731  
judicial sale or otherwise; 732

(4) When the period of existence of the corporation specified 733  
in its articles has expired. 734

(D)(1) The voting members at a meeting held for that purpose 735  
may adopt a resolution of dissolution by the affirmative vote of a 736  
majority of the voting members present in person or, if permitted, 737  
by mail, by proxy, or by the use of authorized communications 738  
equipment, if a quorum is present or, if the articles or the 739  
regulations provide or permit, by the affirmative vote of a 740  
greater or lesser proportion or number of the voting members, and 741  
by the affirmative vote of the voting members or the affirmative 742  
vote of the voting members of any particular class that is 743  
required by the articles or the regulations. Notice of the meeting 744  
of the members shall be sent to all the members who would be 745  
entitled to vote at the meeting by mail, overnight delivery 746  
service, or any authorized communications equipment. 747

(2) For purposes of division (D)(1) of this section, 748  
participation by a voting member at a meeting through the use of 749  
any of the means of communication described in that division 750  
constitutes presence in person of that voting member at the 751  
meeting for purposes of determining a quorum. 752

(E) Upon the adoption of a resolution of dissolution, a 753  
certificate shall be prepared, on a form prescribed by the 754  
secretary of state, setting forth the following: 755

(1) The name of the corporation; 756

(2) A statement that a resolution of dissolution has been 757  
adopted; 758

(3) A statement of the manner of adoption of that resolution, 759

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

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

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

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

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

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

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

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

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

~~certificate of dissolution in accordance with division (E) of this 790  
section, unless the affidavit provided for in division (G)(1) of 791  
this section states that the corporation has in this state no 792  
personal property subject to personal property taxes; 793~~

~~(3) A receipt, certificate, or other evidence from the 794  
director of job and family services showing that all contributions 795  
due from the corporation as an employer have been paid, that such 796  
payment has been adequately guaranteed, or that the corporation is 797  
not subject to such contributions; 798~~

~~(4)(2) A receipt, certificate, or other evidence showing that 799  
the payment of all sales, use, and highway use taxes accruing up 800  
to the date of such filing or, if applicable, to the later date 801  
specified in the certificate of corporation has paid all taxes 802  
imposed under the laws of this state that are or will be due from 803  
the corporation on the date of the dissolution in accordance with 804  
division (E) of this section, or that such payment has been 805  
adequately guaranteed; 806~~

~~(5)(3) In lieu of the receipt, certificate, or other evidence 807  
described in division (G)(1) or (2), (3), or (4) of this section, 808  
an affidavit of one or more of the persons executing the 809  
certificate of dissolution or of an officer of the corporation 810  
containing a statement of the date upon which the particular 811  
department, agency, or authority was advised in writing of the 812  
scheduled effective date of the dissolution and was advised in 813  
writing of the acknowledgement by the corporation of the 814  
applicability of section 1702.55 of the Revised Code. 815~~

(H) Upon the filing of a certificate of dissolution and those 816  
accompanying documents or on a later date specified in the 817  
certificate that is not more than ninety days after the filing, 818  
the corporation shall be dissolved. 819

**Sec. 3769.28.** The tax commissioner shall collect from each 820

permit holder who conducts a pari-mutuel system of wagering where 821  
the wagering is less than five million dollars a sum of money 822  
equal to one-tenth of one per cent of the total amount wagered and 823  
where the wagering is five million dollars or more a sum of money 824  
equal to fifteen hundredths of one per cent of the total amount 825  
wagered during any horse-racing meeting for the purpose of 826  
providing operating revenue for the political subdivisions wherein 827  
such meetings are held. ~~Such moneys shall be collected by the~~ 828  
~~commissioner within~~ Within ten days after the close of ~~such a~~ 829  
meeting and ~~shall be sent back to,~~ the permit holder ~~who paid the~~ 830  
~~tax. Such permit holder shall prepare and transmit to the tax~~ 831  
commissioner a final report showing the total amount wagered 832  
during the horse-racing meeting and any other information required 833  
by the commissioner relative to the tax levied by this section. 834  
The final report shall be signed by the permit holder or an 835  
authorized agent of the permit holder. The commissioner shall 836  
prescribe the form of the final report. 837

The commissioner shall collect the tax due under this section 838  
on amounts wagered during a horse-racing meeting within ten days 839  
after the close of the meeting. The amount collected by the 840  
commissioner shall be made payable to the chief fiscal officers of 841  
the municipal corporations or townships in which such horse-racing 842  
meeting took place and in which any such facilities or accessory 843  
uses therefor were located. The commissioner shall then 844  
immediately forward the ~~moneys~~ amount collected to the such chief 845  
fiscal officers ~~of the municipal corporations or townships in~~ 846  
~~which such horse racing meeting took place and in which any such~~ 847  
~~facilities or accessory uses therefor were located. Such moneys~~ 848  
The amount collected shall be divided equally between the 849  
municipal corporations or townships in which such horse-racing 850  
meeting took place and in which any facilities or accessory uses 851  
therefor were located. Such municipal corporations or townships 852  
may distribute a portion of the moneys so received to any 853

adjoining political subdivision which incurs increased expenses 854  
because of such horse-racing meeting. 855

This section shall not apply to any agricultural society 856  
which holds a horse-racing permit. 857

The amount collected under this section from any one permit 858  
holder shall not exceed fifteen thousand dollars from any one 859  
horse-racing meeting in any calendar year. 860

**Sec. 4301.42.** For the purpose of providing revenue for the 861  
support of the state, a tax is hereby levied on the sale of beer 862  
in sealed bottles and cans having twelve ounces or less of liquid 863  
content, at the rate of fourteen one-hundredths of one cent on 864  
each ounce of liquid content or fractional part of each ounce of 865  
liquid content, and on such containers in excess of twelve ounces, 866  
at the rate of eighty-four one-hundredths of one cent on each six 867  
ounces of liquid content or fractional part of each six ounces of 868  
liquid content. Sections 4307.01 to 4307.12 of the Revised Code 869  
apply in the administration of that tax. Manufacturers, bottlers, 870  
and canners of ~~and wholesale dealers in beer,~~ wholesale dealers in 871  
beer, and S permit holders have the duty to pay the tax imposed by 872  
this section and are entitled to the privileges in the manner 873  
provided in section 4303.33 of the Revised Code. 874

**Sec. 4303.33.** (A) Every A-1 permit holder in this state, 875  
every bottler, importer, wholesale dealer, broker, producer, or 876  
manufacturer of beer outside this state and within the United 877  
States, and every B-1 permit holder and importer importing beer 878  
from any manufacturer, bottler, person, or group of persons 879  
however organized outside the United States for sale or 880  
distribution for sale in this state, on or before the eighteenth 881  
day of each month, shall make and file with the tax commissioner 882  
upon a form prescribed by the tax commissioner an advance tax 883

payment in an amount estimated to equal the taxpayer's tax 884  
liability for the month in which the advance tax payment is made. 885  
If the advance tax payment credits claimed on the report are for 886  
advance tax payments received by the tax commissioner on or before 887  
the eighteenth day of the month covered by the report, the 888  
taxpayer is entitled to an additional credit of three per cent of 889  
the advance tax payment and a discount of three per cent shall be 890  
allowed the taxpayer at the time of filing the report if filed as 891  
provided in division (B) of this section on any amount by which 892  
the tax liability reflected in the report exceeds the advance tax 893  
payment estimate by not more than ten per cent. The additional 894  
three per cent credit and three per cent discount shall be in 895  
consideration for advancing the payment of the tax and other 896  
services performed by the permit holder and other taxpayers in the 897  
collection of the tax. 898

"Advance tax payment credit" means credit for payments made 899  
by an A-1 or B-1 permit holder and any other persons during the 900  
period covered by a report which was made in anticipation of the 901  
tax liability required to be reported on that report. 902

"Tax liability" as used in division (A) of this section means 903  
the total gross tax liability of an A-1 or B-1 permit holder and 904  
any other persons for the period covered by a report before any 905  
allowance for credits and discount. 906

(B) Every A-1 permit holder in this state, every bottler, 907  
importer, wholesale dealer, broker, producer, or manufacturer of 908  
beer outside this state and within the United States, ~~and~~ every 909  
B-1 permit holder importing beer from any manufacturer, bottler, 910  
person, or group of persons however organized outside the United 911  
States, and every S permit holder, on or before the tenth day of 912  
each month, shall make and file a report for the preceding month 913  
upon a form prescribed by the tax commissioner which report shall 914  
show the amount of beer produced, sold, and distributed for sale 915

in this state by the A-1 permit holder, sold and distributed for 916  
sale in this state by each manufacturer, bottler, importer, 917  
wholesale dealer, or broker outside this state and within the 918  
United States, ~~and~~ the amount of beer imported into this state 919  
from outside the United States and sold and distributed for sale 920  
in this state by the B-1 permit holder or importer, and the amount 921  
of beer sold in this state by the S permit holder. 922

The report shall be filed by mailing it to the tax 923  
commissioner, together with payment of the tax levied by sections 924  
4301.42 and 4305.01 of the Revised Code shown to be due on the 925  
report after deduction of advance payment credits and any 926  
additional credits or discounts provided for under this section. 927

(C)(1) Every A-2, A-4, B-2, B-2a, B-3, B-4, B-5, and S permit 928  
holder in this state, on or before the eighteenth day of each 929  
month, shall make and file a report with the tax commissioner upon 930  
a form prescribed by the tax commissioner which report shall show, 931  
on the report of each A-2, A-4, B-2a, and S permit holder the 932  
amount of wine, cider, and mixed beverages produced and sold, or 933  
sold in this state by each such A-2, A-4, B-2a, and S permit 934  
holder for the next preceding calendar month and such other 935  
information as the tax commissioner requires, and on the report of 936  
each such B-2, B-3, B-4, and B-5 permit holder the amount of wine, 937  
cider, and mixed beverages purchased from an importer, broker, 938  
wholesale dealer, producer, or manufacturer located outside this 939  
state and sold and distributed in this state by such B-2, B-3, 940  
B-4, and B-5 permit holder, for the next preceding calendar month 941  
and such other information as the tax commissioner requires. 942

(2) Every such A-2, A-4, B-2, B-2a, B-3, B-4, B-5, and S 943  
permit holder in this state shall remit with the report the tax 944  
levied by sections 4301.43 and, if applicable, 4301.432 of the 945  
Revised Code less a discount thereon of three per cent of the 946  
total tax so levied and paid, provided the return is filed 947

together with remittance of the amount of tax shown to be due 948  
thereon, within the time prescribed. Any permit holder or other 949  
persons who fail to file a report under this section, for each day 950  
the person so fails, may be required to forfeit and pay into the 951  
state treasury the sum of one dollar as revenue arising from the 952  
tax imposed by sections 4301.42, 4301.43, 4301.432, and 4305.01 of 953  
the Revised Code, and that sum may be collected by assessment in 954  
the manner provided in section 4305.13 of the Revised Code. 955

(3) If the tax commissioner determines that the quantity 956  
reported by a person does not warrant monthly reporting, the 957  
commissioner may authorize the filing of returns and the payment 958  
of the tax required by this section for periods longer than one 959  
month. 960

(D) Every B-1 permit holder and importer in this state 961  
importing beer from any manufacturer, bottler, person, or group of 962  
persons however organized, outside the United States, if required 963  
by the tax commissioner shall post a bond payable to the state in 964  
such form and amount as the commissioner prescribes with surety to 965  
the satisfaction of the tax commissioner, conditioned upon the 966  
payment to the tax commissioner of taxes levied by sections 967  
4301.42 and 4305.01 of the Revised Code. 968

(E) No such wine, beer, cider, or mixed beverages sold or 969  
distributed in this state shall be taxed more than once under 970  
sections 4301.42, 4301.43, and 4305.01 of the Revised Code. 971

(F) As used in this section: 972

(1) "Cider" has the same meaning as in section 4301.01 of the 973  
Revised Code. 974

(2) "Wine" has the same meaning as in section 4301.01 of the 975  
Revised Code, except that "wine" does not include cider. 976

(G) All money collected by the tax commissioner under this 977  
section shall be paid to the treasurer of state as revenue arising 978

from the taxes levied by sections 4301.42, 4301.43, 4301.432, and 979  
4305.01 of the Revised Code. 980

**Sec. 4701.01.** As used in this chapter: 981

(A) "Practice of public accounting" means performing or 982  
offering to perform any engagement that will result in the 983  
issuance of an attest report and, with respect to a person who 984  
holds a CPA certificate, PA registration, foreign certificate, or 985  
firm registration, any other services involving the use of 986  
accounting or auditing skills as established by rules adopted by 987  
the accountancy board. 988

(B) "Public accounting firm" means a sole proprietorship, a 989  
partnership, a limited liability company, a professional 990  
association, a corporation-for-profit, or any other business 991  
organization that is engaged in the practice of public accounting 992  
in this state. 993

(C) "Opinion report" means any opinion on a financial 994  
statement that is expressed in accordance with generally accepted 995  
auditing standards as to the fairness of presentation of 996  
information and that is used for guidance in financial 997  
transactions, for accounting, or for assessing the status or 998  
performance of commercial and noncommercial enterprises, whether 999  
public, private, or governmental. 1000

(D) "Peer review" means a study, appraisal, or review of one 1001  
or more aspects of the professional work of a public accounting 1002  
firm that meets the standards and requirements set forth by the 1003  
accountancy board. 1004

(E) "Review report" means either of the following: 1005

(1) Any review report on a financial statement that is issued 1006  
with respect to any of the following: 1007

(a) Interim financial information in accordance with 1008

generally accepted auditing standards; 1009

(b) The financial information of a nonpublic entity in 1010  
accordance with statements on standards for accounting and review 1011  
services; 1012

(c) The reliability of another party's written assertion in 1013  
accordance with statements on standards for attestation 1014  
engagements. 1015

(2) Any other review report on a financial statement that is 1016  
not described in division (E)(1) of this section and that is 1017  
issued in accordance with standards promulgated by the American 1018  
institute of certified public accountants. 1019

(F) "Compilation report" means any compilation report on a 1020  
financial statement that is issued with respect to financial 1021  
information of a nonpublic entity in accordance with statements on 1022  
standards for accounting and review services as promulgated by the 1023  
American institute of certified public accountants. 1024

(G) "Examination report" means any examination report on a 1025  
financial statement that is issued with respect to another party's 1026  
written assertion in accordance with statements on standards for 1027  
attestation engagements as promulgated by the American institute 1028  
of certified public accountants. 1029

(H) "Agreed-upon procedures report" means any report that is 1030  
on a financial statement and that is based on agreed-upon 1031  
procedures issued with respect to another party's written 1032  
assertion in accordance with statements on standards for 1033  
attestation engagements as promulgated by the American institute 1034  
of certified public accountants. 1035

(I) "Qualified firm" means a sole proprietorship, 1036  
partnership, professional association, corporation-for-profit, 1037  
limited liability company, or other business organization in which 1038  
the individuals who own a majority of the business organization 1039

interests in the business organization and control the business organization hold an Ohio permit or a foreign certificate. 1040  
1041

(J) "Own" means any direct or indirect ownership of an equity interest in a public accounting firm or qualified firm. 1042  
1043

(K) "Control" or "controlled" means the right to exercise the majority of the voting equity interests in a public accounting firm or qualified firm with respect to any matter. 1044  
1045  
1046

(L) "Equity interest" means any capital interest or profit interest in a sole proprietorship, partnership, professional association, corporation-for-profit, limited liability company, or other business organization. 1047  
1048  
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(M) "Ohio permit" means a permit to practice public accounting issued under division (A) of section 4701.10 of the Revised Code that is not revoked or suspended. 1051  
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(N) "Ohio registration" means the registration under division (B) of section 4701.10 of the Revised Code of a holder of a CPA certificate or PA registration who is not in the practice of public accounting in this state. 1054  
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(O) "Firm registration" or "registered firm" means registration as a public accounting firm under section 4701.04 of the Revised Code. 1058  
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1060

(P) "PA registration" means registration as a public accountant under section 4701.07 of the Revised Code that is not revoked or suspended. 1061  
1062  
1063

(Q) "CPA certificate" means a certificate issued under section 4701.06 or 4701.061 of the Revised Code that is not revoked or suspended. 1064  
1065  
1066

(R) "Foreign certificate" means a license, permit, certificate of, or registration issued to a certified public accountant ~~issued~~ under the laws of another state that authorizes 1067  
1068  
1069

the holder to practice public accounting in that state, is valid, 1070  
is in good standing, and has not expired. 1071

(S) "Attest report" means an opinion report, review report, 1072  
compilation report, examination report, agreed-upon procedures 1073  
report, or any similar report prepared in accordance with 1074  
standards established by the American institute of certified 1075  
public accountants with respect to a financial statement or other 1076  
financial information. 1077

(T) "Person" means any individual, corporation-for-profit, 1078  
business trust, estate, partnership, limited liability company, 1079  
professional association, or other business organization. 1080

(U) Technical terms that define specific public accounting 1081  
engagements have the same meanings as in the professional 1082  
standards promulgated by the American institute of certified 1083  
public accountants. 1084

(V)(1) "Good moral character" means the combination of 1085  
personal traits of honesty, integrity, attention to duty, 1086  
forthrightness, and self-restraint that enables a person to 1087  
discharge the duties of the accounting profession fully and 1088  
faithfully. 1089

(2) A history of dishonest acts or felonious acts or 1090  
convictions is sufficient to prove lack of good moral character if 1091  
that history demonstrates by a preponderance of the evidence that 1092  
the person lacks one or more of the personal traits referred to in 1093  
division (V)(1) of this section. A person who has a felony 1094  
conviction related to one or more of those personal traits bears 1095  
the burden of establishing the person's present good moral 1096  
character, including the person's full and complete rehabilitation 1097  
subsequent to the conviction. If less than one year has passed 1098  
since the completion of the person's sentence on a felony 1099  
conviction, including any period under a community control 1100

sanction or post-release control, the board may delay any 1101  
determination of the person's good moral character until one year 1102  
has passed from the time of the completion of that sentence. 1103

(3) In determining whether a person who has a felony 1104  
conviction has met the person's burden of proof described in 1105  
division (V)(2) of this section, the accountancy board may 1106  
consider the following factors: 1107

(a) The person's path toward professional licensing following 1108  
completion of the person's sentence; 1109

(b) The nature and degree of the person's academic 1110  
achievements; 1111

(c) The nature and degree of the person's employment 1112  
following completion of the person's sentence; 1113

(d) The person's degree of self-sufficiency following 1114  
completion of the person's sentence; 1115

(e) The nature and degree of the person's other 1116  
responsibilities following completion of the person's sentence; 1117

(f) The person's conviction for any other criminal offense 1118  
since completion of the person's sentence for the person's first 1119  
felony conviction; 1120

(g) Whether the person's application or presentation contains 1121  
any inconsistencies or misleading explanations that convince the 1122  
board that either the person or the person's attorney is trying to 1123  
keep the board from acquiring a true, though damaging, 1124  
representation of the person's character; 1125

(h) The nature and circumstances of the dishonest acts or 1126  
felonious acts or convictions of the person; 1127

(i) Any other specifically identifiable information that the 1128  
board determines to be relevant to the person's ability to 1129  
discharge the duties of the accounting profession fully and 1130

faithfully. 1131

**Sec. 4701.04.** (A) No public accounting firm located in this 1132  
state shall engage in the practice of public accounting in this 1133  
state unless it registers with the accountancy board and pays a 1134  
registration fee set by the board. 1135

(B) Public accounting firms shall apply for initial 1136  
registration within ninety days after formation or within ninety 1137  
days after the commencement of practicing public accounting in 1138  
this state. All public accounting firms shall renew their 1139  
registration triennially. All public accounting firms shall submit 1140  
with their initial and renewal registration applications all of 1141  
the following: 1142

(1) A list of the names, addresses, and certificate or 1143  
registration numbers of all individuals who hold an Ohio permit 1144  
and who own an equity interest in the public accounting firm or 1145  
are employed by the public accounting firm; 1146

(2) A list of the names and addresses of each person who does 1147  
not hold an Ohio permit or a foreign certificate and who owns an 1148  
equity interest in the public accounting firm if the person's 1149  
principal place of business is located in this state; 1150

(3) A statement that the public accounting firm and each 1151  
person who owns an equity interest in the public accounting firm 1152  
or is employed by the public accounting firm and who does not hold 1153  
an Ohio permit or a foreign certificate is in compliance with 1154  
divisions (C) and (D) of this section. 1155

(C) A public accounting firm shall satisfy all of the 1156  
following requirements in order to register: 1157

(1) Except as provided in division (C)(5) of this section, 1158  
each partner, shareholder, member, or other person who owns an 1159  
equity interest in the public accounting firm shall hold an Ohio 1160

permit or a foreign certificate. 1161

(2) ~~The chief executive of any office of a public accounting~~ 1162  
~~firm located in or doing business in this state shall hold~~ 1163  
designate an individual who holds an Ohio permit or a foreign 1164  
certificate who shall be responsible for the proper registration 1165  
of the firm. The public accounting firm shall identify this 1166  
individual to the board. 1167

(3) Each individual in a public accounting firm who signs any 1168  
attest report issued from an office of the public accounting firm 1169  
located in this state shall hold an Ohio permit. 1170

(4) An individual who owns an equity interest in the public 1171  
accounting firm or is employed by the public accounting firm and 1172  
who holds an Ohio permit or a foreign certificate, or a qualified 1173  
firm that owns an equity interest in the public accounting firm, 1174  
shall assume ultimate responsibility for any attest report issued 1175  
from an office of the public accounting firm located in this 1176  
state. 1177

(5) Any person who does not hold an Ohio permit or a foreign 1178  
certificate and who holds an equity interest in the public 1179  
accounting firm shall satisfy the conditions set forth in division 1180  
(D) of this section. 1181

(6) The public accounting firm shall provide for the transfer 1182  
of the equity interest owned by persons who do not hold an Ohio 1183  
permit or a foreign certificate to either the public accounting 1184  
firm or to another person who owns an equity interest in the firm 1185  
if a person who does not hold an Ohio permit or a foreign 1186  
certificate withdraws from or ceases to be employed by the public 1187  
accounting firm. The public accounting firm may make payments in 1188  
connection with the person's withdrawal from the firm to that 1189  
person or, if that person is deceased or dissolved, to the 1190  
person's estate or successor in interest. 1191

(D) A person who does not hold an Ohio permit or a foreign 1192  
certificate may own an equity interest in a public accounting firm 1193  
if all of the following conditions are met: 1194

(1) All of the individuals who hold an Ohio permit or a 1195  
foreign certificate and who own equity interests in the public 1196  
accounting firm, and qualified firms that own equity interests in 1197  
the public accounting firm, own, in the aggregate, a majority of 1198  
the equity interests in the public accounting firm and control the 1199  
public accounting firm. 1200

(2) The person does not assume or use any titles or 1201  
designations specified in division (A) of section 4701.14 of the 1202  
Revised Code. The person may designate or refer to the person as a 1203  
shareholder, partner, member, principal, owner, or officer of the 1204  
public accounting firm and also may use any other title that the 1205  
board authorizes by rule. 1206

(3) The person is not in violation of any standard regarding 1207  
the character or conduct of that person that the board establishes 1208  
by rule. 1209

(4) The person's participation in the business of the public 1210  
accounting firm is the person's principal occupation and consists 1211  
of providing services to or on behalf of the public accounting 1212  
firm, and the person is not functioning solely or predominately as 1213  
a passive investor in the public accounting firm. 1214

~~(5) The person has graduated with a baccalaureate or higher 1215  
degree conferred by a college or university approved by the board. 1216~~

~~(6)~~ The person meets or exceeds the continuing education 1217  
requirements that the board establishes by rule. 1218

~~(7)~~(6) A person who holds a professional license, 1219  
registration, or certification issued by this state or another 1220  
state complies with the requirements of that license, 1221  
registration, or certification. 1222

~~(8)~~(7) The person abides by the code of conduct of the American institute of certified public accountants or a comparable code of professional conduct that the board adopts by rule.

~~(9)~~(8) The person complies with all applicable provisions of this chapter and the rules adopted by the board.

(E) A person who owns a voting equity interest in a public accounting firm may not delegate, by proxy or otherwise, the duty to exercise any voting rights to a person that does not hold an Ohio permit or a foreign certificate or to a person that is not a qualified firm.

(F) As a condition for initial or renewal registration of a public accounting firm on and after January 1, 1993, the board, by rule, shall require that each public accounting firm undergo a peer review to determine the public accounting firm's degree of compliance in the practice of public accounting with generally accepted accounting principles, generally accepted auditing standards, and other generally accepted technical standards as defined by the board in rule, unless the public accounting firm meets one of the exceptions in division (J) of this section.

(G) The board shall adopt rules establishing guidelines for peer reviews, and may authorize an agent to administer all or part of the board's peer review program and to assess a reasonable fee to firms to cover the costs incurred by the agent for program administration. The rules shall do all of the following:

(1) Designate a peer review committee consisting of accounting professionals to serve as advisors to the board and to ensure that the board's guidelines are followed. ~~The board may establish fair and reasonable compensation for the committee members to be paid for time they spend conducting committee business.~~

(2) Require that the peer review be conducted by a reviewer

that is both independent of the public accounting firm reviewed 1254  
and qualified pursuant to board rules; 1255

(3) Require that the standards and practices applied by the 1256  
reviewer be at least as stringent as those applied by the American 1257  
institute of certified public accountants; 1258

(4) Prohibit the use or disclosure of information obtained by 1259  
members of the board or a committee of peer reviewers during or in 1260  
connection with the peer review process for purposes other than 1261  
those related to determining the degree of compliance by the 1262  
public accounting firm with generally accepted accounting 1263  
principles, generally accepted auditing standards, and other 1264  
generally accepted technical standards as defined by the board in 1265  
rule. Division (G)(4) of this section does not apply to the use or 1266  
disclosure of information that is described in division (K)(3) of 1267  
this section or that is necessary to comply with any provision of 1268  
law. 1269

(H)(1) If a peer review report indicates that a public 1270  
accounting firm does not comply with standards and practices set 1271  
forth in the rules adopted by the board guidelines, the board, in 1272  
its discretion, may ~~hold a hearing to~~ review the results of the 1273  
peer review report. If the board, ~~after conducting the hearing or~~ 1274  
its authorized peer review program administrator, determines that 1275  
the public accounting firm does not comply with the standards and 1276  
practices, it may ~~issue an order that requires~~ require both of the 1277  
following: 1278

(a) Remedial ~~or disciplinary~~ action, which may include any of 1279  
the following: 1280

(i) Requiring employees of the public accounting firm to 1281  
complete general or specific continuing professional education 1282  
courses; 1283

(ii) Requiring the public accounting firm to undergo peer 1284

review more frequently than triennially and peer review that is 1285  
conducted in whole or part under the direct supervision of the 1286  
board or its designee; 1287

(iii) Any other remedial action specified by the board; 1288

~~(iv) Imposing any disciplinary measures set forth in division 1289  
(B) of section 4701.16 of the Revised Code. 1290~~

(b) An affidavit and supporting documentation from the public 1291  
accounting firm submitted within the time specified by the board 1292  
indicating completion of required remedial actions. 1293

(2) If the board, or its authorized peer review program 1294  
administrator, determines that a public accounting firm has not 1295  
complied with any requirement ordered under division (H) of this 1296  
section, or if the board determines, after the review of a peer 1297  
review report, that the public accounting firm has a history of 1298  
noncompliance with standards and practices set forth in board 1299  
rules, the board may hold a hearing to determine the extent of the 1300  
firm's noncompliance. If the board, after conducting the hearing, 1301  
determines that the public accounting firm does not comply with 1302  
appropriate standards and practices, the board may issue an order 1303  
that imposes any disciplinary measure set forth in division (B) of 1304  
section 4701.16 of the Revised Code. 1305

(3) Notwithstanding divisions (K)(1) and (2) of this section, 1306  
all matters relating to the procedures for determining compliance 1307  
with the standards and practices under division (H)~~(1)~~(2) of this 1308  
section are subject to Chapter 119. of the Revised Code, including 1309  
the notice and conduct of any hearing and the issuance and appeal 1310  
of any order. Remedial orders made under division (H)(1) of this 1311  
section are not subject to Chapter 119. of the Revised Code. 1312

(I) The public accounting firm reviewed shall pay for any 1313  
peer review performed. 1314

(J) The board may exempt a public accounting firm from the 1315

requirement to undergo a peer review if the public accounting firm 1316  
submits to the board a written and notarized statement that the 1317  
public accounting firm meets at least one of the following grounds 1318  
for exemption identified in the statement: 1319

(1) Within three years of the date of application for initial 1320  
or renewal registration, the public accounting firm has ~~been~~ 1321  
~~subject to~~ completed a peer review acceptable to the board and 1322  
conducted pursuant to standards not less stringent than the peer 1323  
review standards applied promulgated by the American institute of 1324  
certified public accountants. A peer review that does not comply 1325  
with standards and practices set forth in the rules adopted by the 1326  
board and that may subject a public accounting firm to remedial or 1327  
disciplinary action pursuant to division (H) of this section, does 1328  
not qualify as an acceptable peer review. The public accounting 1329  
firm shall submit to the board a copy of the results of the peer 1330  
review and any additional documentation required by the board. The 1331  
board shall not require submittal of the working papers related to 1332  
the peer review process. 1333

(2) Within three years of the date of application for initial 1334  
or renewal registration, the public accounting firm has ~~undergone~~ 1335  
completed a peer review acceptable to the board that was conducted 1336  
in another state or foreign country. The public accounting firm 1337  
shall submit to the board a copy of the results of the peer review 1338  
and any additional documentation required by the board, including 1339  
a detailed report of the procedures and standards applied by the 1340  
reviewer. 1341

(3) The public accounting firm has never practiced public 1342  
accounting in this state or any other state or foreign country 1343  
~~and~~, will ~~undergo~~ complete a peer review acceptable to the board 1344  
within eighteen months of initial registration, and will review 1345  
its registration with the board two years after initial 1346  
registration as specified in rules the board adopts. 1347

(4) The public accounting firm, on a schedule as required by 1348  
rule adopted by the board, submits a report to the board that 1349  
states all of the following: 1350

(a) The public accounting firm does not undertake any 1351  
engagement that will result in the issuance of an attest report or 1352  
other engagement that is subject to peer review in accordance with 1353  
division (F) of this section. 1354

~~(b) Within the next three years, the public accounting firm 1355  
does not intend to undertake any engagement that will result in 1356  
the issuance of any attest report.~~ 1357

~~(e)~~ The public accounting firm agrees to notify the board 1358  
within ninety days after accepting any engagement that will result 1359  
in the issuance of any attest report or other engagement that is 1360  
subject to peer review in accordance with division (F) of this 1361  
section and will ~~undergo~~ complete a peer review acceptable to the 1362  
board within one year after the acceptance of an engagement of 1363  
that nature. 1364

(5) Subject to the board's approval, and ~~for reasons of~~ 1365  
~~personal health, military service, or other~~ good cause as defined 1366  
in rules the board adopts, the public accounting firm is entitled 1367  
to an exemption. 1368

(K) In any civil action, arbitration, or administrative 1369  
proceeding involving a public accounting firm, all of the 1370  
following shall apply: 1371

(1) The proceedings, records, and work papers of any 1372  
reviewer, including board members and review committee members, 1373  
involved in the peer review process are privileged and not subject 1374  
to discovery, subpoena, or other means of legal process and may 1375  
not be introduced into evidence. 1376

(2) No reviewer, including board members and review committee 1377  
members, involved in the peer review process shall be permitted or 1378

required to testify as to any matters produced, presented, 1379  
disclosed, or discussed during or in connection with the peer 1380  
review process or shall be required to testify to any finding, 1381  
recommendation, evaluation, opinion, or other actions of those 1382  
committees or their members. 1383

(3) No privilege exists under this section for either of the 1384  
following: 1385

(a) Information presented or considered in the peer review 1386  
process that was otherwise available to the public; 1387

(b) Materials prepared in connection with a particular 1388  
engagement merely because they subsequently are presented or 1389  
considered as part of the peer review process. 1390

(L)(1) If a peer review report indicates that a public 1391  
accounting firm complies with standards and practices set forth in 1392  
rules adopted by the board guidelines, the board shall destroy all 1393  
documents and reports related to the peer review within thirty 1394  
days after the board completes its review of the report. ~~If~~ 1395

(2) If a peer review report indicates that a public 1396  
accounting firm does not comply with those standards and practices 1397  
set forth in rules adopted by the board, the board shall retain 1398  
all documents and reports related to the peer review until 1399  
completion of the next peer review that complies with standards 1400  
and practices set forth in rules adopted by the board pursuant to 1401  
division (G) of this section. The board also may use these 1402  
documents to determine a history of noncompliance with standards 1403  
and practices in any proceeding held under division (H)(2) of this 1404  
section. 1405

Sec. 5703.061. Except as otherwise provided in this section, 1406  
the tax commissioner may cancel a debt owed to the state arising 1407  
from any tax administered by the commissioner if the total amount 1408

of the debt does not exceed fifty dollars and if the debt consists 1409  
only of unpaid taxes due for a single reporting period and of any 1410  
penalty, interest, assessment, or other charge arising from such 1411  
unpaid taxes. The commissioner shall not cancel any debt that has 1412  
been certified to the attorney general under section 131.02 of the 1413  
Revised Code or that is subject to an appeal filed with the board 1414  
of tax appeals. 1415

**Sec. 5703.261.** ~~If~~ (A) As used in this section: 1416

(1) "Instrument" has the same meaning as in section 1303.03 1417  
of the Revised Code. 1418

(2) "Financial transaction device" has the same meaning as in 1419  
section 113.40 of the Revised Code. 1420

(B) If a taxpayer or employer required by any tax 1421  
administered by the department of taxation to pay taxes, 1422  
penalties, ~~or~~ interest, or other charges arising from unpaid taxes 1423  
makes payment of the taxes, penalties, ~~or~~ interest, or other 1424  
charges with a ~~nonnegotiable~~ ~~or~~ dishonored instrument, an 1425  
instrument that is determined to be nonnegotiable, or with any 1426  
financial transaction device that is declined, returned, or 1427  
dishonored, a penalty of fifty dollars shall be added to the 1428  
amount due. The penalty imposed by this section shall be assessed 1429  
and collected in the same manner as the taxes, penalties, ~~or~~ 1430  
interest, or other charges. All or part of any penalty imposed 1431  
under this section may be abated by the tax commissioner. The 1432  
commissioner may assess only one penalty under this section 1433  
against the same instrument or the same financial transaction 1434  
device for the same payment. 1435

**Sec. 5703.37.** (A)(1) Except as provided in division (B) of 1436  
this section, whenever service of a notice or order is required in 1437  
the manner provided in this section, a copy of the notice or order 1438

shall be served upon the person affected thereby either by 1439  
personal service, by certified mail, or by a delivery service 1440  
authorized under section 5703.056 of the Revised Code that 1441  
notifies the tax commissioner of the date of delivery. 1442

(2) ~~With the permission of the person affected by the notice~~ 1443  
~~or order, the commissioner may enter into a written agreement to~~ 1444  
~~deliver a notice or order by~~ In lieu of serving a copy of a notice 1445  
or order through one of the means provided in division (A)(1) of 1446  
this section, the commissioner may serve a notice or order upon 1447  
the person affected thereby through alternative means as provided 1448  
in this section, including, but not limited to, delivery by secure 1449  
electronic mail as provided in division (F) of this section. 1450  
Delivery by such means satisfies the requirements for delivery 1451  
under this section. 1452

(B)(1)(a) If certified mail is returned because of an 1453  
undeliverable address, the commissioner shall first utilize 1454  
reasonable means to ascertain a new last known address, including 1455  
the use of a change of address service offered by the United 1456  
States postal service or an authorized delivery service under 1457  
section 5703.056 of the Revised Code. If, after using reasonable 1458  
means, the commissioner is unable to ascertain a new last known 1459  
address, the assessment is final for purposes of section 131.02 of 1460  
the Revised Code sixty days after the notice or order sent by 1461  
certified mail is first returned to the commissioner, and the 1462  
commissioner shall certify the notice or order, if applicable, to 1463  
the attorney general for collection under section 131.02 of the 1464  
Revised Code. 1465

(b) Notwithstanding certification to the attorney general 1466  
under division (B)(1)(a) of this section, once the commissioner or 1467  
attorney general, or the designee of either, makes an initial 1468  
contact with the person to whom the notice or order is directed, 1469  
the person may protest an assessment by filing a petition for 1470

reassessment within sixty days after the initial contact. The 1471  
certification of an assessment under division (B)(1)(a) of this 1472  
section is prima-facie evidence that delivery is complete and that 1473  
the notice or order is served. 1474

(2) If mailing of a notice or order by certified mail is 1475  
returned for some cause other than an undeliverable address, the 1476  
~~tax~~ commissioner shall resend the notice or order by ordinary 1477  
mail. The notice or order shall show the date the commissioner 1478  
sends the notice or order and include the following statement: 1479

"This notice or order is deemed to be served on the addressee 1480  
under applicable law ten days from the date this notice or order 1481  
was mailed by the commissioner as shown on the notice or order, 1482  
and all periods within which an appeal may be filed apply from and 1483  
after that date." 1484

Unless the mailing is returned because of an undeliverable 1485  
address, the mailing of that information is prima-facie evidence 1486  
that delivery of the notice or order was completed ten days after 1487  
the commissioner sent the notice or order by ordinary mail and 1488  
that the notice or order was served. 1489

If the ordinary mail is subsequently returned because of an 1490  
undeliverable address, the commissioner shall proceed under 1491  
division (B)(1)(a) of this section. A person may challenge the 1492  
presumption of delivery and service under this division in 1493  
accordance with division (C) of this section. 1494

(C)(1) A person disputing the presumption of delivery and 1495  
service under division (B) of this section bears the burden of 1496  
proving by a preponderance of the evidence that the address to 1497  
which the notice or order was sent was not an address with which 1498  
the person was associated at the time the commissioner originally 1499  
mailed the notice or order by certified mail. For the purposes of 1500  
this section, a person is associated with an address at the time 1501

the commissioner originally mailed the notice or order if, at that 1502  
time, the person was residing, receiving legal documents, or 1503  
conducting business at the address; or if, before that time, the 1504  
person had conducted business at the address and, when the notice 1505  
or order was mailed, the person's agent or the person's affiliate 1506  
was conducting business at the address. For the purposes of this 1507  
section, a person's affiliate is any other person that, at the 1508  
time the notice or order was mailed, owned or controlled at least 1509  
twenty per cent, as determined by voting rights, of the 1510  
addressee's business. 1511

(2) If the person elects to protest an assessment certified 1512  
to the attorney general for collection, the person must do so 1513  
within sixty days after the attorney general's initial contact 1514  
with the person. The attorney general may enter into a compromise 1515  
with the person under sections 131.02 and 5703.06 of the Revised 1516  
Code if the person does not file a petition for reassessment with 1517  
the ~~tax~~ commissioner. 1518

(D) Nothing in this section prohibits the ~~tax~~ commissioner or 1519  
the commissioner's designee from delivering a notice or order by 1520  
personal service. 1521

(E) Collection actions taken pursuant to section 131.02 of 1522  
the Revised Code upon any assessment being challenged under 1523  
division (B)(1)(b) of this section shall be stayed upon the 1524  
pendency of an appeal under this section. If a petition for 1525  
reassessment is filed pursuant to this section on a claim that has 1526  
been certified to the attorney general for collection, the claim 1527  
shall be uncertified. 1528

(F) The commissioner may serve a notice or order upon the 1529  
person affected by the notice or order through secure electronic 1530  
means only with the person's consent. The commissioner must inform 1531  
the recipient, electronically or by mail, that a notice or order 1532  
is available for electronic review and provide instructions to 1533

access and print the notice or order. The recipient's electronic 1534  
access of the notice or order satisfies the requirements for 1535  
delivery under this section. If the recipient fails to access the 1536  
notice or order electronically within ten business days, the 1537  
notice or order shall be served upon the person through one of the 1538  
means provided in division (A)(1) of this section. 1539

(G) As used in this section: 1540

(1) "Last known address" means the address the department has 1541  
at the time the document is originally sent by certified mail, or 1542  
any address the department can ascertain using reasonable means 1543  
such as the use of a change of address service offered by the 1544  
United States postal service or an authorized delivery service 1545  
under section 5703.056 of the Revised Code. 1546

(2) "Undeliverable address" means an address to which the 1547  
United States postal service or an authorized delivery service 1548  
under section 5703.056 of the Revised Code is not able to deliver 1549  
a notice or order, except when the reason for nondelivery is 1550  
because the addressee fails to acknowledge or accept the notice or 1551  
order. 1552

**Sec. 5703.47.** (A) As used in this section, "federal 1553  
short-term rate" means the rate of the average market yield on 1554  
outstanding marketable obligations of the United States with 1555  
remaining periods to maturity of three years or less, as 1556  
determined under section 1274 of the "Internal Revenue Code of 1557  
1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current 1558  
year. 1559

(B) On the fifteenth day of October of each year, the tax 1560  
commissioner shall determine the federal short-term rate. For 1561  
purposes of any section of the Revised Code requiring interest to 1562  
be computed at the rate per annum required by this section, the 1563  
rate determined by the commissioner under this section, rounded to 1564

the nearest whole number per cent, plus three per cent, shall be 1565  
the interest rate per annum used in making the computation for 1566  
interest that accrues during the following calendar year. For the 1567  
purposes of sections 5719.041 and 5731.23 of the Revised Code, 1568  
references to the "federal short-term rate" are references to the 1569  
federal short-term rate as determined by the tax commissioner 1570  
under this section rounded to the nearest whole number per cent. 1571

(C) Within ten days after the interest rate per annum is 1572  
determined under this section, the tax commissioner shall notify 1573  
the auditor of each county ~~in writing~~ of that rate of interest. 1574

**Sec. 5705.313.** (A)(1) Whenever a board of county 1575  
commissioners adopts a resolution pursuant to section 5739.021 or 1576  
5739.026 of the Revised Code to levy or increase the rate of a 1577  
sales tax, the board may adopt an accompanying resolution reducing 1578  
the rate of any property tax the county currently is levying for 1579  
current expenses within the ten-mill limitation or amending a 1580  
previously adopted accompanying resolution increasing the amount 1581  
of an existing reduction made under this division. 1582

(2) At any time after a board of county commissioners has 1583  
adopted a resolution pursuant to section 5739.021 or 5739.026 of 1584  
the Revised Code to levy or increase the rate of the sales tax, 1585  
the board may adopt another resolution reducing the rate of any 1586  
property tax the county currently is levying for current expenses 1587  
within the ten-mill limitation or amending a previously adopted 1588  
accompanying resolution increasing the amount of an existing 1589  
reduction made under this division. This resolution may be adopted 1590  
at any time during which the county is levying the sales tax under 1591  
section 5739.021 or 5739.026 of the Revised Code. 1592

The rate reduction under division (A)(1) or (2) of this 1593  
section may be any amount, provided it does not reduce the annual 1594  
property tax revenue for current expenses within the ten-mill 1595

limitation by more than the amount of annual revenue the 1596  
commissioners estimate the sales tax levy to generate. The 1597  
resolution shall set forth the current millage rate for current 1598  
expenses of the county within the ten-mill limitation; the number 1599  
of such mills not currently levied under this division, if any; 1600  
the number of such mills currently levied that will not be levied 1601  
until a resolution is adopted under division (C) of this section 1602  
or the expiration of the specified number of years the rate is not 1603  
to be levied, and the tax year in which the rate reduction shall 1604  
first apply. The resolution may state that the property tax rate 1605  
reduction will be for a specified number of years. A copy of the 1606  
resolution shall be certified to the county auditor. 1607

(B) Notwithstanding any other provision of law, whenever a 1608  
board of county commissioners adopts a resolution under division 1609  
(A) of this section, no other taxing unit may levy any portion of 1610  
the rate the county does not levy until the expiration of the 1611  
specified number of years that such portion of the rate reduction 1612  
is in effect as set forth in the resolution, except as may be 1613  
required by the county budget commission pursuant to division (D) 1614  
of section 5705.31 of the Revised Code to provide for the levies 1615  
required in division (B) of that section for debt charges of a 1616  
subdivision or taxing unit. 1617

(C) At any time a rate reduction is in effect the board of 1618  
county commissioners may, by two-thirds vote of its members, adopt 1619  
a resolution increasing the rate of the levy by any amount up to 1620  
the rate at which it was levied prior to its rate reduction under 1621  
this section. The board shall then immediately certify its action 1622  
to the county auditor. If the commissioners increase the rate to 1623  
the full rate at which it was levied prior to its rate reduction 1624  
under this section, this section shall thereupon cease to apply to 1625  
that county until another resolution is adopted pursuant to 1626  
division (A)(1) or (2) of this section. 1627

Sec. 5709.084. Real and personal property comprising a 1628  
convention center that is constructed or, in the case of personal 1629  
property, acquired, after January 1, 2010, are exempt from 1630  
taxation if the convention center is located in a county having a 1631  
population, when construction of the convention center commences, 1632  
of more than one million two hundred thousand according to the 1633  
most recent federal decennial census, and if the convention 1634  
center, or the land upon which the convention center is situated, 1635  
is owned or leased by the county. For the purposes of this 1636  
section, construction of the convention center commences upon the 1637  
earlier of issuance of debt to finance all or a portion of the 1638  
convention center, demolition of existing structures on the site, 1639  
or grading of the site in preparation for construction. 1640

Real and personal property comprising a convention center 1641  
owned by the largest city in a county having a population greater 1642  
than seven hundred thousand but less than nine hundred thousand 1643  
according to the most recent federal decennial census is exempt 1644  
from taxation, regardless of whether the property is leased to or 1645  
otherwise operated or managed by a person other than the city. 1646

Real and personal property comprising a convention center or 1647  
arena owned by the largest city in a county having a population 1648  
greater than two hundred thirty-five thousand but less than three 1649  
hundred thousand according to the most recent federal decennial 1650  
census at the time of the construction of the convention center or 1651  
arena is exempt from taxation, regardless of whether the property 1652  
is leased to or otherwise operated or managed by a person other 1653  
than the city. 1654

As used in this section, "convention center" ~~has~~ and "arena" 1655  
have the same ~~meaning~~ meanings as in section 307.695 of the 1656  
Revised Code. 1657

<b>Sec. 5709.40.</b> (A) As used in this section:	1658
(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.	1659 1660
(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.	1661 1662 1663
(3) "Housing renovation" means a project carried out for residential purposes.	1664 1665
(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.	1666 1667 1668 1669 1670
(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:	1671 1672 1673 1674
(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;	1675 1676 1677 1678 1679 1680
(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.	1681 1682 1683 1684
(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C.	1685 1686 1687

5301, as amended, and regulations adopted pursuant to that act. 1688

(d) The district is a blighted area. 1689

(e) The district is in a situational distress area as 1690  
designated by the director of development under division (F) of 1691  
section 122.23 of the Revised Code. 1692

(f) As certified by the engineer for the political 1693  
subdivision, the public infrastructure serving the district is 1694  
inadequate to meet the development needs of the district as 1695  
evidenced by a written economic development plan or urban renewal 1696  
plan for the district that has been adopted by the legislative 1697  
authority of the subdivision. 1698

(g) The district is comprised entirely of unimproved land 1699  
that is located in a distressed area as defined in section 122.23 1700  
of the Revised Code. 1701

(6) "Project" means development activities undertaken on one 1702  
or more parcels, including, but not limited to, construction, 1703  
expansion, and alteration of buildings or structures, demolition, 1704  
remediation, and site development, and any building or structure 1705  
that results from those activities. 1706

(7) "Public infrastructure improvement" includes, but is not 1707  
limited to, public roads and highways; water and sewer lines; 1708  
environmental remediation; land acquisition, including acquisition 1709  
in aid of industry, commerce, distribution, or research; 1710  
demolition, including demolition on private property when 1711  
determined to be necessary for economic development purposes; 1712  
stormwater and flood remediation projects, including such projects 1713  
on private property when determined to be necessary for public 1714  
health, safety, and welfare; the provision of gas, electric, and 1715  
communications service facilities; and the enhancement of public 1716  
waterways through improvements that allow for greater public 1717  
access. 1718

(B) The legislative authority of a municipal corporation, by 1719  
ordinance, may declare improvements to certain parcels of real 1720  
property located in the municipal corporation to be a public 1721  
purpose. Improvements with respect to a parcel that is used or to 1722  
be used for residential purposes may be declared a public purpose 1723  
under this division only if the parcel is located in a blighted 1724  
area of an impacted city. Except with the approval under division 1725  
(D) of this section of the board of education of each city, local, 1726  
or exempted village school district within which the improvements 1727  
are located, not more than seventy-five per cent of an improvement 1728  
thus declared to be a public purpose may be exempted from real 1729  
property taxation for a period of not more than ten years. The 1730  
ordinance shall specify the percentage of the improvement to be 1731  
exempted from taxation and the life of the exemption. 1732

An ordinance adopted or amended under this division shall 1733  
designate the specific public infrastructure improvements made, to 1734  
be made, or in the process of being made by the municipal 1735  
corporation that directly benefit, or that once made will directly 1736  
benefit, the parcels for which improvements are declared to be a 1737  
public purpose. The service payments provided for in section 1738  
5709.42 of the Revised Code shall be used to finance the public 1739  
infrastructure improvements designated in the ordinance, for the 1740  
purpose described in division (D)(1) of this section or as 1741  
provided in section 5709.43 of the Revised Code. 1742

(C)(1) The legislative authority of a municipal corporation 1743  
may adopt an ordinance creating an incentive district and 1744  
declaring improvements to parcels within the district to be a 1745  
public purpose and, except as provided in division (F) of this 1746  
section, exempt from taxation as provided in this section, but no 1747  
legislative authority of a municipal corporation that has a 1748  
population that exceeds twenty-five thousand, as shown by the most 1749  
recent federal decennial census, shall adopt an ordinance that 1750

creates an incentive district if the sum of the taxable value of 1751  
real property in the proposed district for the preceding tax year 1752  
and the taxable value of all real property in the municipal 1753  
corporation that would have been taxable in the preceding year 1754  
were it not for the fact that the property was in an existing 1755  
incentive district and therefore exempt from taxation exceeds 1756  
twenty-five per cent of the taxable value of real property in the 1757  
municipal corporation for the preceding tax year. The ordinance 1758  
shall delineate the boundary of the district and specifically 1759  
identify each parcel within the district. A district may not 1760  
include any parcel that is or has been exempted from taxation 1761  
under division (B) of this section or that is or has been within 1762  
another district created under this division. An ordinance may 1763  
create more than one such district, and more than one ordinance 1764  
may be adopted under division (C)(1) of this section. 1765

(2) Not later than thirty days prior to adopting an ordinance 1766  
under division (C)(1) of this section, if the municipal 1767  
corporation intends to apply for exemptions from taxation under 1768  
section 5709.911 of the Revised Code on behalf of owners of real 1769  
property located within the proposed incentive district, the 1770  
legislative authority of a municipal corporation shall conduct a 1771  
public hearing on the proposed ordinance. Not later than thirty 1772  
days prior to the public hearing, the legislative authority shall 1773  
give notice of the public hearing and the proposed ordinance by 1774  
first class mail to every real property owner whose property is 1775  
located within the boundaries of the proposed incentive district 1776  
that is the subject of the proposed ordinance. 1777

(3)(a) An ordinance adopted under division (C)(1) of this 1778  
section shall specify the life of the incentive district and the 1779  
percentage of the improvements to be exempted, shall designate the 1780  
public infrastructure improvements made, to be made, or in the 1781  
process of being made, that benefit or serve, or, once made, will 1782

benefit or serve parcels in the district. The ordinance also shall 1783  
identify one or more specific projects being, or to be, undertaken 1784  
in the district that place additional demand on the public 1785  
infrastructure improvements designated in the ordinance. The 1786  
project identified may, but need not be, the project under 1787  
division (C)(3)(b) of this section that places real property in 1788  
use for commercial or industrial purposes. Except as otherwise 1789  
permitted under that division, the service payments provided for 1790  
in section 5709.42 of the Revised Code shall be used to finance 1791  
the designated public infrastructure improvements, for the purpose 1792  
described in division (D)(1) or (E) of this section, or as 1793  
provided in section 5709.43 of the Revised Code. 1794

An ordinance adopted under division (C)(1) of this section on 1795  
or after March 30, 2006, shall not designate police or fire 1796  
equipment as public infrastructure improvements, and no service 1797  
payment provided for in section 5709.42 of the Revised Code and 1798  
received by the municipal corporation under the ordinance shall be 1799  
used for police or fire equipment. 1800

(b) An ordinance adopted under division (C)(1) of this 1801  
section may authorize the use of service payments provided for in 1802  
section 5709.42 of the Revised Code for the purpose of housing 1803  
renovations within the incentive district, provided that the 1804  
ordinance also designates public infrastructure improvements that 1805  
benefit or serve the district, and that a project within the 1806  
district places real property in use for commercial or industrial 1807  
purposes. Service payments may be used to finance or support 1808  
loans, deferred loans, and grants to persons for the purpose of 1809  
housing renovations within the district. The ordinance shall 1810  
designate the parcels within the district that are eligible for 1811  
housing renovation. The ordinance shall state separately the 1812  
amounts or the percentages of the expected aggregate service 1813  
payments that are designated for each public infrastructure 1814

improvement and for the general purpose of housing renovations. 1815

(4) Except with the approval of the board of education of 1816  
each city, local, or exempted village school district within the 1817  
territory of which the incentive district is or will be located, 1818  
and subject to division (E) of this section, the life of an 1819  
incentive district shall not exceed ten years, and the percentage 1820  
of improvements to be exempted shall not exceed seventy-five per 1821  
cent. With approval of the board of education, the life of a 1822  
district may be not more than thirty years, and the percentage of 1823  
improvements to be exempted may be not more than one hundred per 1824  
cent. The approval of a board of education shall be obtained in 1825  
the manner provided in division (D) of this section. 1826

(D)(1) If the ordinance declaring improvements to a parcel to 1827  
be a public purpose or creating an incentive district specifies 1828  
that payments in lieu of taxes provided for in section 5709.42 of 1829  
the Revised Code shall be paid to the city, local, or exempted 1830  
village, and joint vocational school district in which the parcel 1831  
or incentive district is located in the amount of the taxes that 1832  
would have been payable to the school district if the improvements 1833  
had not been exempted from taxation, the percentage of the 1834  
improvement that may be exempted from taxation may exceed 1835  
seventy-five per cent, and the exemption may be granted for up to 1836  
thirty years, without the approval of the board of education as 1837  
otherwise required under division (D)(2) of this section. 1838

(2) Improvements with respect to a parcel may be exempted 1839  
from taxation under division (B) of this section, and improvements 1840  
to parcels within an incentive district may be exempted from 1841  
taxation under division (C) of this section, for up to ten years 1842  
or, with the approval under this paragraph of the board of 1843  
education of the city, local, or exempted village school district 1844  
within which the parcel or district is located, for up to thirty 1845  
years. The percentage of the improvement exempted from taxation 1846

may, with such approval, exceed seventy-five per cent, but shall 1847  
not exceed one hundred per cent. Not later than forty-five 1848  
business days prior to adopting an ordinance under this section 1849  
declaring improvements to be a public purpose that is subject to 1850  
approval by a board of education under this division, the 1851  
legislative authority shall deliver to the board of education a 1852  
notice stating its intent to adopt an ordinance making that 1853  
declaration. The notice regarding improvements with respect to a 1854  
parcel under division (B) of this section shall identify the 1855  
parcels for which improvements are to be exempted from taxation, 1856  
provide an estimate of the true value in money of the 1857  
improvements, specify the period for which the improvements would 1858  
be exempted from taxation and the percentage of the improvement 1859  
that would be exempted, and indicate the date on which the 1860  
legislative authority intends to adopt the ordinance. The notice 1861  
regarding improvements to parcels within an incentive district 1862  
under division (C) of this section shall delineate the boundaries 1863  
of the district, specifically identify each parcel within the 1864  
district, identify each anticipated improvement in the district, 1865  
provide an estimate of the true value in money of each such 1866  
improvement, specify the life of the district and the percentage 1867  
of improvements that would be exempted, and indicate the date on 1868  
which the legislative authority intends to adopt the ordinance. 1869  
The board of education, by resolution adopted by a majority of the 1870  
board, may approve the exemption for the period or for the 1871  
exemption percentage specified in the notice; may disapprove the 1872  
exemption for the number of years in excess of ten, may disapprove 1873  
the exemption for the percentage of the improvement to be exempted 1874  
in excess of seventy-five per cent, or both; or may approve the 1875  
exemption on the condition that the legislative authority and the 1876  
board negotiate an agreement providing for compensation to the 1877  
school district equal in value to a percentage of the amount of 1878  
taxes exempted in the eleventh and subsequent years of the 1879

exemption period or, in the case of exemption percentages in 1880  
excess of seventy-five per cent, compensation equal in value to a 1881  
percentage of the taxes that would be payable on the portion of 1882  
the improvement in excess of seventy-five per cent were that 1883  
portion to be subject to taxation, or other mutually agreeable 1884  
compensation. If an agreement is negotiated between the 1885  
legislative authority and the board to compensate the school 1886  
district for all or part of the taxes exempted, including 1887  
agreements for payments in lieu of taxes under section 5709.42 of 1888  
the Revised Code, the legislative authority shall compensate the 1889  
joint vocational school district within which the parcel or 1890  
district is located at the same rate and under the same terms 1891  
received by the city, local, or exempted village school district. 1892

(3) The board of education shall certify its resolution to 1893  
the legislative authority not later than fourteen days prior to 1894  
the date the legislative authority intends to adopt the ordinance 1895  
as indicated in the notice. If the board of education and the 1896  
legislative authority negotiate a mutually acceptable compensation 1897  
agreement, the ordinance may declare the improvements a public 1898  
purpose for the number of years specified in the ordinance or, in 1899  
the case of exemption percentages in excess of seventy-five per 1900  
cent, for the exemption percentage specified in the ordinance. In 1901  
either case, if the board and the legislative authority fail to 1902  
negotiate a mutually acceptable compensation agreement, the 1903  
ordinance may declare the improvements a public purpose for not 1904  
more than ten years, and shall not exempt more than seventy-five 1905  
per cent of the improvements from taxation. If the board fails to 1906  
certify a resolution to the legislative authority within the time 1907  
prescribed by this division, the legislative authority thereupon 1908  
may adopt the ordinance and may declare the improvements a public 1909  
purpose for up to thirty years, or, in the case of exemption 1910  
percentages proposed in excess of seventy-five per cent, for the 1911  
exemption percentage specified in the ordinance. The legislative 1912

authority may adopt the ordinance at any time after the board of 1913  
education certifies its resolution approving the exemption to the 1914  
legislative authority, or, if the board approves the exemption on 1915  
the condition that a mutually acceptable compensation agreement be 1916  
negotiated, at any time after the compensation agreement is agreed 1917  
to by the board and the legislative authority. 1918

(4) If a board of education has adopted a resolution waiving 1919  
its right to approve exemptions from taxation under this section 1920  
and the resolution remains in effect, approval of exemptions by 1921  
the board is not required under division (D) of this section. If a 1922  
board of education has adopted a resolution allowing a legislative 1923  
authority to deliver the notice required under division (D) of 1924  
this section fewer than forty-five business days prior to the 1925  
legislative authority's adoption of the ordinance, the legislative 1926  
authority shall deliver the notice to the board not later than the 1927  
number of days prior to such adoption as prescribed by the board 1928  
in its resolution. If a board of education adopts a resolution 1929  
waiving its right to approve agreements or shortening the 1930  
notification period, the board shall certify a copy of the 1931  
resolution to the legislative authority. If the board of education 1932  
rescinds such a resolution, it shall certify notice of the 1933  
rescission to the legislative authority. 1934

(5) If the legislative authority is not required by division 1935  
(D) of this section to notify the board of education of the 1936  
legislative authority's intent to declare improvements to be a 1937  
public purpose, the legislative authority shall comply with the 1938  
notice requirements imposed under section 5709.83 of the Revised 1939  
Code, unless the board has adopted a resolution under that section 1940  
waiving its right to receive such a notice. 1941

(E)(1) If a proposed ordinance under division (C)(1) of this 1942  
section exempts improvements with respect to a parcel within an 1943  
incentive district for more than ten years, or the percentage of 1944

the improvement exempted from taxation exceeds seventy-five per 1945  
cent, not later than forty-five business days prior to adopting 1946  
the ordinance the legislative authority of the municipal 1947  
corporation shall deliver to the board of county commissioners of 1948  
the county within which the incentive district will be located a 1949  
notice that states its intent to adopt an ordinance creating an 1950  
incentive district. The notice shall include a copy of the 1951  
proposed ordinance, identify the parcels for which improvements 1952  
are to be exempted from taxation, provide an estimate of the true 1953  
value in money of the improvements, specify the period of time for 1954  
which the improvements would be exempted from taxation, specify 1955  
the percentage of the improvements that would be exempted from 1956  
taxation, and indicate the date on which the legislative authority 1957  
intends to adopt the ordinance. 1958

(2) The board of county commissioners, by resolution adopted 1959  
by a majority of the board, may object to the exemption for the 1960  
number of years in excess of ten, may object to the exemption for 1961  
the percentage of the improvement to be exempted in excess of 1962  
seventy-five per cent, or both. If the board of county 1963  
commissioners objects, the board may negotiate a mutually 1964  
acceptable compensation agreement with the legislative authority. 1965  
In no case shall the compensation provided to the board exceed the 1966  
property taxes forgone due to the exemption. If the board of 1967  
county commissioners objects, and the board and legislative 1968  
authority fail to negotiate a mutually acceptable compensation 1969  
agreement, the ordinance adopted under division (C)(1) of this 1970  
section shall provide to the board compensation in the eleventh 1971  
and subsequent years of the exemption period equal in value to not 1972  
more than fifty per cent of the taxes that would be payable to the 1973  
county or, if the board's objection includes an objection to an 1974  
exemption percentage in excess of seventy-five per cent, 1975  
compensation equal in value to not more than fifty per cent of the 1976  
taxes that would be payable to the county, on the portion of the 1977

improvement in excess of seventy-five per cent, were that portion 1978  
to be subject to taxation. The board of county commissioners shall 1979  
certify its resolution to the legislative authority not later than 1980  
thirty days after receipt of the notice. 1981

(3) If the board of county commissioners does not object or 1982  
fails to certify its resolution objecting to an exemption within 1983  
thirty days after receipt of the notice, the legislative authority 1984  
may adopt the ordinance, and no compensation shall be provided to 1985  
the board of county commissioners. If the board timely certifies 1986  
its resolution objecting to the ordinance, the legislative 1987  
authority may adopt the ordinance at any time after a mutually 1988  
acceptable compensation agreement is agreed to by the board and 1989  
the legislative authority, or, if no compensation agreement is 1990  
negotiated, at any time after the legislative authority agrees in 1991  
the proposed ordinance to provide compensation to the board of 1992  
fifty per cent of the taxes that would be payable to the county in 1993  
the eleventh and subsequent years of the exemption period or on 1994  
the portion of the improvement in excess of seventy-five per cent, 1995  
were that portion to be subject to taxation. 1996

(F) Service payments in lieu of taxes that are attributable 1997  
to any amount by which the effective tax rate of either a renewal 1998  
levy with an increase or a replacement levy exceeds the effective 1999  
tax rate of the levy renewed or replaced, or that are attributable 2000  
to an additional levy, for a levy authorized by the voters for any 2001  
of the following purposes on or after January 1, 2006, and which 2002  
are provided pursuant to an ordinance creating an incentive 2003  
district under division (C)(1) of this section that is adopted on 2004  
or after January 1, 2006, shall be distributed to the appropriate 2005  
taxing authority as required under division (C) of section 5709.42 2006  
of the Revised Code in an amount equal to the amount of taxes from 2007  
that additional levy or from the increase in the effective tax 2008  
rate of such renewal or replacement levy that would have been 2009

payable to that taxing authority from the following levies were it 2010  
not for the exemption authorized under division (C) of this 2011  
section: 2012

(1) A tax levied under division (L) of section 5705.19 or 2013  
section 5705.191 of the Revised Code for community mental 2014  
retardation and developmental disabilities programs and services 2015  
pursuant to Chapter 5126. of the Revised Code; 2016

(2) A tax levied under division (Y) of section 5705.19 of the 2017  
Revised Code for providing or maintaining senior citizens services 2018  
or facilities; 2019

(3) A tax levied under section 5705.22 of the Revised Code 2020  
for county hospitals; 2021

(4) A tax levied by a joint-county district or by a county 2022  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 2023  
for alcohol, drug addiction, and mental health services or 2024  
facilities; 2025

(5) A tax levied under section 5705.23 of the Revised Code 2026  
for library purposes; 2027

(6) A tax levied under section 5705.24 of the Revised Code 2028  
for the support of children services and the placement and care of 2029  
children; 2030

(7) A tax levied under division (Z) of section 5705.19 of the 2031  
Revised Code for the provision and maintenance of zoological park 2032  
services and facilities under section 307.76 of the Revised Code; 2033

(8) A tax levied under section 511.27 or division (H) of 2034  
section 5705.19 of the Revised Code for the support of township 2035  
park districts; 2036

(9) A tax levied under division (A), (F), or (H) of section 2037  
5705.19 of the Revised Code for parks and recreational purposes of 2038  
a joint recreation district organized pursuant to division (B) of 2039

section 755.14 of the Revised Code; 2040

(10) A tax levied under section 1545.20 or 1545.21 of the 2041  
Revised Code for park district purposes; 2042

(11) A tax levied under section 5705.191 of the Revised Code 2043  
for the purpose of making appropriations for public assistance; 2044  
human or social services; public relief; public welfare; public 2045  
health and hospitalization; and support of general hospitals; 2046

(12) A tax levied under section 3709.29 of the Revised Code 2047  
for a general health district program. 2048

(G) An exemption from taxation granted under this section 2049  
commences with the tax year specified in the ordinance so long as 2050  
the year specified in the ordinance commences after the effective 2051  
date of the ordinance. If the ordinance specifies a year 2052  
commencing before the effective date of the resolution or 2053  
specifies no year whatsoever, the exemption commences with the tax 2054  
year in which an exempted improvement first appears on the tax 2055  
list and duplicate of real and public utility property and that 2056  
commences after the effective date of the ordinance. Except as 2057  
otherwise provided in this division, the exemption ends on the 2058  
date specified in the ordinance as the date the improvement ceases 2059  
to be a public purpose or the incentive district expires, or ends 2060  
on the date on which the public infrastructure improvements and 2061  
housing renovations are paid in full from the municipal public 2062  
improvement tax increment equivalent fund established under 2063  
division (A) of section 5709.43 of the Revised Code, whichever 2064  
occurs first. The exemption of an improvement with respect to a 2065  
parcel or within an incentive district may end on a later date, as 2066  
specified in the ordinance, if the legislative authority and the 2067  
board of education of the city, local, or exempted village school 2068  
district within which the parcel or district is located have 2069  
entered into a compensation agreement under section 5709.82 of the 2070  
Revised Code with respect to the improvement, and the board of 2071

education has approved the term of the exemption under division 2072  
(D)(2) of this section, but in no case shall the improvement be 2073  
exempted from taxation for more than thirty years. Exemptions 2074  
shall be claimed and allowed in the same manner as in the case of 2075  
other real property exemptions. If an exemption status changes 2076  
during a year, the procedure for the apportionment of the taxes 2077  
for that year is the same as in the case of other changes in tax 2078  
exemption status during the year. 2079

(H) Additional municipal financing of public infrastructure 2080  
improvements and housing renovations may be provided by any 2081  
methods that the municipal corporation may otherwise use for 2082  
financing such improvements or renovations. If the municipal 2083  
corporation issues bonds or notes to finance the public 2084  
infrastructure improvements and housing renovations and pledges 2085  
money from the municipal public improvement tax increment 2086  
equivalent fund to pay the interest on and principal of the bonds 2087  
or notes, the bonds or notes are not subject to Chapter 133. of 2088  
the Revised Code. 2089

(I) The municipal corporation, not later than fifteen days 2090  
after the adoption of an ordinance under this section, shall 2091  
submit to the director of development a copy of the ordinance. On 2092  
or before the thirty-first day of March of each year, the 2093  
municipal corporation shall submit a status report to the director 2094  
of development. The report shall indicate, in the manner 2095  
prescribed by the director, the progress of the project during 2096  
each year that an exemption remains in effect, including a summary 2097  
of the receipts from service payments in lieu of taxes; 2098  
expenditures of money from the funds created under section 5709.43 2099  
of the Revised Code; a description of the public infrastructure 2100  
improvements and housing renovations financed with such 2101  
expenditures; and a quantitative summary of changes in employment 2102  
and private investment resulting from each project. 2103

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

(K) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

**Sec. 5709.41.** (A) As used in this section:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(2) "Improvement" means the increase in assessed value of any parcel of property subsequent to the acquisition of the parcel by a municipal corporation engaged in urban redevelopment.

(B) The legislative authority of a municipal corporation, by ordinance, may declare to be a public purpose any improvement to a parcel of real property if both of the following apply:

(1) The municipal corporation held fee title to the parcel prior to the adoption of the ordinance;

(2) The parcel is leased, or the fee of the parcel is conveyed, to any person either before or after adoption of the ordinance.

Improvements used or to be used for residential purposes may be declared a public purpose under this section only if the parcel is located in a blighted area of an impacted city as those terms are defined in section 1728.01 of the Revised Code.

(C) Except as otherwise provided in division (C)(1), (2), or (3) of this section, not more than seventy-five per cent of an

improvement thus declared to be a public purpose may be exempted 2134  
from real property taxation. The ordinance shall specify the 2135  
percentage of the improvement to be exempted from taxation. If a 2136  
parcel is located in a new community district in which the new 2137  
community authority imposes a community development charge on the 2138  
basis of rentals received from leases of real property as 2139  
described in division (L)(2) of section 349.01 of the Revised 2140  
Code, the parcel may not be exempted from taxation under this 2141  
section. 2142

(1) If the ordinance declaring improvements to a parcel to be 2143  
a public purpose specifies that payments in lieu of taxes provided 2144  
for in section 5709.42 of the Revised Code shall be paid to the 2145  
city, local, or exempted village school district in which the 2146  
parcel is located in the amount of the taxes that would have been 2147  
payable to the school district if the improvements had not been 2148  
exempted from taxation, the percentage of the improvement that may 2149  
be exempted from taxation may exceed seventy-five per cent, and 2150  
the exemption may be granted for up to thirty years, without the 2151  
approval of the board of education as otherwise required under 2152  
division (C)(2) of this section. 2153

(2) Improvements may be exempted from taxation for up to ten 2154  
years or, with the approval of the board of education of the city, 2155  
local, or exempted village school district within the territory of 2156  
which the improvements are or will be located, for up to thirty 2157  
years. The percentage of the improvement exempted from taxation 2158  
may, with such approval, exceed seventy-five per cent, but shall 2159  
not exceed one hundred per cent. Not later than forty-five 2160  
business days prior to adopting an ordinance under this section, 2161  
the legislative authority shall deliver to the board of education 2162  
a notice stating its intent to declare improvements to be a public 2163  
purpose under this section. The notice shall describe the parcel 2164  
and the improvements, provide an estimate of the true value in 2165

money of the improvements, specify the period for which the 2166  
improvements would be exempted from taxation and the percentage of 2167  
the improvements that would be exempted, and indicate the date on 2168  
which the legislative authority intends to adopt the ordinance. 2169  
The board of education, by resolution adopted by a majority of the 2170  
board, may approve the exemption for the period or for the 2171  
exemption percentage specified in the notice, may disapprove the 2172  
exemption for the number of years in excess of ten, may disapprove 2173  
the exemption for the percentage of the improvements to be 2174  
exempted in excess of seventy-five per cent, or both, or may 2175  
approve the exemption on the condition that the legislative 2176  
authority and the board negotiate an agreement providing for 2177  
compensation to the school district equal in value to a percentage 2178  
of the amount of taxes exempted in the eleventh and subsequent 2179  
years of the exemption period, or, in the case of exemption 2180  
percentages in excess of seventy-five per cent, compensation equal 2181  
in value to a percentage of the taxes that would be payable on the 2182  
portion of the improvement in excess of seventy-five per cent were 2183  
that portion to be subject to taxation. The board of education 2184  
shall certify its resolution to the legislative authority not 2185  
later than fourteen days prior to the date the legislative 2186  
authority intends to adopt the ordinance as indicated in the 2187  
notice. If the board of education approves the exemption on the 2188  
condition that a compensation agreement be negotiated, the board 2189  
in its resolution shall propose a compensation percentage. If the 2190  
board of education and the legislative authority negotiate a 2191  
mutually acceptable compensation agreement, the ordinance may 2192  
declare the improvements a public purpose for the number of years 2193  
specified in the ordinance or, in the case of exemption 2194  
percentages in excess of seventy-five per cent, for the exemption 2195  
percentage specified in the ordinance. In either case, if the 2196  
board and the legislative authority fail to negotiate a mutually 2197  
acceptable compensation agreement, the ordinance may declare the 2198

improvements a public purpose for not more than ten years, but 2199  
shall not exempt more than seventy-five per cent of the 2200  
improvements from taxation. If the board fails to certify a 2201  
resolution to the legislative authority within the time prescribed 2202  
by this division, the legislative authority thereupon may adopt 2203  
the ordinance and may declare the improvements a public purpose 2204  
for up to thirty years. The legislative authority may adopt the 2205  
ordinance at any time after the board of education certifies its 2206  
resolution approving the exemption to the legislative authority, 2207  
or, if the board approves the exemption on the condition that a 2208  
mutually acceptable compensation agreement be negotiated, at any 2209  
time after the compensation agreement is agreed to by the board 2210  
and the legislative authority. If a mutually acceptable 2211  
compensation agreement is negotiated between the legislative 2212  
authority and the board, including agreements for payments in lieu 2213  
of taxes under section 5709.42 of the Revised Code, the 2214  
legislative authority shall compensate the joint vocational school 2215  
district within the territory of which the improvements are or 2216  
will be located at the same rate and under the same terms received 2217  
by the city, local, or exempted village school district. 2218

(3) If a board of education has adopted a resolution waiving 2219  
its right to approve exemptions from taxation and the resolution 2220  
remains in effect, approval of exemptions by the board is not 2221  
required under this division. If a board of education has adopted 2222  
a resolution allowing a legislative authority to deliver the 2223  
notice required under this division fewer than forty-five business 2224  
days prior to the legislative authority's adoption of the 2225  
ordinance, the legislative authority shall deliver the notice to 2226  
the board not later than the number of days prior to such adoption 2227  
as prescribed by the board in its resolution. If a board of 2228  
education adopts a resolution waiving its right to approve 2229  
exemptions or shortening the notification period, the board shall 2230  
certify a copy of the resolution to the legislative authority. If 2231

the board of education rescinds such a resolution, it shall 2232  
certify notice of the rescission to the legislative authority. 2233

(4) If the legislative authority is not required by division 2234  
(C)(1), (2), or (3) of this section to notify the board of 2235  
education of the legislative authority's intent to declare 2236  
improvements to be a public purpose, the legislative authority 2237  
shall comply with the notice requirements imposed under section 2238  
5709.83 of the Revised Code, unless the board has adopted a 2239  
resolution under that section waiving its right to receive such a 2240  
notice. 2241

(D) The exemption commences on the effective date of the 2242  
ordinance and ends on the date specified in the ordinance as the 2243  
date the improvement ceases to be a public purpose. The exemption 2244  
shall be claimed and allowed in the same or a similar manner as in 2245  
the case of other real property exemptions. If an exemption status 2246  
changes during a tax year, the procedure for the apportionment of 2247  
the taxes for that year is the same as in the case of other 2248  
changes in tax exemption status during the year. 2249

(E) A municipal corporation, not later than fifteen days 2250  
after the adoption of an ordinance granting a tax exemption under 2251  
this section, shall submit to the director of development a copy 2252  
of the ordinance. On or before the thirty-first day of March each 2253  
year, the municipal corporation shall submit a status report to 2254  
the director of development outlining the progress of the project 2255  
during each year that the exemption remains in effect. 2256

**Sec. 5709.73.** (A) As used in this section and section 5709.74 2257  
of the Revised Code: 2258

(1) "Business day" means a day of the week excluding 2259  
Saturday, Sunday, and a legal holiday as defined in section 1.14 2260  
of the Revised Code. 2261

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose

and, except as provided in division (F) of this section, exempt 2293  
from taxation as provided in this section, but no board of 2294  
township trustees of a township that has a population that exceeds 2295  
twenty-five thousand, as shown by the most recent federal 2296  
decennial census, shall adopt a resolution that creates an 2297  
incentive district if the sum of the taxable value of real 2298  
property in the proposed district for the preceding tax year and 2299  
the taxable value of all real property in the township that would 2300  
have been taxable in the preceding year were it not for the fact 2301  
that the property was in an existing incentive district and 2302  
therefore exempt from taxation exceeds twenty-five per cent of the 2303  
taxable value of real property in the township for the preceding 2304  
tax year. The district shall be located within the unincorporated 2305  
area of the township and shall not include any territory that is 2306  
included within a district created under division (B) of section 2307  
5709.78 of the Revised Code. The resolution shall delineate the 2308  
boundary of the district and specifically identify each parcel 2309  
within the district. A district may not include any parcel that is 2310  
or has been exempted from taxation under division (B) of this 2311  
section or that is or has been within another district created 2312  
under this division. A resolution may create more than one 2313  
district, and more than one resolution may be adopted under 2314  
division (C)(1) of this section. 2315

(2) Not later than thirty days prior to adopting a resolution 2316  
under division (C)(1) of this section, if the township intends to 2317  
apply for exemptions from taxation under section 5709.911 of the 2318  
Revised Code on behalf of owners of real property located within 2319  
the proposed incentive district, the board shall conduct a public 2320  
hearing on the proposed resolution. Not later than thirty days 2321  
prior to the public hearing, the board shall give notice of the 2322  
public hearing and the proposed resolution by first class mail to 2323  
every real property owner whose property is located within the 2324  
boundaries of the proposed incentive district that is the subject 2325

of the proposed resolution. 2326

(3)(a) A resolution adopted under division (C)(1) of this 2327  
section shall specify the life of the incentive district and the 2328  
percentage of the improvements to be exempted, shall designate the 2329  
public infrastructure improvements made, to be made, or in the 2330  
process of being made, that benefit or serve, or, once made, will 2331  
benefit or serve parcels in the district. The resolution also 2332  
shall identify one or more specific projects being, or to be, 2333  
undertaken in the district that place additional demand on the 2334  
public infrastructure improvements designated in the resolution. 2335  
The project identified may, but need not be, the project under 2336  
division (C)(3)(b) of this section that places real property in 2337  
use for commercial or industrial purposes. 2338

A resolution adopted under division (C)(1) of this section on 2339  
or after March 30, 2006, shall not designate police or fire 2340  
equipment as public infrastructure improvements, and no service 2341  
payment provided for in section 5709.74 of the Revised Code and 2342  
received by the township under the resolution shall be used for 2343  
police or fire equipment. 2344

(b) A resolution adopted under division (C)(1) of this 2345  
section may authorize the use of service payments provided for in 2346  
section 5709.74 of the Revised Code for the purpose of housing 2347  
renovations within the incentive district, provided that the 2348  
resolution also designates public infrastructure improvements that 2349  
benefit or serve the district, and that a project within the 2350  
district places real property in use for commercial or industrial 2351  
purposes. Service payments may be used to finance or support 2352  
loans, deferred loans, and grants to persons for the purpose of 2353  
housing renovations within the district. The resolution shall 2354  
designate the parcels within the district that are eligible for 2355  
housing renovations. The resolution shall state separately the 2356  
amount or the percentages of the expected aggregate service 2357

payments that are designated for each public infrastructure 2358  
improvement and for the purpose of housing renovations. 2359

(4) Except with the approval of the board of education of 2360  
each city, local, or exempted village school district within the 2361  
territory of which the incentive district is or will be located, 2362  
and subject to division (E) of this section, the life of an 2363  
incentive district shall not exceed ten years, and the percentage 2364  
of improvements to be exempted shall not exceed seventy-five per 2365  
cent. With approval of the board of education, the life of a 2366  
district may be not more than thirty years, and the percentage of 2367  
improvements to be exempted may be not more than one hundred per 2368  
cent. The approval of a board of education shall be obtained in 2369  
the manner provided in division (D) of this section. 2370

(D) Improvements with respect to a parcel may be exempted 2371  
from taxation under division (B) of this section, and improvements 2372  
to parcels within an incentive district may be exempted from 2373  
taxation under division (C) of this section, for up to ten years 2374  
or, with the approval of the board of education of the city, 2375  
local, or exempted village school district within which the parcel 2376  
or district is located, for up to thirty years. The percentage of 2377  
the improvements exempted from taxation may, with such approval, 2378  
exceed seventy-five per cent, but shall not exceed one hundred per 2379  
cent. Not later than forty-five business days prior to adopting a 2380  
resolution under this section declaring improvements to be a 2381  
public purpose that is subject to approval by a board of education 2382  
under this division, the board of township trustees shall deliver 2383  
to the board of education a notice stating its intent to adopt a 2384  
resolution making that declaration. The notice regarding 2385  
improvements with respect to a parcel under division (B) of this 2386  
section shall identify the parcels for which improvements are to 2387  
be exempted from taxation, provide an estimate of the true value 2388  
in money of the improvements, specify the period for which the 2389

improvements would be exempted from taxation and the percentage of 2390  
the improvements that would be exempted, and indicate the date on 2391  
which the board of township trustees intends to adopt the 2392  
resolution. The notice regarding improvements made under division 2393  
(C) of this section to parcels within an incentive district shall 2394  
delineate the boundaries of the district, specifically identify 2395  
each parcel within the district, identify each anticipated 2396  
improvement in the district, provide an estimate of the true value 2397  
in money of each such improvement, specify the life of the 2398  
district and the percentage of improvements that would be 2399  
exempted, and indicate the date on which the board of township 2400  
trustees intends to adopt the resolution. The board of education, 2401  
by resolution adopted by a majority of the board, may approve the 2402  
exemption for the period or for the exemption percentage specified 2403  
in the notice; may disapprove the exemption for the number of 2404  
years in excess of ten, may disapprove the exemption for the 2405  
percentage of the improvements to be exempted in excess of 2406  
seventy-five per cent, or both; or may approve the exemption on 2407  
the condition that the board of township trustees and the board of 2408  
education negotiate an agreement providing for compensation to the 2409  
school district equal in value to a percentage of the amount of 2410  
taxes exempted in the eleventh and subsequent years of the 2411  
exemption period or, in the case of exemption percentages in 2412  
excess of seventy-five per cent, compensation equal in value to a 2413  
percentage of the taxes that would be payable on the portion of 2414  
the improvements in excess of seventy-five per cent were that 2415  
portion to be subject to taxation, or other mutually agreeable 2416  
compensation. 2417

The board of education shall certify its resolution to the 2418  
board of township trustees not later than fourteen days prior to 2419  
the date the board of township trustees intends to adopt the 2420  
resolution as indicated in the notice. If the board of education 2421  
and the board of township trustees negotiate a mutually acceptable 2422

compensation agreement, the resolution may declare the 2423  
improvements a public purpose for the number of years specified in 2424  
the resolution or, in the case of exemption percentages in excess 2425  
of seventy-five per cent, for the exemption percentage specified 2426  
in the resolution. In either case, if the board of education and 2427  
the board of township trustees fail to negotiate a mutually 2428  
acceptable compensation agreement, the resolution may declare the 2429  
improvements a public purpose for not more than ten years, and 2430  
shall not exempt more than seventy-five per cent of the 2431  
improvements from taxation. If the board of education fails to 2432  
certify a resolution to the board of township trustees within the 2433  
time prescribed by this section, the board of township trustees 2434  
thereupon may adopt the resolution and may declare the 2435  
improvements a public purpose for up to thirty years or, in the 2436  
case of exemption percentages proposed in excess of seventy-five 2437  
per cent, for the exemption percentage specified in the 2438  
resolution. The board of township trustees may adopt the 2439  
resolution at any time after the board of education certifies its 2440  
resolution approving the exemption to the board of township 2441  
trustees, or, if the board of education approves the exemption on 2442  
the condition that a mutually acceptable compensation agreement be 2443  
negotiated, at any time after the compensation agreement is agreed 2444  
to by the board of education and the board of township trustees. 2445  
If a mutually acceptable compensation agreement is negotiated 2446  
between the board of township trustees and the board of education, 2447  
including agreements for payments in lieu of taxes under section 2448  
5709.74 of the Revised Code, the board of township trustees shall 2449  
compensate the joint vocational school district within which the 2450  
parcel or district is located at the same rate and under the same 2451  
terms received by the city, local, or exempted village school 2452  
district. 2453

If a board of education has adopted a resolution waiving its 2454  
right to approve exemptions from taxation under this section and 2455

the resolution remains in effect, approval of such exemptions by 2456  
the board of education is not required under division (D) of this 2457  
section. If a board of education has adopted a resolution allowing 2458  
a board of township trustees to deliver the notice required under 2459  
division (D) of this section fewer than forty-five business days 2460  
prior to adoption of the resolution by the board of township 2461  
trustees, the board of township trustees shall deliver the notice 2462  
to the board of education not later than the number of days prior 2463  
to the adoption as prescribed by the board of education in its 2464  
resolution. If a board of education adopts a resolution waiving 2465  
its right to approve exemptions or shortening the notification 2466  
period, the board of education shall certify a copy of the 2467  
resolution to the board of township trustees. If the board of 2468  
education rescinds the resolution, it shall certify notice of the 2469  
rescission to the board of township trustees. 2470

If the board of township trustees is not required by division 2471  
(D) of this section to notify the board of education of the board 2472  
of township trustees' intent to declare improvements to be a 2473  
public purpose, the board of township trustees shall comply with 2474  
the notice requirements imposed under section 5709.83 of the 2475  
Revised Code before taking formal action to adopt the resolution 2476  
making that declaration, unless the board of education has adopted 2477  
a resolution under that section waiving its right to receive the 2478  
notice. 2479

(E)(1) If a proposed resolution under division (C)(1) of this 2480  
section exempts improvements with respect to a parcel within an 2481  
incentive district for more than ten years, or the percentage of 2482  
the improvement exempted from taxation exceeds seventy-five per 2483  
cent, not later than forty-five business days prior to adopting 2484  
the resolution the board of township trustees shall deliver to the 2485  
board of county commissioners of the county within which the 2486  
incentive district is or will be located a notice that states its 2487

intent to adopt a resolution creating an incentive district. The 2488  
notice shall include a copy of the proposed resolution, identify 2489  
the parcels for which improvements are to be exempted from 2490  
taxation, provide an estimate of the true value in money of the 2491  
improvements, specify the period of time for which the 2492  
improvements would be exempted from taxation, specify the 2493  
percentage of the improvements that would be exempted from 2494  
taxation, and indicate the date on which the board of township 2495  
trustees intends to adopt the resolution. 2496

(2) The board of county commissioners, by resolution adopted 2497  
by a majority of the board, may object to the exemption for the 2498  
number of years in excess of ten, may object to the exemption for 2499  
the percentage of the improvement to be exempted in excess of 2500  
seventy-five per cent, or both. If the board of county 2501  
commissioners objects, the board may negotiate a mutually 2502  
acceptable compensation agreement with the board of township 2503  
trustees. In no case shall the compensation provided to the board 2504  
of county commissioners exceed the property taxes foregone due to 2505  
the exemption. If the board of county commissioners objects, and 2506  
the board of county commissioners and board of township trustees 2507  
fail to negotiate a mutually acceptable compensation agreement, 2508  
the resolution adopted under division (C)(1) of this section shall 2509  
provide to the board of county commissioners compensation in the 2510  
eleventh and subsequent years of the exemption period equal in 2511  
value to not more than fifty per cent of the taxes that would be 2512  
payable to the county or, if the board of county commissioner's 2513  
objection includes an objection to an exemption percentage in 2514  
excess of seventy-five per cent, compensation equal in value to 2515  
not more than fifty per cent of the taxes that would be payable to 2516  
the county, on the portion of the improvement in excess of 2517  
seventy-five per cent, were that portion to be subject to 2518  
taxation. The board of county commissioners shall certify its 2519  
resolution to the board of township trustees not later than thirty 2520

days after receipt of the notice. 2521

(3) If the board of county commissioners does not object or 2522  
fails to certify its resolution objecting to an exemption within 2523  
thirty days after receipt of the notice, the board of township 2524  
trustees may adopt its resolution, and no compensation shall be 2525  
provided to the board of county commissioners. If the board of 2526  
county commissioners timely certifies its resolution objecting to 2527  
the trustees' resolution, the board of township trustees may adopt 2528  
its resolution at any time after a mutually acceptable 2529  
compensation agreement is agreed to by the board of county 2530  
commissioners and the board of township trustees, or, if no 2531  
compensation agreement is negotiated, at any time after the board 2532  
of township trustees agrees in the proposed resolution to provide 2533  
compensation to the board of county commissioners of fifty per 2534  
cent of the taxes that would be payable to the county in the 2535  
eleventh and subsequent years of the exemption period or on the 2536  
portion of the improvement in excess of seventy-five per cent, 2537  
were that portion to be subject to taxation. 2538

(F) Service payments in lieu of taxes that are attributable 2539  
to any amount by which the effective tax rate of either a renewal 2540  
levy with an increase or a replacement levy exceeds the effective 2541  
tax rate of the levy renewed or replaced, or that are attributable 2542  
to an additional levy, for a levy authorized by the voters for any 2543  
of the following purposes on or after January 1, 2006, and which 2544  
are provided pursuant to a resolution creating an incentive 2545  
district under division (C)(1) of this section that is adopted on 2546  
or after January 1, 2006, shall be distributed to the appropriate 2547  
taxing authority as required under division (C) of section 5709.74 2548  
of the Revised Code in an amount equal to the amount of taxes from 2549  
that additional levy or from the increase in the effective tax 2550  
rate of such renewal or replacement levy that would have been 2551  
payable to that taxing authority from the following levies were it 2552

not for the exemption authorized under division (C) of this	2553
section:	2554
(1) A tax levied under division (L) of section 5705.19 or	2555
section 5705.191 of the Revised Code for community mental	2556
retardation and developmental disabilities programs and services	2557
pursuant to Chapter 5126. of the Revised Code;	2558
(2) A tax levied under division (Y) of section 5705.19 of the	2559
Revised Code for providing or maintaining senior citizens services	2560
or facilities;	2561
(3) A tax levied under section 5705.22 of the Revised Code	2562
for county hospitals;	2563
(4) A tax levied by a joint-county district or by a county	2564
under section 5705.19, 5705.191, or 5705.221 of the Revised Code	2565
for alcohol, drug addiction, and mental health services or	2566
families;	2567
(5) A tax levied under section 5705.23 of the Revised Code	2568
for library purposes;	2569
(6) A tax levied under section 5705.24 of the Revised Code	2570
for the support of children services and the placement and care of	2571
children;	2572
(7) A tax levied under division (Z) of section 5705.19 of the	2573
Revised Code for the provision and maintenance of zoological park	2574
services and facilities under section 307.76 of the Revised Code;	2575
(8) A tax levied under section 511.27 or division (H) of	2576
section 5705.19 of the Revised Code for the support of township	2577
park districts;	2578
(9) A tax levied under division (A), (F), or (H) of section	2579
5705.19 of the Revised Code for parks and recreational purposes of	2580
a joint recreation district organized pursuant to division (B) of	2581
section 755.14 of the Revised Code;	2582

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	2583 2584
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;	2585 2586 2587 2588
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	2589 2590
(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division	2591 2592 2593 2594 2595 2596 2597 2598 2599 2600 2601 2602 2603 2604 2605 2606 2607 2608 2609 2610 2611 2612 2613 2614

(D) of this section, but in no case shall the improvement be 2615  
exempted from taxation for more than thirty years. The board of 2616  
township trustees may, by majority vote, adopt a resolution 2617  
permitting the township to enter into such agreements as the board 2618  
finds necessary or appropriate to provide for the construction or 2619  
undertaking of public infrastructure improvements and housing 2620  
renovations. Any exemption shall be claimed and allowed in the 2621  
same or a similar manner as in the case of other real property 2622  
exemptions. If an exemption status changes during a tax year, the 2623  
procedure for the apportionment of the taxes for that year is the 2624  
same as in the case of other changes in tax exemption status 2625  
during the year. 2626

(H) The board of township trustees may issue the notes of the 2627  
township to finance all costs pertaining to the construction or 2628  
undertaking of public infrastructure improvements and housing 2629  
renovations made pursuant to this section. The notes shall be 2630  
signed by the board and attested by the signature of the township 2631  
fiscal officer, shall bear interest not to exceed the rate 2632  
provided in section 9.95 of the Revised Code, and are not subject 2633  
to Chapter 133. of the Revised Code. The resolution authorizing 2634  
the issuance of the notes shall pledge the funds of the township 2635  
public improvement tax increment equivalent fund established 2636  
pursuant to section 5709.75 of the Revised Code to pay the 2637  
interest on and principal of the notes. The notes, which may 2638  
contain a clause permitting prepayment at the option of the board, 2639  
shall be offered for sale on the open market or given to the 2640  
vendor or contractor if no sale is made. 2641

(I) The township, not later than fifteen days after the 2642  
adoption of a resolution under this section, shall submit to the 2643  
director of development a copy of the resolution. On or before the 2644  
thirty-first day of March of each year, the township shall submit 2645  
a status report to the director of development. The report shall 2646

indicate, in the manner prescribed by the director, the progress 2647  
of the project during each year that the exemption remains in 2648  
effect, including a summary of the receipts from service payments 2649  
in lieu of taxes; expenditures of money from the fund created 2650  
under section 5709.75 of the Revised Code; a description of the 2651  
public infrastructure improvements and housing renovations 2652  
financed with the expenditures; and a quantitative summary of 2653  
changes in private investment resulting from each project. 2654

(J) Nothing in this section shall be construed to prohibit a 2655  
board of township trustees from declaring to be a public purpose 2656  
improvements with respect to more than one parcel. 2657

If a parcel is located in a new community district in which 2658  
the new community authority imposes a community development charge 2659  
on the basis of rentals received from leases of real property as 2660  
described in division (L)(2) of section 349.01 of the Revised 2661  
Code, the parcel may not be exempted from taxation under this 2662  
section. 2663

(K) A board of township trustees that adopted a resolution 2664  
under this section prior to July 21, 1994, may amend that 2665  
resolution to include any additional public infrastructure 2666  
improvement. A board of township trustees that seeks by the 2667  
amendment to utilize money from its township public improvement 2668  
tax increment equivalent fund for land acquisition in aid of 2669  
industry, commerce, distribution, or research, demolition on 2670  
private property, or stormwater and flood remediation projects may 2671  
do so provided that the board currently is a party to a 2672  
hold-harmless agreement with the board of education of the city, 2673  
local, or exempted village school district within the territory of 2674  
which are located the parcels that are subject to an exemption. 2675  
For the purposes of this division, a "hold-harmless agreement" 2676  
means an agreement under which the board of township trustees 2677  
agrees to compensate the school district for one hundred per cent 2678

of the tax revenue that the school district would have received 2679  
from further improvements to parcels designated in the resolution 2680  
were it not for the exemption granted by the resolution. 2681

**Sec. 5709.78.** (A) A board of county commissioners may, by 2682  
resolution, declare improvements to certain parcels of real 2683  
property located in the unincorporated territory of the county to 2684  
be a public purpose. Except with the approval under division (C) 2685  
of this section of the board of education of each city, local, or 2686  
exempted village school district within which the improvements are 2687  
located, not more than seventy-five per cent of an improvement 2688  
thus declared to be a public purpose may be exempted from real 2689  
property taxation, for a period of not more than ten years. The 2690  
resolution shall specify the percentage of the improvement to be 2691  
exempted and the life of the exemption. 2692

A resolution adopted under this division shall designate the 2693  
specific public infrastructure improvements made, to be made, or 2694  
in the process of being made by the county that directly benefit, 2695  
or that once made will directly benefit, the parcels for which 2696  
improvements are declared to be a public purpose. The service 2697  
payments provided for in section 5709.79 of the Revised Code shall 2698  
be used to finance the public infrastructure improvements 2699  
designated in the resolution, or as provided in section 5709.80 of 2700  
the Revised Code. 2701

(B)(1) A board of county commissioners may adopt a resolution 2702  
creating an incentive district and declaring improvements to 2703  
parcels within the district to be a public purpose and, except as 2704  
provided in division (E) of this section, exempt from taxation as 2705  
provided in this section, but no board of county commissioners of 2706  
a county that has a population that exceeds twenty-five thousand, 2707  
as shown by the most recent federal decennial census, shall adopt 2708  
a resolution that creates an incentive district if the sum of the 2709

taxable value of real property in the proposed district for the 2710  
preceding tax year and the taxable value of all real property in 2711  
the county that would have been taxable in the preceding year were 2712  
it not for the fact that the property was in an existing incentive 2713  
district and therefore exempt from taxation exceeds twenty-five 2714  
per cent of the taxable value of real property in the county for 2715  
the preceding tax year. The district shall be located within the 2716  
unincorporated territory of the county and shall not include any 2717  
territory that is included within a district created under 2718  
division (C) of section 5709.73 of the Revised Code. The 2719  
resolution shall delineate the boundary of the district and 2720  
specifically identify each parcel within the district. A district 2721  
may not include any parcel that is or has been exempted from 2722  
taxation under division (A) of this section or that is or has been 2723  
within another district created under this division. A resolution 2724  
may create more than one such district, and more than one 2725  
resolution may be adopted under division (B)(1) of this section. 2726

(2) Not later than thirty days prior to adopting a resolution 2727  
under division (B)(1) of this section, if the county intends to 2728  
apply for exemptions from taxation under section 5709.911 of the 2729  
Revised Code on behalf of owners of real property located within 2730  
the proposed incentive district, the board of county commissioners 2731  
shall conduct a public hearing on the proposed resolution. Not 2732  
later than thirty days prior to the public hearing, the board 2733  
shall give notice of the public hearing and the proposed 2734  
resolution by first class mail to every real property owner whose 2735  
property is located within the boundaries of the proposed 2736  
incentive district that is the subject of the proposed resolution. 2737  
The board also shall provide the notice by first class mail to the 2738  
clerk of each township in which the proposed incentive district 2739  
will be located. 2740

(3)(a) A resolution adopted under division (B)(1) of this 2741

section shall specify the life of the incentive district and the 2742  
percentage of the improvements to be exempted, shall designate the 2743  
public infrastructure improvements made, to be made, or in the 2744  
process of being made, that benefit or serve, or, once made, will 2745  
benefit or serve parcels in the district. The resolution also 2746  
shall identify one or more specific projects being, or to be, 2747  
undertaken in the district that place additional demand on the 2748  
public infrastructure improvements designated in the resolution. 2749  
The project identified may, but need not be, the project under 2750  
division (B)(3)(b) of this section that places real property in 2751  
use for commercial or industrial purposes. 2752

A resolution adopted under division (B)(1) of this section on 2753  
or after March 30, 2006, shall not designate police or fire 2754  
equipment as public infrastructure improvements, and no service 2755  
payment provided for in section 5709.79 of the Revised Code and 2756  
received by the county under the resolution shall be used for 2757  
police or fire equipment. 2758

(b) A resolution adopted under division (B)(1) of this 2759  
section may authorize the use of service payments provided for in 2760  
section 5709.79 of the Revised Code for the purpose of housing 2761  
renovations within the incentive district, provided that the 2762  
resolution also designates public infrastructure improvements that 2763  
benefit or serve the district, and that a project within the 2764  
district places real property in use for commercial or industrial 2765  
purposes. Service payments may be used to finance or support 2766  
loans, deferred loans, and grants to persons for the purpose of 2767  
housing renovations within the district. The resolution shall 2768  
designate the parcels within the district that are eligible for 2769  
housing renovations. The resolution shall state separately the 2770  
amount or the percentages of the expected aggregate service 2771  
payments that are designated for each public infrastructure 2772  
improvement and for the purpose of housing renovations. 2773

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners

intends to adopt the resolution. The notice regarding improvements 2807  
to parcels within an incentive district under division (B) of this 2808  
section shall delineate the boundaries of the district, 2809  
specifically identify each parcel within the district, identify 2810  
each anticipated improvement in the district, provide an estimate 2811  
of the true value in money of each such improvement, specify the 2812  
life of the district and the percentage of improvements that would 2813  
be exempted, and indicate the date on which the board of county 2814  
commissioners intends to adopt the resolution. The board of 2815  
education, by resolution adopted by a majority of the board, may 2816  
approve the exemption for the period or for the exemption 2817  
percentage specified in the notice; may disapprove the exemption 2818  
for the number of years in excess of ten, may disapprove the 2819  
exemption for the percentage of the improvements to be exempted in 2820  
excess of seventy-five per cent, or both; or may approve the 2821  
exemption on the condition that the board of county commissioners 2822  
and the board of education negotiate an agreement providing for 2823  
compensation to the school district equal in value to a percentage 2824  
of the amount of taxes exempted in the eleventh and subsequent 2825  
years of the exemption period or, in the case of exemption 2826  
percentages in excess of seventy-five per cent, compensation equal 2827  
in value to a percentage of the taxes that would be payable on the 2828  
portion of the improvements in excess of seventy-five per cent 2829  
were that portion to be subject to taxation, or other mutually 2830  
agreeable compensation. 2831

(2) The board of education shall certify its resolution to 2832  
the board of county commissioners not later than fourteen days 2833  
prior to the date the board of county commissioners intends to 2834  
adopt its resolution as indicated in the notice. If the board of 2835  
education and the board of county commissioners negotiate a 2836  
mutually acceptable compensation agreement, the resolution of the 2837  
board of county commissioners may declare the improvements a 2838  
public purpose for the number of years specified in that 2839

resolution or, in the case of exemption percentages in excess of 2840  
seventy-five per cent, for the exemption percentage specified in 2841  
the resolution. In either case, if the board of education and the 2842  
board of county commissioners fail to negotiate a mutually 2843  
acceptable compensation agreement, the resolution may declare the 2844  
improvements a public purpose for not more than ten years, and 2845  
shall not exempt more than seventy-five per cent of the 2846  
improvements from taxation. If the board of education fails to 2847  
certify a resolution to the board of county commissioners within 2848  
the time prescribed by this section, the board of county 2849  
commissioners thereupon may adopt the resolution and may declare 2850  
the improvements a public purpose for up to thirty years or, in 2851  
the case of exemption percentages proposed in excess of 2852  
seventy-five per cent, for the exemption percentage specified in 2853  
the resolution. The board of county commissioners may adopt the 2854  
resolution at any time after the board of education certifies its 2855  
resolution approving the exemption to the board of county 2856  
commissioners, or, if the board of education approves the 2857  
exemption on the condition that a mutually acceptable compensation 2858  
agreement be negotiated, at any time after the compensation 2859  
agreement is agreed to by the board of education and the board of 2860  
county commissioners. If a mutually acceptable compensation 2861  
agreement is negotiated between the board of county commissioners 2862  
and the board of education, including agreements for payments in 2863  
lieu of taxes under section 5709.79 of the Revised Code, the board 2864  
of county commissioners shall compensate the joint vocational 2865  
school district within which the parcel or district is located at 2866  
the same rate and under the same terms received by the city, 2867  
local, or exempted village school district. 2868

(3) If a board of education has adopted a resolution waiving 2869  
its right to approve exemptions from taxation under this section 2870  
and the resolution remains in effect, approval of such exemptions 2871  
by the board of education is not required under division (C) of 2872

this section. If a board of education has adopted a resolution 2873  
allowing a board of county commissioners to deliver the notice 2874  
required under division (C) of this section fewer than forty-five 2875  
business days prior to approval of the resolution by the board of 2876  
county commissioners, the board of county commissioners shall 2877  
deliver the notice to the board of education not later than the 2878  
number of days prior to such approval as prescribed by the board 2879  
of education in its resolution. If a board of education adopts a 2880  
resolution waiving its right to approve exemptions or shortening 2881  
the notification period, the board of education shall certify a 2882  
copy of the resolution to the board of county commissioners. If 2883  
the board of education rescinds such a resolution, it shall 2884  
certify notice of the rescission to the board of county 2885  
commissioners. 2886

(D)(1) If a proposed resolution under division (B)(1) of this 2887  
section exempts improvements with respect to a parcel within an 2888  
incentive district for more than ten years, or the percentage of 2889  
the improvement exempted from taxation exceeds seventy-five per 2890  
cent, not later than forty-five business days prior to adopting 2891  
the resolution the board of county commissioners shall deliver to 2892  
the board of township trustees of any township within which the 2893  
incentive district is or will be located a notice that states its 2894  
intent to adopt a resolution creating an incentive district. The 2895  
notice shall include a copy of the proposed resolution, identify 2896  
the parcels for which improvements are to be exempted from 2897  
taxation, provide an estimate of the true value in money of the 2898  
improvements, specify the period of time for which the 2899  
improvements would be exempted from taxation, specify the 2900  
percentage of the improvements that would be exempted from 2901  
taxation, and indicate the date on which the board intends to 2902  
adopt the resolution. 2903

(2) The board of township trustees, by resolution adopted by 2904

a majority of the board, may object to the exemption for the 2905  
number of years in excess of ten, may object to the exemption for 2906  
the percentage of the improvement to be exempted in excess of 2907  
seventy-five per cent, or both. If the board of township trustees 2908  
objects, the board of township trustees may negotiate a mutually 2909  
acceptable compensation agreement with the board of county 2910  
commissioners. In no case shall the compensation provided to the 2911  
board of township trustees exceed the property taxes forgone due 2912  
to the exemption. If the board of township trustees objects, and 2913  
the board of township trustees and the board of county 2914  
commissioners fail to negotiate a mutually acceptable compensation 2915  
agreement, the resolution adopted under division (B)(1) of this 2916  
section shall provide to the board of township trustees 2917  
compensation in the eleventh and subsequent years of the exemption 2918  
period equal in value to not more than fifty per cent of the taxes 2919  
that would be payable to the township or, if the board of township 2920  
trustee's objection includes an objection to an exemption 2921  
percentage in excess of seventy-five per cent, compensation equal 2922  
in value to not more than fifty per cent of the taxes that would 2923  
be payable to the township on the portion of the improvement in 2924  
excess of seventy-five per cent, were that portion to be subject 2925  
to taxation. The board of township trustees shall certify its 2926  
resolution to the board of county commissioners not later than 2927  
thirty days after receipt of the notice. 2928

(3) If the board of township trustees does not object or 2929  
fails to certify a resolution objecting to an exemption within 2930  
thirty days after receipt of the notice, the board of county 2931  
commissioners may adopt its resolution, and no compensation shall 2932  
be provided to the board of township trustees. If the board of 2933  
township trustees certifies its resolution objecting to the 2934  
commissioners' resolution, the board of county commissioners may 2935  
adopt its resolution at any time after a mutually acceptable 2936  
compensation agreement is agreed to by the board of county 2937

commissioners and the board of township trustees. If the board of 2938  
township trustees certifies a resolution objecting to the 2939  
commissioners' resolution, the board of county commissioners may 2940  
adopt its resolution at any time after a mutually acceptable 2941  
compensation agreement is agreed to by the board of county 2942  
commissioners and the board of township trustees, or, if no 2943  
compensation agreement is negotiated, at any time after the board 2944  
of county commissioners in the proposed resolution to provide 2945  
compensation to the board of township trustees of fifty per cent 2946  
of the taxes that would be payable to the township in the eleventh 2947  
and subsequent years of the exemption period or on the portion of 2948  
the improvement in excess of seventy-five per cent, were that 2949  
portion to be subject to taxation. 2950

(E) Service payments in lieu of taxes that are attributable 2951  
to any amount by which the effective tax rate of either a renewal 2952  
levy with an increase or a replacement levy exceeds the effective 2953  
tax rate of the levy renewed or replaced, or that are attributable 2954  
to an additional levy, for a levy authorized by the voters for any 2955  
of the following purposes on or after January 1, 2006, and which 2956  
are provided pursuant to a resolution creating an incentive 2957  
district under division (B)(1) of this section that is adopted on 2958  
or after January 1, 2006, shall be distributed to the appropriate 2959  
taxing authority as required under division (D) of section 5709.79 2960  
of the Revised Code in an amount equal to the amount of taxes from 2961  
that additional levy or from the increase in the effective tax 2962  
rate of such renewal or replacement levy that would have been 2963  
payable to that taxing authority from the following levies were it 2964  
not for the exemption authorized under division (B) of this 2965  
section: 2966

(1) A tax levied under division (L) of section 5705.19 or 2967  
section 5705.191 of the Revised Code for community mental 2968  
retardation and developmental disabilities programs and services 2969

pursuant to Chapter 5126. of the Revised Code;	2970
(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;	2971 2972 2973
(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;	2974 2975
(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;	2976 2977 2978 2979
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	2980 2981
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	2982 2983 2984
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	2985 2986 2987
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	2988 2989 2990
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	2991 2992 2993 2994
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	2995 2996
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public	2997 2998 2999

health and hospitalization; and support of general hospitals; 3000

(12) A tax levied under section 3709.29 of the Revised Code 3001  
for a general health district program. 3002

(F) An exemption from taxation granted under this section 3003  
commences with the tax year specified in the resolution so long as 3004  
the year specified in the resolution commences after the effective 3005  
date of the resolution. If the resolution specifies a year 3006  
commencing before the effective date of the resolution or 3007  
specifies no year whatsoever, the exemption commences with the tax 3008  
year in which an exempted improvement first appears on the tax 3009  
list and duplicate of real and public utility property and that 3010  
commences after the effective date of the resolution. Except as 3011  
otherwise provided in this division, the exemption ends on the 3012  
date specified in the resolution as the date the improvement 3013  
ceases to be a public purpose or the incentive district expires, 3014  
or ends on the date on which the county can no longer require 3015  
annual service payments in lieu of taxes under section 5709.79 of 3016  
the Revised Code, whichever occurs first. The exemption of an 3017  
improvement with respect to a parcel or within an incentive 3018  
district may end on a later date, as specified in the resolution, 3019  
if the board of commissioners and the board of education of the 3020  
city, local, or exempted village school district within which the 3021  
parcel or district is located have entered into a compensation 3022  
agreement under section 5709.82 of the Revised Code with respect 3023  
to the improvement, and the board of education has approved the 3024  
term of the exemption under division (C)(1) of this section, but 3025  
in no case shall the improvement be exempted from taxation for 3026  
more than thirty years. Exemptions shall be claimed and allowed in 3027  
the same or a similar manner as in the case of other real property 3028  
exemptions. If an exemption status changes during a tax year, the 3029  
procedure for the apportionment of the taxes for that year is the 3030  
same as in the case of other changes in tax exemption status 3031

during the year. 3032

(G) If the board of county commissioners is not required by 3033  
this section to notify the board of education of the board of 3034  
county commissioners' intent to declare improvements to be a 3035  
public purpose, the board of county commissioners shall comply 3036  
with the notice requirements imposed under section 5709.83 of the 3037  
Revised Code before taking formal action to adopt the resolution 3038  
making that declaration, unless the board of education has adopted 3039  
a resolution under that section waiving its right to receive such 3040  
a notice. 3041

(H) The county, not later than fifteen days after the 3042  
adoption of a resolution under this section, shall submit to the 3043  
director of development a copy of the resolution. On or before the 3044  
thirty-first day of March of each year, the county shall submit a 3045  
status report to the director of development. The report shall 3046  
indicate, in the manner prescribed by the director, the progress 3047  
of the project during each year that an exemption remains in 3048  
effect, including a summary of the receipts from service payments 3049  
in lieu of taxes; expenditures of money from the fund created 3050  
under section 5709.80 of the Revised Code; a description of the 3051  
public infrastructure improvements and housing renovations 3052  
financed with such expenditures; and a quantitative summary of 3053  
changes in employment and private investment resulting from each 3054  
project. 3055

(I) Nothing in this section shall be construed to prohibit a 3056  
board of county commissioners from declaring to be a public 3057  
purpose improvements with respect to more than one parcel. 3058

(J) If a parcel is located in a new community district in 3059  
which the new community authority imposes a community development 3060  
charge on the basis of rentals received from leases of real 3061  
property as described in division (L)(2) of section 349.01 of the 3062  
Revised Code, the parcel may not be exempted from taxation under 3063

this section. 3064

**Sec. 5727.84.** (A) As used in this section and sections 3065  
5727.85, 5727.86, and 5727.87 of the Revised Code: 3066

(1) "School district" means a city, local, or exempted 3067  
village school district. 3068

(2) "Joint vocational school district" means a joint 3069  
vocational school district created under section 3311.16 of the 3070  
Revised Code, and includes a cooperative education school district 3071  
created under section 3311.52 or 3311.521 of the Revised Code and 3072  
a county school financing district created under section 3311.50 3073  
of the Revised Code. 3074

(3) "Local taxing unit" means a subdivision or taxing unit, 3075  
as defined in section 5705.01 of the Revised Code, a park district 3076  
created under Chapter 1545. of the Revised Code, or a township 3077  
park district established under section 511.23 of the Revised 3078  
Code, but excludes school districts and joint vocational school 3079  
districts. 3080

(4) "State education aid," for a school district, means the 3081  
following: 3082

(a) For fiscal years prior to fiscal year 2010, the sum of 3083  
state aid amounts computed for the district under the following 3084  
provisions, as they existed for the applicable fiscal year: 3085  
divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3086  
3317.022; divisions (B), (C), and (D) of section 3317.023; 3087  
divisions (G), (L), and (N) of section 3317.024; and sections 3088  
3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3089  
3317.053 of the Revised Code; and the adjustments required by: 3090  
division (C) of section 3310.08; division (C)(2) of section 3091  
3310.41; division (C) of section 3314.08; division (D)(2) of 3092  
section 3314.091; division (D) of section 3314.13; divisions (E), 3093

(K), (L), (M), and (N) of section 3317.023; division (C) of 3094  
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 3095  
Code. However, when calculating state education aid for a school 3096  
district for fiscal years 2008 and 2009, include the amount 3097  
computed for the district under Section 269.20.80 of H.B. 119 of 3098  
the 127th general assembly, as subsequently amended, instead of 3099  
division (D) of section 3317.022 of the Revised Code; and include 3100  
amounts calculated under Section 269.30.80 of H.B. 119 of the 3101  
127th general assembly, as subsequently amended. 3102

(b) For fiscal years 2010 and 2011, the sum of the amounts 3103  
computed for the district under former sections 3306.052, 3306.12, 3104  
3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code and 3105  
the following provisions, as they existed for the applicable 3106  
fiscal year: division (G) of section 3317.024; sections 3317.05, 3107  
3317.052, and 3317.053 of the Revised Code; and the adjustments 3108  
required by division (C) of section 3310.08; division (C)(2) of 3109  
section 3310.41; division (C) of section 3314.08; division (D)(2) 3110  
of section 3314.091; division (D) of section 3314.13; divisions 3111  
(E), (K), (L), (M), and (N) of section 3317.023; division (C) of 3112  
section 3317.20; and sections 3313.979, 3313.981, and 3326.33 of 3113  
the Revised Code. 3114

(c) For fiscal years 2012 and 2013, the amount paid in 3115  
accordance with the section of H.B. 153 of the 129th general 3116  
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 3117  
SCHOOL DISTRICTS" and the adjustments required by division (C) of 3118  
section 3310.08; division (C)(2) of section 3310.41; section 3119  
3310.55; division (C) of section 3314.08; division (D)(2) of 3120  
section 3314.091; division (D) of section 3314.13; divisions (B), 3121  
(H), (I), (J), and (K) of section 3317.023; division (C) of 3122  
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 3123  
Code. 3124

(5) "State education aid," for a joint vocational school 3125

district, means the following: 3126

(a) For fiscal years prior to fiscal year 2010, the sum of 3127  
the state aid amounts computed for the district under division (N) 3128  
of section 3317.024 and section 3317.16 of the Revised Code. 3129  
However, when calculating state education aid for a joint 3130  
vocational school district for fiscal years 2008 and 2009, include 3131  
the amount computed for the district under Section 269.30.90 of 3132  
H.B. 119 of the 127th general assembly, as subsequently amended. 3133

(b) For fiscal years 2010 and 2011, the amount computed for 3134  
the district in accordance with the section of H.B. 1 of the 128th 3135  
general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 3136  
DISTRICTS". 3137

(c) For fiscal years 2012 and 2013, the amount paid in 3138  
accordance with the section of H.B. 153 of the 129th general 3139  
assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 3140

(6) "State education aid offset" means the amount determined 3141  
for each school district or joint vocational school district under 3142  
division (A)(1) of section 5727.85 of the Revised Code. 3143

(7) "Recognized valuation" has the same meaning as in section 3144  
3317.02 of the Revised Code. 3145

(8) "Electric company tax value loss" means the amount 3146  
determined under division (D) of this section. 3147

(9) "Natural gas company tax value loss" means the amount 3148  
determined under division (E) of this section. 3149

(10) "Tax value loss" means the sum of the electric company 3150  
tax value loss and the natural gas company tax value loss. 3151

(11) "Fixed-rate levy" means any tax levied on property other 3152  
than a fixed-sum levy. 3153

(12) "Fixed-rate levy loss" means the amount determined under 3154  
division (G) of this section. 3155

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

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

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

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

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

(18) "2010 current expense S.B. 3 allocation" means the sum  
of payments received by a municipal corporation in calendar year  
2010 for current expense levy losses pursuant to division (A)(1)  
of section 5727.86 of the Revised Code, excluding any such  
payments received for current expense levy losses attributable to

a tax levied under section 5705.23 of the Revised Code. If a 3187  
fixed-rate levy eligible for reimbursement is not ~~imposed~~ charged 3188  
and payable in any year after tax year 2010, "2010 current expense 3189  
S.B. 3 allocation" used to compute payments to be made under 3190  
division (A)(1)(d) or (e) of section 5727.86 of the Revised Code 3191  
in the tax years following the last year the levy is ~~imposed~~ 3192  
charged and payable shall be reduced ~~by the amount of~~ to the 3193  
extent that those payments are attributable to the fixed-rate levy 3194  
loss of that levy. 3195

(19) "2010 S.B. 3 allocation" means the sum of payments 3196  
received by a local taxing unit during calendar year 2010 pursuant 3197  
to division (A)(1) of section 5727.86 of the Revised Code, 3198  
excluding any such payments received for fixed-rate levy losses 3199  
attributable to a tax levied under section 5705.23 of the Revised 3200  
Code. If a fixed-rate levy eligible for reimbursement is not 3201  
~~imposed~~ charged and payable in any year after tax year 2010, "2010 3202  
S.B. 3 allocation" used to compute payments to be made under 3203  
division (A)(1)(d) or (e) of section 5727.86 of the Revised Code 3204  
in the tax years following the last year the levy is ~~imposed~~ 3205  
charged and payable shall be reduced ~~by the amount of~~ to the 3206  
extent that those payments are attributable to the fixed-rate levy 3207  
loss of that levy. 3208

(20) "Total S.B. 3 allocation" means, in the case of a school 3209  
district or joint vocational school district, the sum of the 3210  
~~amounts~~ payments received in fiscal year 2011 pursuant to 3211  
divisions (C)(2) and (D) of section 5727.85 of the Revised Code. 3212  
In the case of a local taxing unit, "total S.B. 3 allocation" 3213  
means the sum of payments received by the unit in calendar year 3214  
2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of 3215  
the Revised Code, excluding any such payments received for 3216  
fixed-rate levy losses attributable to a tax levied under section 3217  
5705.23 of the Revised Code. If a fixed-rate levy eligible for 3218

reimbursement is not ~~imposed~~ charged and payable in any year after 3219  
tax year 2010, "total S.B. 3 allocation" used to compute payments 3220  
to be made under division (C)(3) of section 5727.85 or division 3221  
(A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax 3222  
years following the last year the levy is ~~imposed~~ charged and 3223  
payable shall be reduced ~~by the amount of~~ to the extent that those 3224  
payments are attributable to the fixed-rate levy loss of that levy 3225  
as would be computed under division (C)(2) of section 5727.85 or 3226  
division (A)(1)(b) of section 5727.86 of the Revised Code. 3227

(21) "2011 non-current expense S.B. 3 allocation" means the 3228  
difference of a school district's or joint vocational school 3229  
district's total S.B. 3 allocation minus the sum of the school 3230  
district's 2011 current expense S.B. 3 allocation and the portion 3231  
of the school district's total S.B. 3 allocation constituting 3232  
reimbursement for debt levies pursuant to division (D) of section 3233  
5727.85 of the Revised Code. 3234

(22) "2010 non-current expense S.B. 3 allocation" means the 3235  
difference of a municipal corporation's total S.B. 3 allocation 3236  
minus the sum of its 2010 current expense S.B. 3 allocation and 3237  
the portion of its total S.B. 3 allocation constituting 3238  
reimbursement for debt levies pursuant to division (A)(4) of 3239  
section 5727.86 of the Revised Code. 3240

(23) "S.B. 3 allocation for library purposes" means, in the 3241  
case of a county, municipal corporation, school district, or 3242  
township public library that receives the proceeds of a tax levied 3243  
under section 5705.23 of the Revised Code, the sum of the payments 3244  
received by the public library in calendar year 2010 pursuant to 3245  
section 5727.86 of the Revised Code for fixed-rate levy losses 3246  
attributable to a tax levied under section 5705.23 of the Revised 3247  
Code. If a fixed-rate levy authorized under section 5705.23 of the 3248  
Revised Code that is eligible for reimbursement is not charged and 3249  
payable in any year after tax year 2010, "S.B. 3 allocation for 3250

library purposes" used to compute payments to be made under 3251  
division (A)(1)(f) of section 5727.86 of the Revised Code in the 3252  
tax years following the last year the levy is charged and payable 3253  
shall be reduced to the extent that those payments are 3254  
attributable to the fixed-rate levy loss of that levy as would be 3255  
computed under division (A)(1)(b) of section 5727.86 of the 3256  
Revised Code. 3257

(24) "Threshold per cent" means, in the case of a school 3258  
 district or joint vocational school district, two per cent for 3259  
 fiscal year 2012 and four per cent for fiscal years 2013 and 3260  
 thereafter. In the case of a local taxing unit or public library 3261  
that receives the proceeds of a tax levied under section 5705.23 3262  
of the Revised Code, "threshold per cent" means two per cent for 3263  
 calendar year 2011, four per cent for calendar year 2012, and six 3264  
 per cent for calendar years 2013 and thereafter. 3265

(B) The kilowatt-hour tax receipts fund is hereby created in 3266  
 the state treasury and shall consist of money arising from the tax 3267  
 imposed by section 5727.81 of the Revised Code. All money in the 3268  
 kilowatt-hour tax receipts fund shall be credited as follows: 3269

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%	3271
2012 and thereafter	88.0%	9.0%	3.0%	3272

(C) The natural gas tax receipts fund is hereby created in 3273  
 the state treasury and shall consist of money arising from the tax 3274  
 imposed by section 5727.811 of the Revised Code. All money in the 3275  
 fund shall be credited as follows: 3276

(1) For fiscal years before fiscal year 2012: 3277

(a) Sixty-eight and seven-tenths per cent shall be credited 3278

to the school district property tax replacement fund for the 3279  
purpose of making the payments described in section 5727.85 of the 3280  
Revised Code. 3281

(b) Thirty-one and three-tenths per cent shall be credited to 3282  
the local government property tax replacement fund for the purpose 3283  
of making the payments described in section 5727.86 of the Revised 3284  
Code. 3285

(2) For fiscal years 2012 and thereafter, one hundred per 3286  
cent to the general revenue fund. 3287

(D) Not later than January 1, 2002, the tax commissioner 3288  
shall determine for each taxing district its electric company tax 3289  
value loss, which is the sum of the applicable amounts described 3290  
in divisions (D)(1) to (4) of this section: 3291

(1) The difference obtained by subtracting the amount 3292  
described in division (D)(1)(b) from the amount described in 3293  
division (D)(1)(a) of this section. 3294

(a) The value of electric company and rural electric company 3295  
tangible personal property as assessed by the tax commissioner for 3296  
tax year 1998 on a preliminary assessment, or an amended 3297  
preliminary assessment if issued prior to March 1, 1999, and as 3298  
apportioned to the taxing district for tax year 1998; 3299

(b) The value of electric company and rural electric company 3300  
tangible personal property as assessed by the tax commissioner for 3301  
tax year 1998 had the property been apportioned to the taxing 3302  
district for tax year 2001, and assessed at the rates in effect 3303  
for tax year 2001. 3304

(2) The difference obtained by subtracting the amount 3305  
described in division (D)(2)(b) from the amount described in 3306  
division (D)(2)(a) of this section. 3307

(a) The three-year average for tax years 1996, 1997, and 1998 3308

of the assessed value from nuclear fuel materials and assemblies 3309  
assessed against a person under Chapter 5711. of the Revised Code 3310  
from the leasing of them to an electric company for those 3311  
respective tax years, as reflected in the preliminary assessments; 3312

(b) The three-year average assessed value from nuclear fuel 3313  
materials and assemblies assessed under division (D)(2)(a) of this 3314  
section for tax years 1996, 1997, and 1998, as reflected in the 3315  
preliminary assessments, using an assessment rate of twenty-five 3316  
per cent. 3317

(3) In the case of a taxing district having a nuclear power 3318  
plant within its territory, any amount, resulting in an electric 3319  
company tax value loss, obtained by subtracting the amount 3320  
described in division (D)(1) of this section from the difference 3321  
obtained by subtracting the amount described in division (D)(3)(b) 3322  
of this section from the amount described in division (D)(3)(a) of 3323  
this section. 3324

(a) The value of electric company tangible personal property 3325  
as assessed by the tax commissioner for tax year 2000 on a 3326  
preliminary assessment, or an amended preliminary assessment if 3327  
issued prior to March 1, 2001, and as apportioned to the taxing 3328  
district for tax year 2000; 3329

(b) The value of electric company tangible personal property 3330  
as assessed by the tax commissioner for tax year 2001 on a 3331  
preliminary assessment, or an amended preliminary assessment if 3332  
issued prior to March 1, 2002, and as apportioned to the taxing 3333  
district for tax year 2001. 3334

(4) In the case of a taxing district having a nuclear power 3335  
plant within its territory, the difference obtained by subtracting 3336  
the amount described in division (D)(4)(b) of this section from 3337  
the amount described in division (D)(4)(a) of this section, 3338  
provided that such difference is greater than ten per cent of the 3339

amount described in division (D)(4)(a) of this section. 3340

(a) The value of electric company tangible personal property 3341  
as assessed by the tax commissioner for tax year 2005 on a 3342  
preliminary assessment, or an amended preliminary assessment if 3343  
issued prior to March 1, 2006, and as apportioned to the taxing 3344  
district for tax year 2005; 3345

(b) The value of electric company tangible personal property 3346  
as assessed by the tax commissioner for tax year 2006 on a 3347  
preliminary assessment, or an amended preliminary assessment if 3348  
issued prior to March 1, 2007, and as apportioned to the taxing 3349  
district for tax year 2006. 3350

(E) Not later than January 1, 2002, the tax commissioner 3351  
shall determine for each taxing district its natural gas company 3352  
tax value loss, which is the sum of the amounts described in 3353  
divisions (E)(1) and (2) of this section: 3354

(1) The difference obtained by subtracting the amount 3355  
described in division (E)(1)(b) from the amount described in 3356  
division (E)(1)(a) of this section. 3357

(a) The value of all natural gas company tangible personal 3358  
property, other than property described in division (E)(2) of this 3359  
section, as assessed by the tax commissioner for tax year 1999 on 3360  
a preliminary assessment, or an amended preliminary assessment if 3361  
issued prior to March 1, 2000, and apportioned to the taxing 3362  
district for tax year 1999; 3363

(b) The value of all natural gas company tangible personal 3364  
property, other than property described in division (E)(2) of this 3365  
section, as assessed by the tax commissioner for tax year 1999 had 3366  
the property been apportioned to the taxing district for tax year 3367  
2001, and assessed at the rates in effect for tax year 2001. 3368

(2) The difference in the value of current gas obtained by 3369  
subtracting the amount described in division (E)(2)(b) from the 3370

amount described in division (E)(2)(a) of this section. 3371

(a) The three-year average assessed value of current gas as 3372  
assessed by the tax commissioner for tax years 1997, 1998, and 3373  
1999 on a preliminary assessment, or an amended preliminary 3374  
assessment if issued prior to March 1, 2001, and as apportioned in 3375  
the taxing district for those respective years; 3376

(b) The three-year average assessed value from current gas 3377  
under division (E)(2)(a) of this section for tax years 1997, 1998, 3378  
and 1999, as reflected in the preliminary assessment, using an 3379  
assessment rate of twenty-five per cent. 3380

(F) The tax commissioner may request that natural gas 3381  
companies, electric companies, and rural electric companies file a 3382  
report to help determine the tax value loss under divisions (D) 3383  
and (E) of this section. The report shall be filed within thirty 3384  
days of the commissioner's request. A company that fails to file 3385  
the report or does not timely file the report is subject to the 3386  
penalty in section 5727.60 of the Revised Code. 3387

(G) Not later than January 1, 2002, the tax commissioner 3388  
shall determine for each school district, joint vocational school 3389  
district, and local taxing unit its fixed-rate levy loss, which is 3390  
the sum of its electric company tax value loss multiplied by the 3391  
tax rate in effect in tax year 1998 for fixed-rate levies and its 3392  
natural gas company tax value loss multiplied by the tax rate in 3393  
effect in tax year 1999 for fixed-rate levies. 3394

(H) Not later than January 1, 2002, the tax commissioner 3395  
shall determine for each school district, joint vocational school 3396  
district, and local taxing unit its fixed-sum levy loss, which is 3397  
the amount obtained by subtracting the amount described in 3398  
division (H)(2) of this section from the amount described in 3399  
division (H)(1) of this section: 3400

(1) The sum of the electric company tax value loss multiplied 3401

by the tax rate in effect in tax year 1998, and the natural gas 3402  
company tax value loss multiplied by the tax rate in effect in tax 3403  
year 1999, for fixed-sum levies for all taxing districts within 3404  
each school district, joint vocational school district, and local 3405  
taxing unit. For the years 2002 through 2006, this computation 3406  
shall include school district emergency levies that existed in 3407  
1998 in the case of the electric company tax value loss, and 1999 3408  
in the case of the natural gas company tax value loss, and all 3409  
other fixed-sum levies that existed in 1998 in the case of the 3410  
electric company tax value loss and 1999 in the case of the 3411  
natural gas company tax value loss and continue to be charged in 3412  
the tax year preceding the distribution year. For the years 2007 3413  
through 2016 in the case of school district emergency levies, and 3414  
for all years after 2006 in the case of all other fixed-sum 3415  
levies, this computation shall exclude all fixed-sum levies that 3416  
existed in 1998 in the case of the electric company tax value loss 3417  
and 1999 in the case of the natural gas company tax value loss, 3418  
but are no longer in effect in the tax year preceding the 3419  
distribution year. For the purposes of this section, an emergency 3420  
levy that existed in 1998 in the case of the electric company tax 3421  
value loss, and 1999 in the case of the natural gas company tax 3422  
value loss, continues to exist in a year beginning on or after 3423  
January 1, 2007, but before January 1, 2017, if, in that year, the 3424  
board of education levies a school district emergency levy for an 3425  
annual sum at least equal to the annual sum levied by the board in 3426  
tax year 1998 or 1999, respectively, less the amount of the 3427  
payment certified under this division for 2002. 3428

(2) The total taxable value in tax year 1999 less the tax 3429  
value loss in each school district, joint vocational school 3430  
district, and local taxing unit multiplied by one-fourth of one 3431  
mill. 3432

If the amount computed under division (H) of this section for 3433

any school district, joint vocational school district, or local 3434  
taxing unit is greater than zero, that amount shall equal the 3435  
fixed-sum levy loss reimbursed pursuant to division (F) of section 3436  
5727.85 of the Revised Code or division (A)(2) of section 5727.86 3437  
of the Revised Code, and the one-fourth of one mill that is 3438  
subtracted under division (H)(2) of this section shall be 3439  
apportioned among all contributing fixed-sum levies in the 3440  
proportion of each levy to the sum of all fixed-sum levies within 3441  
each school district, joint vocational school district, or local 3442  
taxing unit. 3443

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 3444  
section, in computing the tax value loss, fixed-rate levy loss, 3445  
and fixed-sum levy loss, the tax commissioner shall use the 3446  
greater of the 1998 tax rate or the 1999 tax rate in the case of 3447  
levy losses associated with the electric company tax value loss, 3448  
but the 1999 tax rate shall not include for this purpose any tax 3449  
levy approved by the voters after June 30, 1999, and the tax 3450  
commissioner shall use the greater of the 1999 or the 2000 tax 3451  
rate in the case of levy losses associated with the natural gas 3452  
company tax value loss. 3453

(J) Not later than January 1, 2002, the tax commissioner 3454  
shall certify to the department of education the tax value loss 3455  
determined under divisions (D) and (E) of this section for each 3456  
taxing district, the fixed-rate levy loss calculated under 3457  
division (G) of this section, and the fixed-sum levy loss 3458  
calculated under division (H) of this section. The calculations 3459  
under divisions (G) and (H) of this section shall separately 3460  
display the levy loss for each levy eligible for reimbursement. 3461

(K) Not later than September 1, 2001, the tax commissioner 3462  
shall certify the amount of the fixed-sum levy loss to the county 3463  
auditor of each county in which a school district with a fixed-sum 3464  
levy loss has territory. 3465

Sec. 5727.86. (A) ~~Not later than January 1, 2002, the~~ The tax 3466  
commissioner shall compute the payments to be made to each local 3467  
taxing unit, and to each public library that receives the proceeds 3468  
of a tax levied under section 5705.23 of the Revised Code, for 3469  
each year according to divisions (A)(1), (2), (3), and (4) and 3470  
division (E) of this section, and shall distribute the payments in 3471  
the manner prescribed by division (C) of this section. The 3472  
calculation of the fixed-sum levy loss shall cover a time period 3473  
sufficient to include all fixed-sum levies for which the tax 3474  
commissioner determined, pursuant to division (H) of section 3475  
5727.84 of the Revised Code, that a fixed-sum levy loss is to be 3476  
reimbursed. 3477

(1) Except as provided in divisions (A)(3) and (4) of this 3478  
section, the following amounts shall be paid on or before the 3479  
thirty-first day of August and the twenty-eighth day of February: 3480

(a) For years 2002 through 2006, fifty per cent of the 3481  
fixed-rate levy loss computed under division (G) of section 3482  
5727.84 of the Revised Code; 3483

(b) For years 2007 through 2010, forty per cent of the 3484  
fixed-rate levy loss computed under division (G) of section 3485  
5727.84 of the Revised Code; 3486

(c) For the payment in 2011 to be made on or before the 3487  
twentieth day of February, the amount required to be paid in 2010 3488  
on or before the twentieth day of February; 3489

(d) For the payment in 2011 to be made on or before the 3490  
thirty-first day of August ~~and for all payments to be made in~~ 3491  
~~years 2012 and thereafter,~~ the sum of the amounts in divisions 3492  
(A)(1)(d)(i) or (ii) and (iii) of this section: 3493

(i) If the ratio of fifty per cent of the taxing unit's 2010 3494  
S.B. 3 allocation to its total resources is equal to or less than 3495

the threshold per cent, zero; 3496

(ii) If the ratio of fifty per cent of the taxing unit's 2010 3497  
S.B. 3 allocation to its total resources is greater than the 3498  
threshold per cent, the difference of fifty per cent of the 2010 3499  
S.B. 3 allocation minus the product of total resources multiplied 3500  
by the threshold per cent; 3501

(iii) In the case of a municipal corporation, fifty per cent 3502  
of the product of its 2010 non-current expense S.B. 3 allocation 3503  
multiplied by seventy-five per cent ~~for year 2011, fifty per cent~~ 3504  
~~for year 2012, and twenty five percent for years 2013 and~~ 3505  
~~thereafter.~~ 3506

(e) For 2012 and each year thereafter, the sum of the amounts 3507  
in divisions (A)(1)(e)(i) or (ii) and (iii) of this section: 3508

(i) If the ratio of the taxing unit's 2010 S.B. 3 allocation 3509  
to its total resources is equal to or less than the threshold per 3510  
cent, zero; 3511

(ii) If the ratio of the taxing unit's 2010 S.B. 3 allocation 3512  
to its total resources is greater than the threshold per cent, 3513  
fifty per cent of the difference of the 2010 S.B. 3 allocation 3514  
minus the product of total resources multiplied by the threshold 3515  
per cent; 3516

(iii) In the case of a municipal corporation, fifty per cent 3517  
of the product of its 2010 non-current expense S.B. 3 allocation 3518  
multiplied by fifty per cent for year 2012 and by twenty-five per 3519  
cent for years 2013 and thereafter. 3520

(f) For the payment in 2012 to be made to a public library on 3521  
or before the thirty-first day of August and for all such payments 3522  
to be made in 2013 and thereafter, the amount in division 3523  
(A)(1)(f)(i) or (ii) of this section: 3524

(i) If the ratio of S.B. 3 allocation for library purposes to 3525

total library resources is equal to or less than the threshold per cent, zero; 3526  
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(ii) If the ratio of S.B. 3 allocation for library purposes to total library resources is greater than the threshold per cent, fifty per cent of the difference of the S.B. 3 allocation for library purposes minus the product of total library resources multiplied by the threshold per cent. 3528  
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(2) For fixed-sum levy losses determined under division (H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2002 and thereafter. 3533  
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(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to 2010. Beginning in 2011, payments for such local taxing units shall be determined under division (A)(1) of this section. 3537  
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(4) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from 2011 through 2016 if the levy was ~~imposed~~ charged and payable for debt purposes in tax year 2010. If the levy is not ~~imposed~~ charged and payable for debt purposes in tax year 2010 or any following tax year before tax year 2016, payments for that 3548  
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levy shall be made under division (A)(1) of this section beginning 3558  
with the first year after the year the levy is ~~imposed~~ charged and 3559  
payable for a purpose other than debt. For the purposes of this 3560  
division, taxes levied pursuant to a municipal charter refer to 3561  
taxes levied pursuant to a provision of a municipal charter that 3562  
permits the tax to be levied without prior voter approval. 3563

(B) Beginning in 2003, by the thirty-first day of January of 3564  
each year, the tax commissioner shall review the calculation 3565  
originally made under division (A) of this section of the 3566  
fixed-sum levy loss determined under division (H) of section 3567  
5727.84 of the Revised Code. If the commissioner determines that a 3568  
fixed-sum levy that had been scheduled to be reimbursed in the 3569  
current year has expired, a revised calculation for that and all 3570  
subsequent years shall be made. 3571

(C) Payments to local taxing units and public libraries 3572  
required to be made under divisions (A) and (E) of this section 3573  
shall be paid from the local government property tax replacement 3574  
fund to the county undivided income tax fund in the proper county 3575  
treasury. The county treasurer shall distribute amounts paid under 3576  
division (A) of this section to the proper local taxing unit or 3577  
public library as if they had been levied and collected as taxes, 3578  
and the local taxing unit or public library shall apportion the 3579  
amounts so received among its funds in the same proportions as if 3580  
those amounts had been levied and collected as taxes. Except in 3581  
the case of amounts distributed to the county as a local taxing 3582  
unit, amounts distributed under division (E)(2) of this section 3583  
shall be credited to the general fund of the local taxing unit 3584  
that receives them. Amounts distributed to each county as a local 3585  
taxing unit under division (E)(2) of this section shall be 3586  
credited in the proportion that the current taxes charged and 3587  
payable from each levy of or by the county bears to the total 3588  
current taxes charged and payable from all levies of or by the 3589

county. 3590

(D) By February 5, 2002, the tax commissioner shall estimate 3591  
the amount of money in the local government property tax 3592  
replacement fund in excess of the amount necessary to make 3593  
payments in that month under division (C) of this section. 3594  
Notwithstanding division (A) of this section, the tax commissioner 3595  
may pay any local taxing unit, from those excess funds, nine and 3596  
four-tenths times the amount computed for 2002 under division 3597  
(A)(1) of this section. A payment made under this division shall 3598  
be in lieu of the payment to be made in February 2002 under 3599  
division (A)(1) of this section. A local taxing unit receiving a 3600  
payment under this division will no longer be entitled to any 3601  
further payments under division (A)(1) of this section. A payment 3602  
made under this division shall be paid from the local government 3603  
property tax replacement fund to the county undivided income tax 3604  
fund in the proper county treasury. The county treasurer shall 3605  
distribute the payment to the proper local taxing unit as if it 3606  
had been levied and collected as taxes, and the local taxing unit 3607  
shall apportion the amounts so received among its funds in the 3608  
same proportions as if those amounts had been levied and collected 3609  
as taxes. 3610

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 3611  
2005, and 2006, and on the thirty-first day of January and July of 3612  
2007 through January 2011, if the amount credited to the local 3613  
government property tax replacement fund exceeds the amount needed 3614  
to be distributed from the fund under division (A) of this section 3615  
in the following month, the tax commissioner shall distribute the 3616  
excess to each county as follows: 3617

(a) One-half shall be distributed to each county in 3618  
proportion to each county's population. 3619

(b) One-half shall be distributed to each county in the 3620  
proportion that the amounts determined under divisions (G) and (H) 3621

of section 5727.84 of the Revised Code for all local taxing units 3622  
in the county is of the total amounts so determined for all local 3623  
taxing units in the state. 3624

(2) The amounts distributed to each county under division (E) 3625  
of this section shall be distributed by the county auditor to each 3626  
local taxing unit in the county in the proportion that the unit's 3627  
current taxes charged and payable are of the total current taxes 3628  
charged and payable of all the local taxing units in the county. 3629  
If the amount that the county auditor determines to be distributed 3630  
to a local taxing unit is less than five dollars, that amount 3631  
shall not be distributed, and the amount not distributed shall 3632  
remain credited to the county undivided income tax fund. At the 3633  
time of the next distribution under division (E)(2) of this 3634  
section, any amount that had not been distributed in the prior 3635  
distribution shall be added to the amount available for the next 3636  
distribution prior to calculation of the amount to be distributed. 3637  
As used in this division, "current taxes charged and payable" 3638  
means the taxes charged and payable as most recently determined 3639  
for local taxing units in the county. 3640

After January 2011, any amount that exceeds the amount needed 3641  
to be distributed from the fund under division (A) of this section 3642  
in the following month shall be transferred to the general revenue 3643  
fund. 3644

(F) If the total amount in the local government property tax 3645  
replacement fund is insufficient to make all payments under 3646  
division (C) of this section at the times the payments are to be 3647  
made, the director of budget and management shall transfer from 3648  
the general revenue fund to the local government property tax 3649  
replacement fund the difference between the total amount to be 3650  
paid and the amount in the local government property tax 3651  
replacement fund, except that no transfer shall be made by reason 3652  
of a deficiency to the extent that it results from the amendment 3653

of section 5727.84 of the Revised Code by Amended Substitute House 3654  
Bill 95 of the 125th general assembly. 3655

(G) If all or a part of the territories of two or more local 3656  
taxing units are merged, or unincorporated territory of a township 3657  
is annexed by a municipal corporation, the tax commissioner shall 3658  
adjust the payments made under this section to each of the local 3659  
taxing units in proportion to the square mileage apportioned to 3660  
the merged or annexed territory, or as otherwise provided by a 3661  
written agreement between the legislative authorities of the local 3662  
taxing units certified to the tax commissioner not later than the 3663  
first day of June of the calendar year in which the payment is to 3664  
be made. 3665

**Sec. 5731.39.** ~~(A)~~ This section does not apply to, and the 3666  
written permission of the tax commissioner is not required for 3667  
asset transfers with respect to, decedents dying on or after 3668  
January 1, 2013. 3669

(A) No corporation organized or existing under the laws of 3670  
this state shall transfer on its books or issue a new certificate 3671  
for any share of its capital stock registered in the name of a 3672  
decedent, or in trust for a decedent, or in the name of a decedent 3673  
and another person or persons, without the written consent of the 3674  
tax commissioner. 3675

(B) No safe deposit company, trust company, financial 3676  
institution as defined in division (A) of section 5725.01 of the 3677  
Revised Code or other corporation or person, having in possession, 3678  
control, or custody a deposit standing in the name of a decedent, 3679  
or in trust for a decedent, or in the name of a decedent and 3680  
another person or persons, shall deliver or transfer an amount in 3681  
excess of three-fourths of the total value of such deposit, 3682  
including accrued interest and dividends, as of the date of 3683  
decedent's death, without the written consent of the tax 3684

commissioner. The written consent of the tax commissioner need not 3685  
be obtained prior to the delivery or transfer of amounts having a 3686  
value of three-fourths or less of said total value. 3687

(C) No life insurance company shall pay the proceeds of an 3688  
annuity or matured endowment contract, or of a life insurance 3689  
contract payable to the estate of a decedent, or of any other 3690  
insurance contract taxable under Chapter 5731. of the Revised 3691  
Code, without the written consent of the tax commissioner. Any 3692  
life insurance company may pay the proceeds of any insurance 3693  
contract not specified in this division (C) without the written 3694  
consent of the tax commissioner. 3695

(D) No trust company or other corporation or person shall pay 3696  
the proceeds of any death benefit, retirement, pension or profit 3697  
sharing plan in excess of two thousand dollars, without the 3698  
written consent of the tax commissioner. Such trust company or 3699  
other corporation or person, however, may pay the proceeds of any 3700  
death benefit, retirement, pension, or profit-sharing plan which 3701  
consists of insurance on the life of the decedent payable to a 3702  
beneficiary other than the estate of the insured without the 3703  
written consent of the tax commissioner. 3704

(E) No safe deposit company, trust company, financial 3705  
institution as defined in division (A) of section 5725.01 of the 3706  
Revised Code, or other corporation or person, having in 3707  
possession, control, or custody securities, assets, or other 3708  
property (including the shares of the capital stock of, or other 3709  
interest in, such safe deposit company, trust company, financial 3710  
institution as defined in division (A) of section 5725.01 of the 3711  
Revised Code, or other corporation), standing in the name of a 3712  
decedent, or in trust for a decedent, or in the name of a decedent 3713  
and another person or persons, and the transfer of which is 3714  
taxable under Chapter 5731. of the Revised Code, shall deliver or 3715  
transfer any such securities, assets, or other property which have 3716

a value as of the date of decedent's death in excess of 3717  
three-fourths of the total value thereof, without the written 3718  
consent of the tax commissioner. The written consent of the tax 3719  
commissioner need not be obtained prior to the delivery or 3720  
transfer of any such securities, assets, or other property having 3721  
a value of three-fourths or less of said total value. 3722

(F) No safe deposit company, financial institution as defined 3723  
in division (A) of section 5725.01 of the Revised Code, or other 3724  
corporation or person having possession or control of a safe 3725  
deposit box or similar receptacle standing in the name of a 3726  
decedent or in the name of the decedent and another person or 3727  
persons, or to which the decedent had a right of access, except 3728  
when such safe deposit box or other receptacle stands in the name 3729  
of a corporation or partnership, or in the name of the decedent as 3730  
guardian or executor, shall deliver any of the contents thereof 3731  
unless the safe deposit box or similar receptacle has been opened 3732  
and inventoried in the presence of the tax commissioner or the 3733  
commissioner's agent, and a written consent to transfer issued; 3734  
provided, however, that a safe deposit company, financial 3735  
institution, or other corporation or person having possession or 3736  
control of a safe deposit box may deliver wills, deeds to burial 3737  
lots, and insurance policies to a representative of the decedent, 3738  
but that a representative of the safe deposit company, financial 3739  
institution, or other corporation or person must supervise the 3740  
opening of the box and make a written record of the wills, deeds, 3741  
and policies removed. Such written record shall be included in the 3742  
tax commissioner's inventory records. 3743

(G) Notwithstanding any provision of this section: 3744

(1) The tax commissioner may authorize any delivery or 3745  
transfer or waive any of the foregoing requirements under such 3746  
terms and conditions as the commissioner may prescribe; 3747

(2) An adult care facility, as defined in section 5119.70 of 3748

the Revised Code, or a home, as defined in section 3721.10 of the Revised Code, may transfer or use the money in a personal needs allowance account in accordance with section 5111.113 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

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

**Sec. 5733.056.** (A) As used in this section:

(1) "Billing address" means the address where any notice, statement, or bill relating to a customer's account is mailed, as indicated in the books and records of the taxpayer on the first day of the taxable year or on such later date in the taxable year when the customer relationship began.

(2) "Borrower or credit card holder located in this state" means:

(a) A borrower, other than a credit card holder, that is engaged in a trade or business and maintains its commercial domicile in this state; or

(b) A borrower that is not engaged in a trade or business, or  
a credit card holder, whose billing address is in this state.

(3) "Branch" means a "domestic branch" as defined in section  
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C.  
1813(o), as amended.

(4) "Compensation" means wages, salaries, commissions, and  
any other form of remuneration paid to employees for personal  
services that are included in such employee's gross income under  
the Internal Revenue Code. In the case of employees not subject to  
the Internal Revenue Code, such as those employed in foreign  
countries, the determination of whether such payments would  
constitute gross income to such employees under the Internal  
Revenue Code shall be made as though such employees were subject  
to the Internal Revenue Code.

(5) "Credit card" means a credit, travel, or entertainment  
card.

(6) "Credit card issuer's reimbursement fee" means the fee a  
taxpayer receives from a merchant's bank because one of the  
persons to whom the taxpayer has issued a credit card has charged  
merchandise or services to the credit card.

(7) "Deposits" has the meaning given in section 3 of the  
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1),  
as amended.

(8) "Employee" means, with respect to a particular taxpayer,  
any individual who under the usual common law rules applicable in  
determining the employer-employee relationship, has the status of  
an employee of that taxpayer.

(9) "Gross rents" means the actual sum of money or other  
consideration payable for the use or possession of property.  
"Gross rents" includes:

(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;	3810 3811 3812 3813
(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and	3814 3815 3816 3817
(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.	3818 3819 3820 3821 3822 3823 3824 3825 3826 3827
(d) The following are not included in the term "gross rents":	3828
(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;	3829 3830
(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;	3831 3832
(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and	3833 3834 3835
(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.	3836 3837
(10) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the	3838 3839

purchase, in whole or in part, of such extension of credit from 3840  
another. Loans include debt obligations of subsidiaries, 3841  
participations, syndications, and leases treated as loans for 3842  
federal income tax purposes. "Loan" does not include: properties 3843  
treated as loans under section 595 of the Internal Revenue Code; 3844  
futures or forward contracts; options; notional principal 3845  
contracts such as swaps; credit card receivables, including 3846  
purchased credit card relationships; non-interest bearing balances 3847  
due from depositor institutions; cash items in the process of 3848  
collection; federal funds sold; securities purchased under 3849  
agreements to resell; assets held in a trading account; 3850  
securities; interests in a real estate mortgage investment conduit 3851  
or other mortgage-backed or asset-backed security; and other 3852  
similar items. 3853

(11) "Loan secured by real property" means that fifty per 3854  
cent or more of the aggregate value of the collateral used to 3855  
secure a loan or other obligation, when valued at fair market 3856  
value as of the time the original loan or obligation was incurred, 3857  
was real property. 3858

(12) "Merchant discount" means the fee, or negotiated 3859  
discount, charged to a merchant by the taxpayer for the privilege 3860  
of participating in a program whereby a credit card is accepted in 3861  
payment for merchandise or services sold to the card holder. 3862

(13) "Participation" means an extension of credit in which an 3863  
undivided ownership interest is held on a pro rata basis in a 3864  
single loan or pool of loans and related collateral. In a loan 3865  
participation, the credit originator initially makes the loan and 3866  
then subsequently resells all or a portion of it to other lenders. 3867  
The participation may or may not be known to the borrower. 3868

(14) "Principal base of operations" with respect to 3869  
transportation property means the place of more or less permanent 3870  
nature from which the property is regularly directed or 3871

controlled. With respect to an employee, the "principal base of 3872  
operations" means the place of more or less permanent nature from 3873  
which the employee regularly (a) starts work and to which the 3874  
employee customarily returns in order to receive instructions from 3875  
the employer or (b) communicates with the employee's customers or 3876  
other persons or (c) performs any other functions necessary to the 3877  
exercise of the trade or profession at some other point or points. 3878

(15) "Qualified institution" means a financial institution 3879  
that on or after June 1, 1997: 3880

(a)(i) Has consummated one or more approved transactions with 3881  
insured banks with different home states that would qualify under 3882  
section 102 of the "Riegle-Neal Interstate Banking and Branching 3883  
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 3884

(ii) Is a federal savings association or federal savings bank 3885  
that has consummated one or more interstate acquisitions that 3886  
result in a financial institution that has branches in more than 3887  
one state; or 3888

(iii) Has consummated one or more approved interstate 3889  
acquisitions under authority of Title XI of the Revised Code that 3890  
result in a financial institution that has branches in more than 3891  
one state; and 3892

(b) Has at least nine per cent of its deposits in this state 3893  
as of the last day of June prior to the beginning of the tax year. 3894

(16) "Real property owned" and "tangible personal property 3895  
owned" mean real and tangible personal property, respectively, on 3896  
which the taxpayer may claim depreciation for federal income tax 3897  
purposes, or to which the taxpayer holds legal title and on which 3898  
no other person may claim depreciation for federal income tax 3899  
purposes, or could claim depreciation if subject to federal income 3900  
tax. Real and tangible personal property do not include coin, 3901  
currency, or property acquired in lieu of or pursuant to a 3902

foreclosure. 3903

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer. 3904  
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(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States. 3908  
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(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount. 3911  
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(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like. 3915  
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(21) "Qualified financial institution" means a financial institution in which not less than eighty per cent of the financial institution's ownership interest is owned directly or indirectly by a grandfathered unitary savings and loan holding company described in 12 U.S.C. 1467a(c)(9)(C). 3920  
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(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day of January of the tax year. For purposes of this section, division (A) of section 5733.05, and division (D) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of 3925  
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stock of the financial institution shall include the total value, 3934  
as shown by the books of the financial institution, of its 3935  
capital, surplus, whether earned or unearned, undivided profits, 3936  
and reserves, but exclusive of: 3937

(1) Reserves for accounts receivable, depreciation, 3938  
depletion, and any other valuation reserves with respect to 3939  
specific assets; 3940

(2) Taxes due and payable during the year for which such 3941  
report was made; 3942

(3) Voting stock and participation certificates in 3943  
corporations chartered pursuant to the "Farm Credit Act of 1971," 3944  
85 Stat. 597, 12 U.S.C. 2091, as amended; 3945

(4) Good will, appreciation, and abandoned property as set up 3946  
in the annual report of the financial institution, provided a 3947  
certified balance sheet of the company is made available upon the 3948  
request of the tax commissioner. Such balance sheet shall not be a 3949  
part of the public records, but shall be a confidential report for 3950  
use of the tax commissioner only. 3951

(5) A portion of the value of the issued and outstanding 3952  
shares of stock of such financial institution equal to the amount 3953  
obtained by multiplying such value by the quotient obtained by: 3954

(a) Dividing (1) the amount of the financial institution's 3955  
assets, as shown on its books, represented by investments in the 3956  
capital stock and indebtedness of public utilities, except 3957  
electric companies and combined companies, and, for tax years 2005 3958  
and thereafter, telephone companies, of which at least eighty per 3959  
cent of the utility's issued and outstanding common stock is owned 3960  
by the financial institution by (2) the total assets of such 3961  
financial institution as shown on its books; 3962

(b) Dividing (1) the amount of the financial institution's 3963  
assets, as shown on its books, represented by investments in the 3964

capital stock and indebtedness of insurance companies of which at 3965  
least eighty per cent of the insurance company's issued and 3966  
outstanding common stock is owned by the financial institution by 3967  
(2) the total assets of such financial institution as shown on its 3968  
books; 3969

(c) Dividing (1) the amount of the financial institution's 3970  
assets, as shown on its books, represented by investments in the 3971  
capital stock and indebtedness of other financial institutions of 3972  
which at least twenty-five per cent of the other financial 3973  
institution's issued and outstanding common stock is owned by the 3974  
financial institution by (2) the total assets of the financial 3975  
institution as shown on its books. Division (B)(5)(c) of this 3976  
section applies only with respect to such other financial 3977  
institutions that for the tax year immediately following the 3978  
taxpayer's taxable year will pay the tax imposed by division (D) 3979  
of section 5733.06 of the Revised Code. 3980

(6) Land that has been determined pursuant to section 5713.31 3981  
of the Revised Code by the county auditor of the county in which 3982  
the land is located to be devoted exclusively to agricultural use 3983  
as of the first Monday of June in the financial institution's 3984  
taxable year. 3985

(7) Property within this state used exclusively during the 3986  
taxable year for qualified research as defined in section 5733.05 3987  
of the Revised Code. 3988

(C) ~~The~~ Except as provided under division (I) of this 3989  
section, the base upon which the tax levied under division (D) of 3990  
section 5733.06 of the Revised Code shall be computed by 3991  
multiplying the value of a financial institution's issued and 3992  
outstanding shares of stock as determined in division (B) of this 3993  
section by a fraction. The numerator of the fraction is the sum of 3994  
the following: the property factor multiplied by fifteen, the 3995  
payroll factor multiplied by fifteen, and the sales factor 3996

multiplied by seventy. The denominator of the fraction is one 3997  
hundred, provided that the denominator shall be reduced by fifteen 3998  
if the property factor has a denominator of zero, by fifteen if 3999  
the payroll factor has a denominator of zero, and by seventy if 4000  
the sales factor has a denominator of zero. 4001

(D) A financial institution shall calculate the property 4002  
factor as follows: 4003

(1) The property factor is a fraction, the numerator of which 4004  
is the average value of real property and tangible personal 4005  
property rented to the taxpayer that is located or used within 4006  
this state during the taxable year, the average value of real and 4007  
tangible personal property owned by the taxpayer that is located 4008  
or used within this state during the taxable year, and the average 4009  
value of the taxpayer's loans and credit card receivables that are 4010  
located within this state during the taxable year; and the 4011  
denominator of which is the average value of all such property 4012  
located or used within and without this state during the taxable 4013  
year. 4014

(2)(a) The value of real property and tangible personal 4015  
property owned by the taxpayer is the original cost or other basis 4016  
of such property for federal income tax purposes without regard to 4017  
depletion, depreciation, or amortization. 4018

(b) Loans are valued at their outstanding principal balance, 4019  
without regard to any reserve for bad debts. If a loan is 4020  
charged-off in whole or in part for federal income tax purposes, 4021  
the portion of the loan charged-off is not outstanding. A 4022  
specifically allocated reserve established pursuant to financial 4023  
accounting guidelines which is treated as charged-off for federal 4024  
income tax purposes shall be treated as charged-off for purposes 4025  
of this section. 4026

(c) Credit card receivables are valued at their outstanding 4027

principal balance, without regard to any reserve for bad debts. If 4028  
a credit card receivable is charged-off in whole or in part for 4029  
federal income tax purposes, the portion of the receivable 4030  
charged-off is not outstanding. 4031

(3) The average value of property owned by the taxpayer is 4032  
computed on an annual basis by adding the value of the property on 4033  
the first day of the taxable year and the value on the last day of 4034  
the taxable year and dividing the sum by two. If averaging on this 4035  
basis does not properly reflect average value, the tax 4036  
commissioner may require averaging on a more frequent basis. The 4037  
taxpayer may elect to average on a more frequent basis. When 4038  
averaging on a more frequent basis is required by the tax 4039  
commissioner or is elected by the taxpayer, the same method of 4040  
valuation must be used consistently by the taxpayer with respect 4041  
to property within and without this state and on all subsequent 4042  
returns unless the taxpayer receives prior permission from the tax 4043  
commissioner or the tax commissioner requires a different method 4044  
of determining value. 4045

(4)(a) The average value of real property and tangible 4046  
personal property that the taxpayer has rented from another and is 4047  
not treated as property owned by the taxpayer for federal income 4048  
tax purposes, shall be determined annually by multiplying the 4049  
gross rents payable during the taxable year by eight. 4050

(b) Where the use of the general method described in division 4051  
(D)(4)(a) of this section results in inaccurate valuations of 4052  
rented property, any other method which properly reflects the 4053  
value may be adopted by the tax commissioner or by the taxpayer 4054  
when approved in writing by the tax commissioner. Once approved, 4055  
such other method of valuation must be used on all subsequent 4056  
returns unless the taxpayer receives prior approval from the tax 4057  
commissioner or the tax commissioner requires a different method 4058  
of valuation. 4059

(5)(a) Except as described in division (D)(5)(b) of this section, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive 4091  
contacts of the load to such regular place of business; and 4092

(III) The taxpayer uses the records reflecting assignment of 4093  
loans for the filing of all state and local tax returns for which 4094  
an assignment of loans to a regular place of business is required. 4095

(iii) The presumption of proper assignment of a loan provided 4096  
in division (D)(6)(a)(ii) of this section may be rebutted upon a 4097  
showing by the tax commissioner, supported by a preponderance of 4098  
the evidence, that the preponderance of substantive contacts 4099  
regarding such loan did not occur at the regular place of business 4100  
to which it was assigned on the taxpayer's records. When such 4101  
presumption has been rebutted, the loan shall then be located 4102  
within this state if (1) the taxpayer had a regular place of 4103  
business within this state at the time the loan was made; and (2) 4104  
the taxpayer fails to show, by a preponderance of the evidence, 4105  
that the preponderance of substantive contacts regarding such loan 4106  
did not occur within this state. 4107

(b) In the case of a loan which is assigned by the taxpayer 4108  
to a place without this state which is not a regular place of 4109  
business, it shall be presumed, subject to rebuttal by the 4110  
taxpayer on a showing supported by the preponderance of evidence, 4111  
that the preponderance of substantive contacts regarding the loan 4112  
occurred within this state if, at the time the loan was made the 4113  
taxpayer's commercial domicile was within this state. 4114

(c) To determine the state in which the preponderance of 4115  
substantive contacts relating to a loan have occurred, the facts 4116  
and circumstances regarding the loan at issue shall be reviewed on 4117  
a case-by-case basis and consideration shall be given to such 4118  
activities as the solicitation, investigation, negotiation, 4119  
approval, and administration of the loan. The terms 4120  
"solicitation," "investigation," "negotiation," "approval," and 4121  
"administration" are defined as follows: 4122

(i) "Solicitation" is either active or passive. Active 4123  
solicitation occurs when an employee of the taxpayer initiates the 4124  
contact with the customer. Such activity is located at the regular 4125  
place of business which the taxpayer's employee is regularly 4126  
connected with or working out of, regardless of where the services 4127  
of such employee were actually performed. Passive solicitation 4128  
occurs when the customer initiates the contact with the taxpayer. 4129  
If the customer's initial contact was not at a regular place of 4130  
business of the taxpayer, the regular place of business, if any, 4131  
where the passive solicitation occurred is determined by the facts 4132  
in each case. 4133

(ii) "Investigation" is the procedure whereby employees of 4134  
the taxpayer determine the creditworthiness of the customer as 4135  
well as the degree of risk involved in making a particular 4136  
agreement. Such activity is located at the regular place of 4137  
business which the taxpayer's employees are regularly connected 4138  
with or working out of, regardless of where the services of such 4139  
employees were actually performed. 4140

(iii) Negotiation is the procedure whereby employees of the 4141  
taxpayer and its customer determine the terms of the agreement, 4142  
such as the amount, duration, interest rate, frequency of 4143  
repayment, currency denomination, and security required. Such 4144  
activity is located at the regular place of business to which the 4145  
taxpayer's employees are regularly connected or working from, 4146  
regardless of where the services of such employees were actually 4147  
performed. 4148

(iv) "Approval" is the procedure whereby employees or the 4149  
board of directors of the taxpayer make the final determination 4150  
whether to enter into the agreement. Such activity is located at 4151  
the regular place of business to which the taxpayer's employees 4152  
are regularly connected or working from, regardless of where the 4153  
services of such employees were actually performed. If the board 4154

of directors makes the final determination, such activity is 4155  
located at the commercial domicile of the taxpayer. 4156

(v) "Administration" is the process of managing the account. 4157  
This process includes bookkeeping, collecting the payments, 4158  
corresponding with the customer, reporting to management regarding 4159  
the status of the agreement, and proceeding against the borrower 4160  
or the security interest if the borrower is in default. Such 4161  
activity is located at the regular place of business that oversees 4162  
this activity. 4163

(d) A loan or advance to a subsidiary corporation at least 4164  
fifty-one per cent of whose common stock is owned by the financial 4165  
institution shall be allocated in and out of the state by the 4166  
application of a ratio whose numerator is the sum of the net book 4167  
value of the subsidiary's real property owned in this state and 4168  
the subsidiary's tangible personal property owned in this state 4169  
and whose denominator is the sum of the subsidiary's real property 4170  
owned wherever located and the subsidiary's tangible personal 4171  
property owned wherever located. For purposes of calculating this 4172  
ratio, the taxpayer shall determine net book value in accordance 4173  
with generally accepted accounting principles. If the subsidiary 4174  
corporation owns at least fifty-one per cent of the common stock 4175  
of another corporation, the ratio shall be calculated by including 4176  
the other corporation's real property and tangible personal 4177  
property. The calculation of the ratio applies with respect to all 4178  
lower-tiered subsidiaries, provided that the immediate parent 4179  
corporation of the subsidiary owns at least fifty-one per cent of 4180  
the common stock of that subsidiary. 4181

(7) For purposes of determining the location of credit card 4182  
receivables, credit card receivables shall be treated as loans and 4183  
shall be subject to division (D)(6) of this section. 4184

(8) A loan that has been properly assigned to a state shall, 4185  
absent any change of material fact, remain assigned to that state 4186

for the length of the original term of the loan. Thereafter, the 4187  
loan may be properly assigned to another state if the loan has a 4188  
preponderance of substantive contact to a regular place of 4189  
business there. 4190

(E) A financial institution shall calculate the payroll 4191  
factor as follows: 4192

(1) The payroll factor is a fraction, the numerator of which 4193  
is the total amount paid in this state during the taxable year by 4194  
the taxpayer for compensation, and the denominator of which is the 4195  
total compensation paid both within and without this state during 4196  
the taxable year. 4197

(2) Compensation is paid in this state if any one of the 4198  
following tests, applied consecutively, is met: 4199

(a) The employee's services are performed entirely within 4200  
this state. 4201

(b) The employee's services are performed both within and 4202  
without this state, but the service performed without this state 4203  
is incidental to the employee's service within this state. The 4204  
term "incidental" means any service which is temporary or 4205  
transitory in nature, or which is rendered in connection with an 4206  
isolated transaction. 4207

(c) The employee's services are performed both within and 4208  
without this state, and: 4209

(i) The employee's principal base of operations is within 4210  
this state; or 4211

(ii) There is no principal base of operations in any state in 4212  
which some part of the services are performed, but the place from 4213  
which the services are directed or controlled is in this state; or 4214

(iii) The principal base of operations and the place from 4215  
which the services are directed or controlled are not in any state 4216

in which some part of the service is performed but the employee's 4217  
residence is in this state. 4218

(F) A financial institution shall calculate the sales factor 4219  
as follows: 4220

(1) The sales factor is a fraction, the numerator of which is 4221  
the receipts of the taxpayer in this state during the taxable year 4222  
and the denominator of which is the receipts of the taxpayer 4223  
within and without this state during the taxable year. The method 4224  
of calculating receipts for purposes of the denominator is the 4225  
same as the method used in determining receipts for purposes of 4226  
the numerator. 4227

(2) The numerator of the sales factor includes receipts from 4228  
the lease or rental of real property owned by the taxpayer if the 4229  
property is located within this state, or receipts from the 4230  
sublease of real property if the property is located within this 4231  
state. 4232

(3)(a) Except as described in division (F)(3)(b) of this 4233  
section the numerator of the sales factor includes receipts from 4234  
the lease or rental of tangible personal property owned by the 4235  
taxpayer if the property is located within this state when it is 4236  
first placed in service by the lessee. 4237

(b) Receipts from the lease or rental of transportation 4238  
property owned by the taxpayer are included in the numerator of 4239  
the sales factor to the extent that the property is used in this 4240  
state. The extent an aircraft will be deemed to be used in this 4241  
state and the amount of receipts that is to be included in the 4242  
numerator of this state's sales factor is determined by 4243  
multiplying all the receipts from the lease or rental of the 4244  
aircraft by a fraction, the numerator of which is the number of 4245  
landings of the aircraft in this state and the denominator of 4246  
which is the total number of landings of the aircraft. If the 4247

extent of the use of any transportation property within this state 4248  
cannot be determined, then the property will be deemed to be used 4249  
wholly in the state in which the property has its principal base 4250  
of operations. A motor vehicle will be deemed to be used wholly in 4251  
the state in which it is registered. 4252

(4)(a) The numerator of the sales factor includes interest 4253  
and fees or penalties in the nature of interest from loans secured 4254  
by real property if the property is located within this state. If 4255  
the property is located both within this state and one or more 4256  
other states, the receipts described in this paragraph are 4257  
included in the numerator of the sales factor if more than fifty 4258  
per cent of the fair market value of the real property is located 4259  
within this state. If more than fifty per cent of the fair market 4260  
value of the real property is not located within any one state, 4261  
then the receipts described in this paragraph shall be included in 4262  
the numerator of the sales factor if the borrower is located in 4263  
this state. 4264

(b) The determination of whether the real property securing a 4265  
loan is located within this state shall be made as of the time the 4266  
original agreement was made and any and all subsequent 4267  
substitutions of collateral shall be disregarded. 4268

(5) The numerator of the sales factor includes interest and 4269  
fees or penalties in the nature of interest from loans not secured 4270  
by real property if the borrower is located in this state. 4271

(6) The numerator of the sales factor includes net gains from 4272  
the sale of loans. Net gains from the sale of loans includes 4273  
income recorded under the coupon stripping rules of section 1286 4274  
of the Internal Revenue Code. 4275

(a) The amount of net gains, but not less than zero, from the 4276  
sale of loans secured by real property included in the numerator 4277  
is determined by multiplying such net gains by a fraction the 4278

numerator of which is the amount included in the numerator of the 4279  
sales factor pursuant to division (F)(4) of this section and the 4280  
denominator of which is the total amount of interest and fees or 4281  
penalties in the nature of interest from loans secured by real 4282  
property. 4283

(b) The amount of net gains, but not less than zero, from the 4284  
sale of loans not secured by real property included in the 4285  
numerator is determined by multiplying such net gains by a 4286  
fraction the numerator of which is the amount included in the 4287  
numerator of the sales factor pursuant to division (F)(5) of this 4288  
section and the denominator of which is the total amount of 4289  
interest and fees or penalties in the nature of interest from 4290  
loans not secured by real property. 4291

(7) The numerator of the sales factor includes interest and 4292  
fees or penalties in the nature of interest from credit card 4293  
receivables and receipts from fees charged to card holders, such 4294  
as annual fees, if the billing address of the card holder is in 4295  
this state. 4296

(8) The numerator of the sales factor includes net gains, but 4297  
not less than zero, from the sale of credit card receivables 4298  
multiplied by a fraction, the numerator of which is the amount 4299  
included in the numerator of the sales factor pursuant to division 4300  
(F)(7) of this section and the denominator of which is the 4301  
taxpayer's total amount of interest and fees or penalties in the 4302  
nature of interest from credit card receivables and fees charged 4303  
to card holders. 4304

(9) The numerator of the sales factor includes all credit 4305  
card issuer's reimbursement fees multiplied by a fraction, the 4306  
numerator of which is the amount included in the numerator of the 4307  
sales factor pursuant to division (F)(7) of this section and the 4308  
denominator of which is the taxpayer's total amount of interest 4309  
and fees or penalties in the nature of interest from credit card 4310

receivables and fees charged to card holders. 4311

(10) The numerator of the sales factor includes receipts from 4312  
merchant discount if the commercial domicile of the merchant is in 4313  
this state. Such receipts shall be computed net of any card holder 4314  
charge backs, but shall not be reduced by any interchange 4315  
transaction fees or by any issuer's reimbursement fees paid to 4316  
another for charges made by its card holders. 4317

(11)(a)(i) The numerator of the sales factor includes loan 4318  
servicing fees derived from loans secured by real property 4319  
multiplied by a fraction the numerator of which is the amount 4320  
included in the numerator of the sales factor pursuant to division 4321  
(F)(4) of this section and the denominator of which is the total 4322  
amount of interest and fees or penalties in the nature of interest 4323  
from loans secured by real property. 4324

(ii) The numerator of the sales factor includes loan 4325  
servicing fees derived from loans not secured by real property 4326  
multiplied by a fraction the numerator of which is the amount 4327  
included in the numerator of the sales factor pursuant to division 4328  
(F)(5) of this section and the denominator of which is the total 4329  
amount of interest and fees or penalties in the nature of interest 4330  
from loans not secured by real property. 4331

(b) In circumstances in which the taxpayer receives loan 4332  
servicing fees for servicing either the secured or the unsecured 4333  
loans of another, the numerator of the sales factor shall include 4334  
such fees if the borrower is located in this state. 4335

(12) The numerator of the sales factor includes receipts from 4336  
services not otherwise apportioned under this section if the 4337  
service is performed in this state. If the service is performed 4338  
both within and without this state, the numerator of the sales 4339  
factor includes receipts from services not otherwise apportioned 4340  
under this section, if a greater proportion of the 4341

income-producing activity is performed in this state based on 4342  
cost of performance. 4343

(13)(a) Interest, dividends, net gains, but not less than 4344  
zero, and other income from investment assets and activities and 4345  
from trading assets and activities shall be included in the sales 4346  
factor. Investment assets and activities and trading assets and 4347  
activities include but are not limited to: investment securities; 4348  
trading account assets; federal funds; securities purchased and 4349  
sold under agreements to resell or repurchase; options; futures 4350  
contracts; forward contracts; notional principal contracts such as 4351  
swaps; equities; and foreign currency transactions. With respect 4352  
to the investment and trading assets and activities described in 4353  
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 4354  
shall include the amounts described in such divisions. 4355

(i) The sales factor shall include the amount by which 4356  
interest from federal funds sold and securities purchased under 4357  
resale agreements exceeds interest expense on federal funds 4358  
purchased and securities sold under repurchase agreements. 4359

(ii) The sales factor shall include the amount by which 4360  
interest, dividends, gains, and other income from trading assets 4361  
and activities, including, but not limited to, assets and 4362  
activities in the matched book, in the arbitrage book, and foreign 4363  
currency transactions, exceed amounts paid in lieu of interest, 4364  
amounts paid in lieu of dividends, and losses from such assets and 4365  
activities. 4366

(b) The numerator of the sales factor includes interest, 4367  
dividends, net gains, but not less than zero, and other income 4368  
from investment assets and activities and from trading assets and 4369  
activities described in division (F)(13)(a) of this section that 4370  
are attributable to this state. 4371

(i) The amount of interest, other than interest described in 4372

division (F)(13)(b)(iv) of this section, dividends, other than 4373  
dividends described in that division, net gains, but not less than 4374  
zero, and other income from investment assets and activities in 4375  
the investment account to be attributed to this state and included 4376  
in the numerator is determined by multiplying all such income from 4377  
such assets and activities by a fraction, the numerator of which 4378  
is the average value of such assets which are properly assigned to 4379  
a regular place of business of the taxpayer within this state and 4380  
the denominator of which is the average value of all such assets. 4381

(ii) The amount of interest from federal funds sold and 4382  
purchased and from securities purchased under resale agreements 4383  
and securities sold under repurchase agreements attributable to 4384  
this state and included in the numerator is determined by 4385  
multiplying the amount described in division (F)(13)(a)(i) of this 4386  
section from such funds and such securities by a fraction, the 4387  
numerator of which is the average value of federal funds sold and 4388  
securities purchased under agreements to resell which are properly 4389  
assigned to a regular place of business of the taxpayer within 4390  
this state and the denominator of which is the average value of 4391  
all such funds and such securities. 4392

(iii) The amount of interest, dividends, gains, and other 4393  
income from trading assets and activities, including but not 4394  
limited to assets and activities in the matched book, in the 4395  
arbitrage book, and foreign currency transaction, but excluding 4396  
amounts described in division (F)(13)(b)(i) or (ii) of this 4397  
section, attributable to this state and included in the numerator 4398  
is determined by multiplying the amount described in division 4399  
(F)(13)(a)(ii) of this section by a fraction, the numerator of 4400  
which is the average value of such trading assets which are 4401  
properly assigned to a regular place of business of the taxpayer 4402  
within this state and the denominator of which is the average 4403  
value of all such assets. 4404

(iv) The amount of dividends received on the capital stock 4405  
of, and the amount of interest received from loans and advances 4406  
to, subsidiary corporations at least fifty-one per cent of whose 4407  
common stock is owned by the reporting financial institution shall 4408  
be allocated in and out of this state by the application of a 4409  
ratio whose numerator is the sum of the net book value of the 4410  
payor's real property owned in this state and the payor's tangible 4411  
personal property owned in this state and whose denominator is the 4412  
sum of the net book value of the payor's real property owned 4413  
wherever located and the payor's tangible personal property owned 4414  
wherever located. For purposes of calculating this ratio, the 4415  
taxpayer shall determine net book value in accordance with 4416  
generally accepted accounting principles. 4417

(v) For purposes of this division, average value shall be 4418  
determined using the rules for determining the average value of 4419  
tangible personal property set forth in division (D)(2) and (3) of 4420  
this section. 4421

(c) In lieu of using the method set forth in division 4422  
(F)(13)(b) of this section, the taxpayer may elect, or the tax 4423  
commissioner may require in order to fairly represent the business 4424  
activity of the taxpayer in this state, the use of the method set 4425  
forth in division (F)(13)(c) of this section. 4426

(i) The amount of interest, other than interest described in 4427  
division (F)(13)(b)(iv) of this section, dividends, other than 4428  
dividends described in that division, net gains, but not less than 4429  
zero, and other income from investment assets and activities in 4430  
the investment account to be attributed to this state and included 4431  
in the numerator is determined by multiplying all such income from 4432  
such assets and activities by a fraction, the numerator of which 4433  
is the gross income from such assets and activities which are 4434  
properly assigned to a regular place of business of the taxpayer 4435  
within this state, and the denominator of which is the gross 4436

income from all such assets and activities. 4437

(ii) The amount of interest from federal funds sold and 4438  
purchased and from securities purchased under resale agreements 4439  
and securities sold under repurchase agreements attributable to 4440  
this state and included in the numerator is determined by 4441  
multiplying the amount described in division (F)(13)(a)(i) of this 4442  
section from such funds and such securities by a fraction, the 4443  
numerator of which is the gross income from such funds and such 4444  
securities which are properly assigned to a regular place of 4445  
business of the taxpayer within this state and the denominator of 4446  
which is the gross income from all such funds and such securities. 4447

(iii) The amount of interest, dividends, gains, and other 4448  
income from trading assets and activities, including, but not 4449  
limited to, assets and activities in the matched book, in the 4450  
arbitrage book, and foreign currency transactions, but excluding 4451  
amounts described in division (F)(13)(a)(i) or (ii) of this 4452  
section, attributable to this state and included in the numerator, 4453  
is determined by multiplying the amount described in division 4454  
(F)(13)(a)(ii) of this section by a fraction, the numerator of 4455  
which is the gross income from such trading assets and activities 4456  
which are properly assigned to a regular place of business of the 4457  
taxpayer within this state and the denominator of which is the 4458  
gross income from all such assets and activities. 4459

(iv) The amount of dividends received on the capital stock 4460  
of, and the amount of interest received from loans and advances 4461  
to, subsidiary corporations at least fifty-one per cent of whose 4462  
common stock is owned by the reporting financial institution shall 4463  
be allocated in and out of this state by the application of a 4464  
ratio whose numerator is the sum of the net book value of the 4465  
payor's real property owned in this state and the payor's tangible 4466  
personal property owned in this state and whose denominator is the 4467  
sum of the payor's real property owned wherever located and the 4468

payor's tangible personal property owned wherever located. For 4469  
purposes of calculating this ratio, the taxpayer shall determine 4470  
net book value in accordance with generally accepted accounting 4471  
principles. 4472

(d) If the taxpayer elects or is required by the tax 4473  
commissioner to use the method set forth in division (F)(13)(c) of 4474  
this section, it shall use this method on all subsequent returns 4475  
unless the taxpayer receives prior permission from the tax 4476  
commissioner to use or the tax commissioner requires a different 4477  
method. 4478

(e) The taxpayer shall have the burden of proving that an 4479  
investment asset or activity or trading asset or activity was 4480  
properly assigned to a regular place of business outside of this 4481  
state by demonstrating that the day-to-day decisions regarding the 4482  
asset or activity occurred at a regular place of business outside 4483  
this state. Where the day-to-day decisions regarding an investment 4484  
asset or activity or trading asset or activity occur at more than 4485  
one regular place of business and one such regular place of 4486  
business is in this state and one such regular place of business 4487  
is outside this state such asset or activity shall be considered 4488  
to be located at the regular place of business of the taxpayer 4489  
where the investment or trading policies or guidelines with 4490  
respect to the asset or activity are established. Unless the 4491  
taxpayer demonstrates to the contrary, such policies and 4492  
guidelines shall be presumed to be established at the commercial 4493  
domicile of the taxpayer. 4494

(14) The numerator of the sales factor includes all other 4495  
receipts if either: 4496

(a) The income-producing activity is performed solely in this 4497  
state; or 4498

(b) The income-producing activity is performed both within 4499

and without this state and a greater proportion of the 4500  
income-producing activity is performed within this state than in 4501  
any other state, based on costs of performance. 4502

(G) A qualified institution may calculate the base upon which 4503  
the fee provided for in division (D) of section 5733.06 of the 4504  
Revised Code is determined for each tax year by multiplying the 4505  
value of its issued and outstanding shares of stock determined 4506  
under division (B) of this section by a single deposits fraction 4507  
whose numerator is the deposits assigned to branches in this state 4508  
and whose denominator is the deposits assigned to branches 4509  
everywhere. Deposits shall be assigned to branches in the same 4510  
manner in which the assignment is made for regulatory purposes. If 4511  
the base calculated under this division is less than the base 4512  
calculated under division (C) of this section, then the qualifying 4513  
institution may elect to substitute the base calculated under this 4514  
division for the base calculated under division (C) of this 4515  
section. Such election may be made annually for each tax year on 4516  
the corporate report. The election need not accompany the report; 4517  
rather, the election may accompany a subsequently filed but timely 4518  
application for refund, a subsequently filed but timely amended 4519  
report, or a subsequently filed but timely petition for 4520  
reassessment. The election is not irrevocable and it applies only 4521  
to the specified tax year. Nothing in this division shall be 4522  
construed to extend any statute of limitations set forth in this 4523  
chapter. 4524

(H) If the apportionment provisions of this section do not 4525  
fairly represent the extent of the taxpayer's business activity in 4526  
this state, the taxpayer may petition for or the tax commissioner 4527  
may require, in respect to all or any part of the taxpayer's 4528  
business activity, if reasonable: 4529

(1) Separate accounting; 4530

(2) The exclusion of any one or more of the factors; 4531

(3) The inclusion of one or more additional factors which 4532  
will fairly represent the taxpayer's business activity in this 4533  
state; or 4534

(4) The employment of any other method to effectuate an 4535  
equitable allocation and apportionment of the taxpayer's value. 4536

(I) For tax year 2012 and every tax year thereafter, a 4537  
qualified financial institution may calculate the base upon which 4538  
the tax imposed by division (D) of section 5733.06 of the Revised 4539  
Code is determined by multiplying the value of the qualified 4540  
financial institution's issued and outstanding shares of stock as 4541  
determined under division (B) of this section by the sales factor 4542  
calculated in division (F) of this section instead of using the 4543  
base calculated under division (C) of this section. An election 4544  
under this division shall accompany the report or a subsequently 4545  
filed but timely amended report. 4546

**Sec. 5735.02.** (A) A motor fuel dealer shall not receive, use, 4547  
sell, or distribute any motor fuel or engage in business within 4548  
this state unless the motor fuel dealer holds an unrevoked license 4549  
issued by the tax commissioner to engage in such business. ~~Fe~~ 4550

(B) To procure ~~such a motor fuel dealer's~~ license, every 4551  
motor fuel dealer shall file with the commissioner an application 4552  
verified under oath by the applicant and in such form as the 4553  
commissioner prescribes, setting forth, in addition to such other 4554  
information required by the commissioner, the following: 4555

~~(A)~~(1) The name under which the motor fuel dealer will 4556  
transact business within the state; 4557

~~(B)~~(2) The location, including street number address, of its 4558  
principal office or place of business within this state; 4559

~~(C)~~(3) The name and address of the owner, or the names and 4560  
addresses of the partners if such motor fuel dealer is a 4561

partnership, or the names and addresses of the principal officers 4562  
if such motor fuel dealer is a corporation or an association; 4563

~~(D)~~(4) If such motor fuel dealer is a corporation organized 4564  
under the laws of another state, territory, or country, a 4565  
certified copy of the certificate or license issued by the Ohio 4566  
secretary of state showing that such corporation is authorized to 4567  
transact business in this state; 4568

~~(E)~~(5) An agreement that the motor fuel dealer will assume 4569  
the liability and will pay the tax on any shipment of motor fuel 4570  
made into the state from any other state or foreign country and 4571  
sold or caused to be sold by such motor fuel dealer for delivery 4572  
to a person in this state who is not the holder of an unrevoked 4573  
motor fuel dealer's license. 4574

~~An~~ (C)(1) Except as provided in division (C)(2) of this 4575  
section, an application for a license shall be accompanied by a 4576  
bond, of the character stipulated and in the amount provided for 4577  
in section 5735.03 of the Revised Code, which shall be filed with 4578  
the commissioner. 4579

(2) The tax commissioner may exempt a motor fuel dealer from 4580  
the requirements set forth in division (C)(1) of this section and 4581  
section 5735.03 of the Revised Code if the motor fuel dealer only 4582  
sells or distributes motor fuel upon which the motor fuel taxes 4583  
imposed under this chapter have been paid or are not required to 4584  
be paid by the motor fuel dealer. 4585

(D) If any application for a license to transact business as 4586  
a motor fuel dealer in the state is filed by any person who has 4587  
had any license previously canceled for cause by the tax 4588  
commissioner; if the commissioner believes that such application 4589  
is not filed in good faith or that such application is filed as a 4590  
subterfuge by some person for the real person in interest who has 4591  
previously had any license canceled for cause by the tax 4592

commissioner; or if the person has violated any provision of this 4593  
chapter, then the tax commissioner, after a hearing, of which the 4594  
applicant shall be given five days' notice in writing and at which 4595  
said applicant shall have the right to appear in person or by 4596  
counsel and present testimony, may refuse to issue to such person 4597  
a license to transact business as a motor fuel dealer in the 4598  
state. 4599

(E) When the application in proper form has been accepted for 4600  
filing, and the bond accepted and approved, the commissioner shall 4601  
issue to such motor fuel dealer a license to transact business as 4602  
a motor fuel dealer in the state, subject to cancellation of such 4603  
license as provided by law. 4604

(F) No person shall make a false or fraudulent statement on 4605  
the application required by this section. 4606

**Sec. 5735.03.** ~~Every~~ Except as provided in division (C)(2) of 4607  
section 5735.02 of the Revised Code, every motor fuel dealer shall 4608  
file with the tax commissioner a surety bond of not less than five 4609  
thousand dollars, but may be required by the tax commissioner to 4610  
submit a surety bond equal to three months' average tax liability, 4611  
on a form approved by and with a surety satisfactory to the 4612  
commissioner, upon which the motor fuel dealer shall be the 4613  
principal obligor and the state shall be the obligee, conditioned 4614  
upon the prompt filing of true reports and the payment by the 4615  
motor fuel dealer to the treasurer of state of all motor fuel 4616  
excise taxes levied by the state, provided that after notice is 4617  
received from the state by the surety of the delinquency of any 4618  
taxes, if the surety pays the taxes within thirty days after the 4619  
receipt of the notice no penalties or interest shall be charged 4620  
against the surety. If the surety does not pay the taxes within 4621  
thirty days, but does pay within ninety days from the date of the 4622  
receipt of notice from the state by the surety, no penalty shall 4623

be assessed against the surety but the surety shall pay interest 4624  
at the rate of six per cent per annum on the unpaid taxes from the 4625  
date the taxes are due and payable. If the surety does not pay 4626  
within ninety days then the surety shall be liable for interest 4627  
and penalties, and the tax commissioner may cancel all bonds 4628  
issued by the surety. 4629

The commissioner may increase or reduce the amount of the 4630  
bond required to be filed by any licensed motor fuel dealer. If 4631  
the commissioner finds that it is necessary to increase the bond 4632  
to assure payment of the tax, the bond may be increased to an 4633  
amount equal to three months/average liability or fifty thousand 4634  
dollars, whichever is greater. 4635

If liability upon the bond thus filed by the motor fuel 4636  
dealer with the commissioner is discharged or reduced, whether by 4637  
judgment rendered, payment made, or otherwise, or if, in the 4638  
opinion of the commissioner any surety on the bond theretofore 4639  
given has become unsatisfactory or unacceptable, the commissioner 4640  
may require the motor fuel dealer to file a new bond with 4641  
satisfactory sureties in the same amount, and if a new bond is not 4642  
filed the commissioner shall forthwith cancel the license of the 4643  
motor fuel dealer. If a new bond is furnished by the motor fuel 4644  
dealer, the commissioner shall cancel and surrender the bond of 4645  
the motor fuel dealer for which the new bond is substituted. 4646

A surety on a bond furnished by a motor fuel dealer shall be 4647  
released from all liability to the state accruing on the bond 4648  
after the expiration of sixty days from the date upon which the 4649  
surety lodges with the commissioner a written request to be 4650  
released. The request shall not operate to release the surety from 4651  
any liability already accrued, or which accrues before the 4652  
expiration of the sixty-day period. The commissioner shall 4653  
promptly on receipt of notice of the request notify the motor fuel 4654  
dealer who furnished the bond and, unless the motor fuel dealer on 4655

or before the expiration of the sixty-day period files with the 4656  
commissioner a new bond with a surety satisfactory to the 4657  
commissioner in the amount and form provided in this section, the 4658  
commissioner shall forthwith cancel the license of the motor fuel 4659  
dealer. If the new bond is furnished by said motor fuel dealer, 4660  
the commissioner shall cancel and surrender the bond of the motor 4661  
fuel dealer for which the new bond is substituted. 4662

The commissioner, in lieu of any surety bond required by this 4663  
section, may accept a deposit by a motor fuel dealer of cash. Any 4664  
cash thus accepted shall be deposited with the treasurer of state 4665  
to be held by the treasurer of state, in the same manner as other 4666  
cash required to be deposited with the treasurer of state under 4667  
the laws of the state, for the account of such motor fuel dealer 4668  
and subject to any lawful claim of the state for any excise tax 4669  
upon motor fuel, and penalties and interest thereon levied by the 4670  
laws of this state. The state shall have a lien upon cash thus 4671  
deposited for the amount of any motor fuel excise taxes and 4672  
penalty and interest due to the state from the motor fuel dealer 4673  
in whose behalf they were deposited. The amount of cash to be thus 4674  
accepted shall in all respects be determined in the same manner as 4675  
provided in this section for the amount of surety bonds. Any cash 4676  
deposited shall be subject to levy upon execution to satisfy any 4677  
judgment secured in any action by the state to recover any motor 4678  
fuel excise taxes, and penalties and interest found to be due to 4679  
the state from such motor fuel dealer. The cash shall be released 4680  
by the treasurer of state upon certificate of the commissioner 4681  
that the license of the motor fuel dealer in whose behalf they 4682  
have been deposited has been canceled or that other security has 4683  
been accepted in lieu thereof, and that the state asserts no claim 4684  
thereto. 4685

**Sec. 5735.35.** (A)(1) If any ~~corporation or business trust~~ 4686  
person, regardless of organizational form, required to file 4687

reports and to remit taxes imposed under this chapter fails for 4688  
any reason to file such reports or pay such taxes, any employees 4689  
of the ~~corporation or business trust~~ person having control or 4690  
supervision of, or charged with the responsibility of, filing 4691  
reports and making payments, or any officers or trustees of the 4692  
~~corporation or business trust~~ person responsible for the execution 4693  
of the ~~corporation's or business trust's~~ person's fiscal 4694  
responsibilities, are personally liable for the ~~unpaid liability~~ 4695  
~~resulting from the failure to file such reports or pay such taxes.~~ 4696

(2) The dissolution, termination, or bankruptcy of a 4697  
~~corporation or business trust~~ person shall not discharge a 4698  
responsible officer's, shareholder's, member's, manager's, 4699  
employee's, or trustee's liability for failure of the person to 4700  
file reports or remit taxes. The sum due for the liability may be 4701  
collected by assessment in the manner provided in sections 5735.12 4702  
and 5735.121 of the Revised Code. 4703

(B) If more than one ~~person~~ individual is personally liable 4704  
under this section for the unpaid tax of a ~~corporation or business~~ 4705  
~~trust~~ person, then the liability of all such individuals shall be 4706  
joint and several. 4707

**Sec. 5739.01.** As used in this chapter: 4708

(A) "Person" includes individuals, receivers, assignees, 4709  
trustees in bankruptcy, estates, firms, partnerships, 4710  
associations, joint-stock companies, joint ventures, clubs, 4711  
societies, corporations, the state and its political subdivisions, 4712  
and combinations of individuals of any form. 4713

(B) "Sale" and "selling" include all of the following 4714  
transactions for a consideration in any manner, whether absolutely 4715  
or conditionally, whether for a price or rental, in money or by 4716  
exchange, and by any means whatsoever: 4717

(1) All transactions by which title or possession, or both, 4718  
of tangible personal property, is or is to be transferred, or a 4719  
license to use or consume tangible personal property is or is to 4720  
be granted; 4721

(2) All transactions by which lodging by a hotel is or is to 4722  
be furnished to transient guests; 4723

(3) All transactions by which: 4724

(a) An item of tangible personal property is or is to be 4725  
repaired, except property, the purchase of which would not be 4726  
subject to the tax imposed by section 5739.02 of the Revised Code; 4727

(b) An item of tangible personal property is or is to be 4728  
installed, except property, the purchase of which would not be 4729  
subject to the tax imposed by section 5739.02 of the Revised Code 4730  
or property that is or is to be incorporated into and will become 4731  
a part of a production, transmission, transportation, or 4732  
distribution system for the delivery of a public utility service; 4733

(c) The service of washing, cleaning, waxing, polishing, or 4734  
painting a motor vehicle is or is to be furnished; 4735

(d) Until August 1, 2003, industrial laundry cleaning 4736  
services are or are to be provided and, on and after August 1, 4737  
2003, laundry and dry cleaning services are or are to be provided; 4738

(e) Automatic data processing, computer services, or 4739  
electronic information services are or are to be provided for use 4740  
in business when the true object of the transaction is the receipt 4741  
by the consumer of automatic data processing, computer services, 4742  
or electronic information services rather than the receipt of 4743  
personal or professional services to which automatic data 4744  
processing, computer services, or electronic information services 4745  
are incidental or supplemental. Notwithstanding any other 4746  
provision of this chapter, such transactions that occur between 4747  
members of an affiliated group are not sales. An "affiliated 4748

group" means two or more persons related in such a way that one 4749  
person owns or controls the business operation of another member 4750  
of the group. In the case of corporations with stock, one 4751  
corporation owns or controls another if it owns more than fifty 4752  
per cent of the other corporation's common stock with voting 4753  
rights. 4754

(f) Telecommunications service, including prepaid calling 4755  
service, prepaid wireless calling service, or ancillary service, 4756  
is or is to be provided, but not including coin-operated telephone 4757  
service; 4758

(g) Landscaping and lawn care service is or is to be 4759  
provided; 4760

(h) Private investigation and security service is or is to be 4761  
provided; 4762

(i) Information services or tangible personal property is 4763  
provided or ordered by means of a nine hundred telephone call; 4764

(j) Building maintenance and janitorial service is or is to 4765  
be provided; 4766

(k) Employment service is or is to be provided; 4767

(l) Employment placement service is or is to be provided; 4768

(m) Exterminating service is or is to be provided; 4769

(n) Physical fitness facility service is or is to be 4770  
provided; 4771

(o) Recreation and sports club service is or is to be 4772  
provided; 4773

(p) On and after August 1, 2003, satellite broadcasting 4774  
service is or is to be provided; 4775

(q) On and after August 1, 2003, personal care service is or 4776  
is to be provided to an individual. As used in this division, 4777

"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.

(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;

(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.

(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.

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

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter

are or are to be furnished or transferred; 4809

(5) The production or fabrication of tangible personal 4810  
property for a consideration for consumers who furnish either 4811  
directly or indirectly the materials used in the production of 4812  
fabrication work; and include the furnishing, preparing, or 4813  
serving for a consideration of any tangible personal property 4814  
consumed on the premises of the person furnishing, preparing, or 4815  
serving such tangible personal property. Except as provided in 4816  
section 5739.03 of the Revised Code, a construction contract 4817  
pursuant to which tangible personal property is or is to be 4818  
incorporated into a structure or improvement on and becoming a 4819  
part of real property is not a sale of such tangible personal 4820  
property. The construction contractor is the consumer of such 4821  
tangible personal property, provided that the sale and 4822  
installation of carpeting, the sale and installation of 4823  
agricultural land tile, the sale and erection or installation of 4824  
portable grain bins, or the provision of landscaping and lawn care 4825  
service and the transfer of property as part of such service is 4826  
never a construction contract. 4827

As used in division (B)(5) of this section: 4828

(a) "Agricultural land tile" means fired clay or concrete 4829  
tile, or flexible or rigid perforated plastic pipe or tubing, 4830  
incorporated or to be incorporated into a subsurface drainage 4831  
system appurtenant to land used or to be used primarily in 4832  
production by farming, agriculture, horticulture, or floriculture. 4833  
The term does not include such materials when they are or are to 4834  
be incorporated into a drainage system appurtenant to a building 4835  
or structure even if the building or structure is used or to be 4836  
used in such production. 4837

(b) "Portable grain bin" means a structure that is used or to 4838  
be used by a person engaged in farming or agriculture to shelter 4839  
the person's grain and that is designed to be disassembled without 4840

significant damage to its component parts. 4841

(6) All transactions in which all of the shares of stock of a 4842  
closely held corporation are transferred, or an ownership interest 4843  
in a pass-through entity, as defined in section 5733.04 of the 4844  
Revised Code, is transferred, if the corporation or pass-through 4845  
entity is not engaging in business and its entire assets consist 4846  
of boats, planes, motor vehicles, or other tangible personal 4847  
property operated primarily for the use and enjoyment of the 4848  
shareholders or owners; 4849

(7) All transactions in which a warranty, maintenance or 4850  
service contract, or similar agreement by which the vendor of the 4851  
warranty, contract, or agreement agrees to repair or maintain the 4852  
tangible personal property of the consumer is or is to be 4853  
provided; 4854

(8) The transfer of copyrighted motion picture films used 4855  
solely for advertising purposes, except that the transfer of such 4856  
films for exhibition purposes is not a sale; 4857

(9) On and after August 1, 2003, all transactions by which 4858  
tangible personal property is or is to be stored, except such 4859  
property that the consumer of the storage holds for sale in the 4860  
regular course of business; 4861

(10) All transactions in which "guaranteed auto protection" 4862  
is provided whereby a person promises to pay to the consumer the 4863  
difference between the amount the consumer receives from motor 4864  
vehicle insurance and the amount the consumer owes to a person 4865  
holding title to or a lien on the consumer's motor vehicle in the 4866  
event the consumer's motor vehicle suffers a total loss under the 4867  
terms of the motor vehicle insurance policy or is stolen and not 4868  
recovered, if the protection and its price are included in the 4869  
purchase or lease agreement; 4870

(11)(a) Except as provided in division (B)(11)(b) of this 4871

section, on and after October 1, 2009, all transactions by which 4872  
health care services are paid for, reimbursed, provided, 4873  
delivered, arranged for, or otherwise made available by a medicaid 4874  
health insuring corporation pursuant to the corporation's contract 4875  
with the state. 4876

(b) If the centers for medicare and medicaid services of the 4877  
United States department of health and human services determines 4878  
that the taxation of transactions described in division (B)(11)(a) 4879  
of this section constitutes an impermissible health care-related 4880  
tax under section 1903(w) of the "Social Security Act," 49 Stat. 4881  
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 4882  
adopted thereunder, the director of job and family services shall 4883  
notify the tax commissioner of that determination. Beginning with 4884  
the first day of the month following that notification, the 4885  
transactions described in division (B)(11)(a) of this section are 4886  
not sales for the purposes of this chapter or Chapter 5741. of the 4887  
Revised Code. The tax commissioner shall order that the collection 4888  
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 4889  
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 4890  
shall cease for transactions occurring on or after that date. 4891

Except as provided in this section, "sale" and "selling" do 4892  
not include transfers of interest in leased property where the 4893  
original lessee and the terms of the original lease agreement 4894  
remain unchanged, or professional, insurance, or personal service 4895  
transactions that involve the transfer of tangible personal 4896  
property as an inconsequential element, for which no separate 4897  
charges are made. 4898

(C) "Vendor" means the person providing the service or by 4899  
whom the transfer effected or license given by a sale is or is to 4900  
be made or given and, for sales described in division (B)(3)(i) of 4901  
this section, the telecommunications service vendor that provides 4902  
the nine hundred telephone service; if two or more persons are 4903

engaged in business at the same place of business under a single 4904  
trade name in which all collections on account of sales by each 4905  
are made, such persons shall constitute a single vendor. 4906

Physicians, dentists, hospitals, and veterinarians who are 4907  
engaged in selling tangible personal property as received from 4908  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 4909  
articles, are vendors. Veterinarians who are engaged in 4910  
transferring to others for a consideration drugs, the dispensing 4911  
of which does not require an order of a licensed veterinarian or 4912  
physician under federal law, are vendors. 4913

(D)(1) "Consumer" means the person for whom the service is 4914  
provided, to whom the transfer effected or license given by a sale 4915  
is or is to be made or given, to whom the service described in 4916  
division (B)(3)(f) or (i) of this section is charged, or to whom 4917  
the admission is granted. 4918

(2) Physicians, dentists, hospitals, and blood banks operated 4919  
by nonprofit institutions and persons licensed to practice 4920  
veterinary medicine, surgery, and dentistry are consumers of all 4921  
tangible personal property and services purchased by them in 4922  
connection with the practice of medicine, dentistry, the rendition 4923  
of hospital or blood bank service, or the practice of veterinary 4924  
medicine, surgery, and dentistry. In addition to being consumers 4925  
of drugs administered by them or by their assistants according to 4926  
their direction, veterinarians also are consumers of drugs that 4927  
under federal law may be dispensed only by or upon the order of a 4928  
licensed veterinarian or physician, when transferred by them to 4929  
others for a consideration to provide treatment to animals as 4930  
directed by the veterinarian. 4931

(3) A person who performs a facility management, or similar 4932  
service contract for a contractee is a consumer of all tangible 4933  
personal property and services purchased for use in connection 4934  
with the performance of such contract, regardless of whether title 4935

to any such property vests in the contractee. The purchase of such 4936  
property and services is not subject to the exception for resale 4937  
under division (E)(1) of this section. 4938

(4)(a) In the case of a person who purchases printed matter 4939  
for the purpose of distributing it or having it distributed to the 4940  
public or to a designated segment of the public, free of charge, 4941  
that person is the consumer of that printed matter, and the 4942  
purchase of that printed matter for that purpose is a sale. 4943

(b) In the case of a person who produces, rather than 4944  
purchases, printed matter for the purpose of distributing it or 4945  
having it distributed to the public or to a designated segment of 4946  
the public, free of charge, that person is the consumer of all 4947  
tangible personal property and services purchased for use or 4948  
consumption in the production of that printed matter. That person 4949  
is not entitled to claim exemption under division (B)(42)(f) of 4950  
section 5739.02 of the Revised Code for any material incorporated 4951  
into the printed matter or any equipment, supplies, or services 4952  
primarily used to produce the printed matter. 4953

(c) The distribution of printed matter to the public or to a 4954  
designated segment of the public, free of charge, is not a sale to 4955  
the members of the public to whom the printed matter is 4956  
distributed or to any persons who purchase space in the printed 4957  
matter for advertising or other purposes. 4958

(5) A person who makes sales of any of the services listed in 4959  
division (B)(3) of this section is the consumer of any tangible 4960  
personal property used in performing the service. The purchase of 4961  
that property is not subject to the resale exception under 4962  
division (E)(1) of this section. 4963

(6) A person who engages in highway transportation for hire 4964  
is the consumer of all packaging materials purchased by that 4965  
person and used in performing the service, except for packaging 4966

materials sold by such person in a transaction separate from the 4967  
service. 4968

(7) In the case of a transaction for health care services 4969  
under division (B)(11) of this section, a medicaid health insuring 4970  
corporation is the consumer of such services. The purchase of such 4971  
services by a medicaid health insuring corporation is not subject 4972  
to the exception for resale under division (E)(1) of this section 4973  
or to the exemptions provided under divisions (B)(12), (18), (19), 4974  
and (22) of section 5739.02 of the Revised Code. 4975

(E) "Retail sale" and "sales at retail" include all sales, 4976  
except those in which the purpose of the consumer is to resell the 4977  
thing transferred or benefit of the service provided, by a person 4978  
engaging in business, in the form in which the same is, or is to 4979  
be, received by the person. 4980

(F) "Business" includes any activity engaged in by any person 4981  
with the object of gain, benefit, or advantage, either direct or 4982  
indirect. "Business" does not include the activity of a person in 4983  
managing and investing the person's own funds. 4984

(G) "Engaging in business" means commencing, conducting, or 4985  
continuing in business, and liquidating a business when the 4986  
liquidator thereof holds itself out to the public as conducting 4987  
such business. Making a casual sale is not engaging in business. 4988

(H)(1)(a) "Price," except as provided in divisions (H)(2), 4989  
(3), and (4) of this section, means the total amount of 4990  
consideration, including cash, credit, property, and services, for 4991  
which tangible personal property or services are sold, leased, or 4992  
rented, valued in money, whether received in money or otherwise, 4993  
without any deduction for any of the following: 4994

(i) The vendor's cost of the property sold; 4995

(ii) The cost of materials used, labor or service costs, 4996  
interest, losses, all costs of transportation to the vendor, all 4997

taxes imposed on the vendor, including the tax imposed under	4998
Chapter 5751. of the Revised Code, and any other expense of the	4999
vendor;	5000
(iii) Charges by the vendor for any services necessary to	5001
complete the sale;	5002
(iv) On and after August 1, 2003, delivery charges. As used	5003
in this division, "delivery charges" means charges by the vendor	5004
for preparation and delivery to a location designated by the	5005
consumer of tangible personal property or a service, including	5006
transportation, shipping, postage, handling, crating, and packing.	5007
(v) Installation charges;	5008
(vi) Credit for any trade-in.	5009
(b) "Price" includes consideration received by the vendor	5010
from a third party, if the vendor actually receives the	5011
consideration from a party other than the consumer, and the	5012
consideration is directly related to a price reduction or discount	5013
on the sale; the vendor has an obligation to pass the price	5014
reduction or discount through to the consumer; the amount of the	5015
consideration attributable to the sale is fixed and determinable	5016
by the vendor at the time of the sale of the item to the consumer;	5017
and one of the following criteria is met:	5018
(i) The consumer presents a coupon, certificate, or other	5019
document to the vendor to claim a price reduction or discount	5020
where the coupon, certificate, or document is authorized,	5021
distributed, or granted by a third party with the understanding	5022
that the third party will reimburse any vendor to whom the coupon,	5023
certificate, or document is presented;	5024
(ii) The consumer identifies the consumer's self to the	5025
seller as a member of a group or organization entitled to a price	5026
reduction or discount. A preferred customer card that is available	5027
to any patron does not constitute membership in such a group or	5028

organization. 5029

(iii) The price reduction or discount is identified as a 5030  
third party price reduction or discount on the invoice received by 5031  
the consumer, or on a coupon, certificate, or other document 5032  
presented by the consumer. 5033

(c) "Price" does not include any of the following: 5034

(i) Discounts, including cash, term, or coupons that are not 5035  
reimbursed by a third party that are allowed by a vendor and taken 5036  
by a consumer on a sale; 5037

(ii) Interest, financing, and carrying charges from credit 5038  
extended on the sale of tangible personal property or services, if 5039  
the amount is separately stated on the invoice, bill of sale, or 5040  
similar document given to the purchaser; 5041

(iii) Any taxes legally imposed directly on the consumer that 5042  
are separately stated on the invoice, bill of sale, or similar 5043  
document given to the consumer. For the purpose of this division, 5044  
the tax imposed under Chapter 5751. of the Revised Code is not a 5045  
tax directly on the consumer, even if the tax or a portion thereof 5046  
is separately stated. 5047

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 5048  
section, any discount allowed by an automobile manufacturer to its 5049  
employee, or to the employee of a supplier, on the purchase of a 5050  
new motor vehicle from a new motor vehicle dealer in this state. 5051

(v) The dollar value of a gift card that is not sold by a 5052  
vendor or purchased by a consumer and that is redeemed by the 5053  
consumer in purchasing tangible personal property or services if 5054  
the vendor is not reimbursed and does not receive compensation 5055  
from a third party to cover all or part of the gift card value. 5056  
For the purposes of this division, a gift card is not sold by a 5057  
vendor or purchased by a consumer if it is distributed pursuant to 5058  
an awards, loyalty, or promotional program. Past and present 5059

purchases of tangible personal property or services by the 5060  
consumer shall not be treated as consideration exchanged for a 5061  
gift card. 5062

(2) In the case of a sale of any new motor vehicle by a new 5063  
motor vehicle dealer, as defined in section 4517.01 of the Revised 5064  
Code, in which another motor vehicle is accepted by the dealer as 5065  
part of the consideration received, "price" has the same meaning 5066  
as in division (H)(1) of this section, reduced by the credit 5067  
afforded the consumer by the dealer for the motor vehicle received 5068  
in trade. 5069

(3) In the case of a sale of any watercraft or outboard motor 5070  
by a watercraft dealer licensed in accordance with section 5071  
1547.543 of the Revised Code, in which another watercraft, 5072  
watercraft and trailer, or outboard motor is accepted by the 5073  
dealer as part of the consideration received, "price" has the same 5074  
meaning as in division (H)(1) of this section, reduced by the 5075  
credit afforded the consumer by the dealer for the watercraft, 5076  
watercraft and trailer, or outboard motor received in trade. As 5077  
used in this division, "watercraft" includes an outdrive unit 5078  
attached to the watercraft. 5079

(4) In the case of transactions for health care services 5080  
under division (B)(11) of this section, "price" means the amount 5081  
of managed care premiums received each month by a medicaid health 5082  
insuring corporation. 5083

(I) "Receipts" means the total amount of the prices of the 5084  
sales of vendors, provided that the dollar value of gift cards 5085  
distributed pursuant to an awards, loyalty, or promotional 5086  
program, and cash discounts allowed and taken on sales at the time 5087  
they are consummated are not included, minus any amount deducted 5088  
as a bad debt pursuant to section 5739.121 of the Revised Code. 5089  
"Receipts" does not include the sale price of property returned or 5090  
services rejected by consumers when the full sale price and tax 5091

are refunded either in cash or by credit. 5092

(J) "Place of business" means any location at which a person 5093  
engages in business. 5094

(K) "Premises" includes any real property or portion thereof 5095  
upon which any person engages in selling tangible personal 5096  
property at retail or making retail sales and also includes any 5097  
real property or portion thereof designated for, or devoted to, 5098  
use in conjunction with the business engaged in by such person. 5099

(L) "Casual sale" means a sale of an item of tangible 5100  
personal property that was obtained by the person making the sale, 5101  
through purchase or otherwise, for the person's own use and was 5102  
previously subject to any state's taxing jurisdiction on its sale 5103  
or use, and includes such items acquired for the seller's use that 5104  
are sold by an auctioneer employed directly by the person for such 5105  
purpose, provided the location of such sales is not the 5106  
auctioneer's permanent place of business. As used in this 5107  
division, "permanent place of business" includes any location 5108  
where such auctioneer has conducted more than two auctions during 5109  
the year. 5110

(M) "Hotel" means every establishment kept, used, maintained, 5111  
advertised, or held out to the public to be a place where sleeping 5112  
accommodations are offered to guests, in which five or more rooms 5113  
are used for the accommodation of such guests, whether the rooms 5114  
are in one or several structures, except as otherwise provided in 5115  
division (G) of section 5739.09 of the Revised Code. 5116

(N) "Transient guests" means persons occupying a room or 5117  
rooms for sleeping accommodations for less than thirty consecutive 5118  
days. 5119

(O) "Making retail sales" means the effecting of transactions 5120  
wherein one party is obligated to pay the price and the other 5121  
party is obligated to provide a service or to transfer title to or 5122

possession of the item sold. "Making retail sales" does not 5123  
include the preliminary acts of promoting or soliciting the retail 5124  
sales, other than the distribution of printed matter which 5125  
displays or describes and prices the item offered for sale, nor 5126  
does it include delivery of a predetermined quantity of tangible 5127  
personal property or transportation of property or personnel to or 5128  
from a place where a service is performed, ~~regardless of whether~~ 5129  
~~the vendor is a delivery vendor.~~ 5130

(P) "Used directly in the rendition of a public utility 5131  
service" means that property that is to be incorporated into and 5132  
will become a part of the consumer's production, transmission, 5133  
transportation, or distribution system and that retains its 5134  
classification as tangible personal property after such 5135  
incorporation; fuel or power used in the production, transmission, 5136  
transportation, or distribution system; and tangible personal 5137  
property used in the repair and maintenance of the production, 5138  
transmission, transportation, or distribution system, including 5139  
only such motor vehicles as are specially designed and equipped 5140  
for such use. Tangible personal property and services used 5141  
primarily in providing highway transportation for hire are not 5142  
used directly in the rendition of a public utility service. In 5143  
this definition, "public utility" includes a citizen of the United 5144  
States holding, and required to hold, a certificate of public 5145  
convenience and necessity issued under 49 U.S.C. 41102. 5146

(Q) "Refining" means removing or separating a desirable 5147  
product from raw or contaminated materials by distillation or 5148  
physical, mechanical, or chemical processes. 5149

(R) "Assembly" and "assembling" mean attaching or fitting 5150  
together parts to form a product, but do not include packaging a 5151  
product. 5152

(S) "Manufacturing operation" means a process in which 5153  
materials are changed, converted, or transformed into a different 5154

state or form from which they previously existed and includes 5155  
refining materials, assembling parts, and preparing raw materials 5156  
and parts by mixing, measuring, blending, or otherwise committing 5157  
such materials or parts to the manufacturing process. 5158  
"Manufacturing operation" does not include packaging. 5159

(T) "Fiscal officer" means, with respect to a regional 5160  
transit authority, the secretary-treasurer thereof, and with 5161  
respect to a county that is a transit authority, the fiscal 5162  
officer of the county transit board if one is appointed pursuant 5163  
to section 306.03 of the Revised Code or the county auditor if the 5164  
board of county commissioners operates the county transit system. 5165

(U) "Transit authority" means a regional transit authority 5166  
created pursuant to section 306.31 of the Revised Code or a county 5167  
in which a county transit system is created pursuant to section 5168  
306.01 of the Revised Code. For the purposes of this chapter, a 5169  
transit authority must extend to at least the entire area of a 5170  
single county. A transit authority that includes territory in more 5171  
than one county must include all the area of the most populous 5172  
county that is a part of such transit authority. County population 5173  
shall be measured by the most recent census taken by the United 5174  
States census bureau. 5175

(V) "Legislative authority" means, with respect to a regional 5176  
transit authority, the board of trustees thereof, and with respect 5177  
to a county that is a transit authority, the board of county 5178  
commissioners. 5179

(W) "Territory of the transit authority" means all of the 5180  
area included within the territorial boundaries of a transit 5181  
authority as they from time to time exist. Such territorial 5182  
boundaries must at all times include all the area of a single 5183  
county or all the area of the most populous county that is a part 5184  
of such transit authority. County population shall be measured by 5185  
the most recent census taken by the United States census bureau. 5186

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

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

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

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

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

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

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

(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	5217
electronic information services, including but not limited to:	5218
(a) Accounting and legal services such as advice on tax	5219
matters, asset management, budgetary matters, quality control,	5220
information security, and auditing and any other situation where	5221
the service provider receives data or information and studies,	5222
alters, analyzes, interprets, or adjusts such material;	5223
(b) Analyzing business policies and procedures;	5224
(c) Identifying management information needs;	5225
(d) Feasibility studies, including economic and technical	5226
analysis of existing or potential computer hardware or software	5227
needs and alternatives;	5228
(e) Designing policies, procedures, and custom software for	5229
collecting business information, and determining how data should	5230
be summarized, sequenced, formatted, processed, controlled, and	5231
reported so that it will be meaningful to management;	5232
(f) Developing policies and procedures that document how	5233
business events and transactions are to be authorized, executed,	5234
and controlled;	5235
(g) Testing of business procedures;	5236
(h) Training personnel in business procedure applications;	5237
(i) Providing credit information to users of such information	5238
by a consumer reporting agency, as defined in the "Fair Credit	5239
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	5240
as hereafter amended, including but not limited to gathering,	5241
organizing, analyzing, recording, and furnishing such information	5242
by any oral, written, graphic, or electronic medium;	5243
(j) Providing debt collection services by any oral, written,	5244
graphic, or electronic means.	5245
The services listed in divisions (Y)(2)(a) to (j) of this	5246

section are not automatic data processing or computer services. 5247

(Z) "Highway transportation for hire" means the 5248  
transportation of personal property belonging to others for 5249  
consideration by any of the following: 5250

(1) The holder of a permit or certificate issued by this 5251  
state or the United States authorizing the holder to engage in 5252  
transportation of personal property belonging to others for 5253  
consideration over or on highways, roadways, streets, or any 5254  
similar public thoroughfare; 5255

(2) A person who engages in the transportation of personal 5256  
property belonging to others for consideration over or on 5257  
highways, roadways, streets, or any similar public thoroughfare 5258  
but who could not have engaged in such transportation on December 5259  
11, 1985, unless the person was the holder of a permit or 5260  
certificate of the types described in division (Z)(1) of this 5261  
section; 5262

(3) A person who leases a motor vehicle to and operates it 5263  
for a person described by division (Z)(1) or (2) of this section. 5264

(AA)(1) "Telecommunications service" means the electronic 5265  
transmission, conveyance, or routing of voice, data, audio, video, 5266  
or any other information or signals to a point, or between or 5267  
among points. "Telecommunications service" includes such 5268  
transmission, conveyance, or routing in which computer processing 5269  
applications are used to act on the form, code, or protocol of the 5270  
content for purposes of transmission, conveyance, or routing 5271  
without regard to whether the service is referred to as voice-over 5272  
internet protocol service or is classified by the federal 5273  
communications commission as enhanced or value-added. 5274  
"Telecommunications service" does not include any of the 5275  
following: 5276

(a) Data processing and information services that allow data 5277

to be generated, acquired, stored, processed, or retrieved and	5278
delivered by an electronic transmission to a consumer where the	5279
consumer's primary purpose for the underlying transaction is the	5280
processed data or information;	5281
(b) Installation or maintenance of wiring or equipment on a	5282
customer's premises;	5283
(c) Tangible personal property;	5284
(d) Advertising, including directory advertising;	5285
(e) Billing and collection services provided to third	5286
parties;	5287
(f) Internet access service;	5288
(g) Radio and television audio and video programming	5289
services, regardless of the medium, including the furnishing of	5290
transmission, conveyance, and routing of such services by the	5291
programming service provider. Radio and television audio and video	5292
programming services include, but are not limited to, cable	5293
service, as defined in 47 U.S.C. 522(6), and audio and video	5294
programming services delivered by commercial mobile radio service	5295
providers, as defined in 47 C.F.R. 20.3;	5296
(h) Ancillary service;	5297
(i) Digital products delivered electronically, including	5298
software, music, video, reading materials, or ring tones.	5299
(2) "Ancillary service" means a service that is associated	5300
with or incidental to the provision of telecommunications service,	5301
including conference bridging service, detailed telecommunications	5302
billing service, directory assistance, vertical service, and voice	5303
mail service. As used in this division:	5304
(a) "Conference bridging service" means an ancillary service	5305
that links two or more participants of an audio or video	5306
conference call, including providing a telephone number.	5307

"Conference bridging service" does not include telecommunications services used to reach the conference bridge. 5308  
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(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 5310  
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 5313  
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 5315  
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 5320  
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 5325  
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(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of ~~of~~ or dollars of 5334  
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which the number declines with use in a known amount. 5339

(5) "Prepaid wireless calling service" means a 5340  
telecommunications service that provides the right to utilize 5341  
mobile telecommunications service as well as other 5342  
non-telecommunications services, including the download of digital 5343  
products delivered electronically, and content and ancillary 5344  
services, that must be paid for in advance and that is sold in 5345  
predetermined units of ~~of~~ or dollars of which the number declines 5346  
with use in a known amount. 5347

(6) "Value-added non-voice data service" means a 5348  
telecommunications service in which computer processing 5349  
applications are used to act on the form, content, code, or 5350  
protocol of the information or data primarily for a purpose other 5351  
than transmission, conveyance, or routing. 5352

(7) "Coin-operated telephone service" means a 5353  
telecommunications service paid for by inserting money into a 5354  
telephone accepting direct deposits of money to operate. 5355

(8) "Customer" has the same meaning as in section 5739.034 of 5356  
the Revised Code. 5357

(BB) "Laundry and dry cleaning services" means removing soil 5358  
or dirt from towels, linens, articles of clothing, or other fabric 5359  
items that belong to others and supplying towels, linens, articles 5360  
of clothing, or other fabric items. "Laundry and dry cleaning 5361  
services" does not include the provision of self-service 5362  
facilities for use by consumers to remove soil or dirt from 5363  
towels, linens, articles of clothing, or other fabric items. 5364

(CC) "Magazines distributed as controlled circulation 5365  
publications" means magazines containing at least twenty-four 5366  
pages, at least twenty-five per cent editorial content, issued at 5367  
regular intervals four or more times a year, and circulated 5368  
without charge to the recipient, provided that such magazines are 5369

not owned or controlled by individuals or business concerns which 5370  
conduct such publications as an auxiliary to, and essentially for 5371  
the advancement of the main business or calling of, those who own 5372  
or control them. 5373

(DD) "Landscaping and lawn care service" means the services 5374  
of planting, seeding, sodding, removing, cutting, trimming, 5375  
pruning, mulching, aerating, applying chemicals, watering, 5376  
fertilizing, and providing similar services to establish, promote, 5377  
or control the growth of trees, shrubs, flowers, grass, ground 5378  
cover, and other flora, or otherwise maintaining a lawn or 5379  
landscape grown or maintained by the owner for ornamentation or 5380  
other nonagricultural purpose. However, "landscaping and lawn care 5381  
service" does not include the providing of such services by a 5382  
person who has less than five thousand dollars in sales of such 5383  
services during the calendar year. 5384

(EE) "Private investigation and security service" means the 5385  
performance of any activity for which the provider of such service 5386  
is required to be licensed pursuant to Chapter 4749. of the 5387  
Revised Code, or would be required to be so licensed in performing 5388  
such services in this state, and also includes the services of 5389  
conducting polygraph examinations and of monitoring or overseeing 5390  
the activities on or in, or the condition of, the consumer's home, 5391  
business, or other facility by means of electronic or similar 5392  
monitoring devices. "Private investigation and security service" 5393  
does not include special duty services provided by off-duty police 5394  
officers, deputy sheriffs, and other peace officers regularly 5395  
employed by the state or a political subdivision. 5396

(FF) "Information services" means providing conversation, 5397  
giving consultation or advice, playing or making a voice or other 5398  
recording, making or keeping a record of the number of callers, 5399  
and any other service provided to a consumer by means of a nine 5400  
hundred telephone call, except when the nine hundred telephone 5401

call is the means by which the consumer makes a contribution to a 5402  
recognized charity. 5403

(GG) "Research and development" means designing, creating, or 5404  
formulating new or enhanced products, equipment, or manufacturing 5405  
processes, and also means conducting scientific or technological 5406  
inquiry and experimentation in the physical sciences with the goal 5407  
of increasing scientific knowledge which may reveal the bases for 5408  
new or enhanced products, equipment, or manufacturing processes. 5409

(HH) "Qualified research and development equipment" means 5410  
capitalized tangible personal property, and leased personal 5411  
property that would be capitalized if purchased, used by a person 5412  
primarily to perform research and development. Tangible personal 5413  
property primarily used in testing, as defined in division (A)(4) 5414  
of section 5739.011 of the Revised Code, or used for recording or 5415  
storing test results, is not qualified research and development 5416  
equipment unless such property is primarily used by the consumer 5417  
in testing the product, equipment, or manufacturing process being 5418  
created, designed, or formulated by the consumer in the research 5419  
and development activity or in recording or storing such test 5420  
results. 5421

(II) "Building maintenance and janitorial service" means 5422  
cleaning the interior or exterior of a building and any tangible 5423  
personal property located therein or thereon, including any 5424  
services incidental to such cleaning for which no separate charge 5425  
is made. However, "building maintenance and janitorial service" 5426  
does not include the providing of such service by a person who has 5427  
less than five thousand dollars in sales of such service during 5428  
the calendar year. 5429

(JJ) "Employment service" means providing or supplying 5430  
personnel, on a temporary or long-term basis, to perform work or 5431  
labor under the supervision or control of another, when the 5432  
personnel so provided or supplied receive their wages, salary, or 5433

other compensation from the provider or supplier of the employment 5434  
service or from a third party that provided or supplied the 5435  
personnel to the provider or supplier. "Employment service" does 5436  
not include: 5437

(1) Acting as a contractor or subcontractor, where the 5438  
personnel performing the work are not under the direct control of 5439  
the purchaser. 5440

(2) Medical and health care services. 5441

(3) Supplying personnel to a purchaser pursuant to a contract 5442  
of at least one year between the service provider and the 5443  
purchaser that specifies that each employee covered under the 5444  
contract is assigned to the purchaser on a permanent basis. 5445

(4) Transactions between members of an affiliated group, as 5446  
defined in division (B)(3)(e) of this section. 5447

(5) Transactions where the personnel so provided or supplied 5448  
by a provider or supplier to a purchaser of an employment service 5449  
are then provided or supplied by that purchaser to a third party 5450  
as an employment service, except "employment service" does include 5451  
the transaction between that purchaser and the third party. 5452

(KK) "Employment placement service" means locating or finding 5453  
employment for a person or finding or locating an employee to fill 5454  
an available position. 5455

(LL) "Exterminating service" means eradicating or attempting 5456  
to eradicate vermin infestations from a building or structure, or 5457  
the area surrounding a building or structure, and includes 5458  
activities to inspect, detect, or prevent vermin infestation of a 5459  
building or structure. 5460

(MM) "Physical fitness facility service" means all 5461  
transactions by which a membership is granted, maintained, or 5462  
renewed, including initiation fees, membership dues, renewal fees, 5463

monthly minimum fees, and other similar fees and dues, by a 5464  
physical fitness facility such as an athletic club, health spa, or 5465  
gymnasium, which entitles the member to use the facility for 5466  
physical exercise. 5467

(NN) "Recreation and sports club service" means all 5468  
transactions by which a membership is granted, maintained, or 5469  
renewed, including initiation fees, membership dues, renewal fees, 5470  
monthly minimum fees, and other similar fees and dues, by a 5471  
recreation and sports club, which entitles the member to use the 5472  
facilities of the organization. "Recreation and sports club" means 5473  
an organization that has ownership of, or controls or leases on a 5474  
continuing, long-term basis, the facilities used by its members 5475  
and includes an aviation club, gun or shooting club, yacht club, 5476  
card club, swimming club, tennis club, golf club, country club, 5477  
riding club, amateur sports club, or similar organization. 5478

(OO) "Livestock" means farm animals commonly raised for food, 5479  
food production, or other agricultural purposes, including, but 5480  
not limited to, cattle, sheep, goats, swine, poultry, and captive 5481  
deer. "Livestock" does not include invertebrates, amphibians, 5482  
reptiles, domestic pets, animals for use in laboratories or for 5483  
exhibition, or other animals not commonly raised for food or food 5484  
production. 5485

(PP) "Livestock structure" means a building or structure used 5486  
exclusively for the housing, raising, feeding, or sheltering of 5487  
livestock, and includes feed storage or handling structures and 5488  
structures for livestock waste handling. 5489

(QQ) "Horticulture" means the growing, cultivation, and 5490  
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 5491  
and nursery stock. As used in this division, "nursery stock" has 5492  
the same meaning as in section 927.51 of the Revised Code. 5493

(RR) "Horticulture structure" means a building or structure 5494

used exclusively for the commercial growing, raising, or 5495  
overwintering of horticultural products, and includes the area 5496  
used for stocking, storing, and packing horticultural products 5497  
when done in conjunction with the production of those products. 5498

(SS) "Newspaper" means an unbound publication bearing a title 5499  
or name that is regularly published, at least as frequently as 5500  
biweekly, and distributed from a fixed place of business to the 5501  
public in a specific geographic area, and that contains a 5502  
substantial amount of news matter of international, national, or 5503  
local events of interest to the general public. 5504

(TT) "Professional racing team" means a person that employs 5505  
at least twenty full-time employees for the purpose of conducting 5506  
a motor vehicle racing business for profit. The person must 5507  
conduct the business with the purpose of racing one or more motor 5508  
racing vehicles in at least ten competitive professional racing 5509  
events each year that comprise all or part of a motor racing 5510  
series sanctioned by one or more motor racing sanctioning 5511  
organizations. A "motor racing vehicle" means a vehicle for which 5512  
the chassis, engine, and parts are designed exclusively for motor 5513  
racing, and does not include a stock or production model vehicle 5514  
that may be modified for use in racing. For the purposes of this 5515  
division: 5516

(1) A "competitive professional racing event" is a motor 5517  
vehicle racing event sanctioned by one or more motor racing 5518  
sanctioning organizations, at which aggregate cash prizes in 5519  
excess of eight hundred thousand dollars are awarded to the 5520  
competitors. 5521

(2) "Full-time employee" means an individual who is employed 5522  
for consideration for thirty-five or more hours a week, or who 5523  
renders any other standard of service generally accepted by custom 5524  
or specified by contract as full-time employment. 5525

(UU)(1) "Lease" or "rental" means any transfer of the 5526  
possession or control of tangible personal property for a fixed or 5527  
indefinite term, for consideration. "Lease" or "rental" includes 5528  
future options to purchase or extend, and agreements described in 5529  
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 5530  
the amount of consideration may be increased or decreased by 5531  
reference to the amount realized upon the sale or disposition of 5532  
the property. "Lease" or "rental" does not include: 5533

(a) A transfer of possession or control of tangible personal 5534  
property under a security agreement or a deferred payment plan 5535  
that requires the transfer of title upon completion of the 5536  
required payments; 5537

(b) A transfer of possession or control of tangible personal 5538  
property under an agreement that requires the transfer of title 5539  
upon completion of required payments and payment of an option 5540  
price that does not exceed the greater of one hundred dollars or 5541  
one per cent of the total required payments; 5542

(c) Providing tangible personal property along with an 5543  
operator for a fixed or indefinite period of time, if the operator 5544  
is necessary for the property to perform as designed. For purposes 5545  
of this division, the operator must do more than maintain, 5546  
inspect, or set-up the tangible personal property. 5547

(2) "Lease" and "rental," as defined in division (UU) of this 5548  
section, shall not apply to leases or rentals that exist before 5549  
June 26, 2003. 5550

(3) "Lease" and "rental" have the same meaning as in division 5551  
(UU)(1) of this section regardless of whether a transaction is 5552  
characterized as a lease or rental under generally accepted 5553  
accounting principles, the Internal Revenue Code, Title XIII of 5554  
the Revised Code, or other federal, state, or local laws. 5555

(VV) "Mobile telecommunications service" has the same meaning 5556

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

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

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

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

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does

not include multiple items of printed material delivered to a 5589  
single address. 5590

(AAA) "Computer" means an electronic device that accepts 5591  
information in digital or similar form and manipulates it for a 5592  
result based on a sequence of instructions. 5593

(BBB) "Computer software" means a set of coded instructions 5594  
designed to cause a computer or automatic data processing 5595  
equipment to perform a task. 5596

(CCC) "Delivered electronically" means delivery of computer 5597  
software from the seller to the purchaser by means other than 5598  
tangible storage media. 5599

(DDD) "Prewritten computer software" means computer software, 5600  
including prewritten upgrades, that is not designed and developed 5601  
by the author or other creator to the specifications of a specific 5602  
purchaser. The combining of two or more prewritten computer 5603  
software programs or prewritten portions thereof does not cause 5604  
the combination to be other than prewritten computer software. 5605  
"Prewritten computer software" includes software designed and 5606  
developed by the author or other creator to the specifications of 5607  
a specific purchaser when it is sold to a person other than the 5608  
purchaser. If a person modifies or enhances computer software of 5609  
which the person is not the author or creator, the person shall be 5610  
deemed to be the author or creator only of such person's 5611  
modifications or enhancements. Prewritten computer software or a 5612  
prewritten portion thereof that is modified or enhanced to any 5613  
degree, where such modification or enhancement is designed and 5614  
developed to the specifications of a specific purchaser, remains 5615  
prewritten computer software; provided, however, that where there 5616  
is a reasonable, separately stated charge or an invoice or other 5617  
statement of the price given to the purchaser for the modification 5618  
or enhancement, the modification or enhancement shall not 5619  
constitute prewritten computer software. 5620

(EEE)(1) "Food" means substances, whether in liquid, 5621  
concentrated, solid, frozen, dried, or dehydrated form, that are 5622  
sold for ingestion or chewing by humans and are consumed for their 5623  
taste or nutritional value. "Food" does not include alcoholic 5624  
beverages, dietary supplements, soft drinks, or tobacco. 5625

(2) As used in division (EEE)(1) of this section: 5626

(a) "Alcoholic beverages" means beverages that are suitable 5627  
for human consumption and contain one-half of one per cent or more 5628  
of alcohol by volume. 5629

(b) "Dietary supplements" means any product, other than 5630  
tobacco, that is intended to supplement the diet and that is 5631  
intended for ingestion in tablet, capsule, powder, softgel, 5632  
gelcap, or liquid form, or, if not intended for ingestion in such 5633  
a form, is not represented as conventional food for use as a sole 5634  
item of a meal or of the diet; that is required to be labeled as a 5635  
dietary supplement, identifiable by the "supplement facts" box 5636  
found on the label, as required by 21 C.F.R. 101.36; and that 5637  
contains one or more of the following dietary ingredients: 5638

(i) A vitamin; 5639

(ii) A mineral; 5640

(iii) An herb or other botanical; 5641

(iv) An amino acid; 5642

(v) A dietary substance for use by humans to supplement the 5643  
diet by increasing the total dietary intake; 5644

(vi) A concentrate, metabolite, constituent, extract, or 5645  
combination of any ingredient described in divisions 5646  
(EEE)(2)(b)(i) to (v) of this section. 5647

(c) "Soft drinks" means nonalcoholic beverages that contain 5648  
natural or artificial sweeteners. "Soft drinks" does not include 5649  
beverages that contain milk or milk products, soy, rice, or 5650

similar milk substitutes, or that contains greater than fifty per 5651  
cent vegetable or fruit juice by volume. 5652

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 5653  
tobacco, or any other item that contains tobacco. 5654

(FFF) "Drug" means a compound, substance, or preparation, and 5655  
any component of a compound, substance, or preparation, other than 5656  
food, dietary supplements, or alcoholic beverages that is 5657  
recognized in the official United States pharmacopoeia, official 5658  
homeopathic pharmacopoeia of the United States, or official 5659  
national formulary, and supplements to them; is intended for use 5660  
in the diagnosis, cure, mitigation, treatment, or prevention of 5661  
disease; or is intended to affect the structure or any function of 5662  
the body. 5663

(GGG) "Prescription" means an order, formula, or recipe 5664  
issued in any form of oral, written, electronic, or other means of 5665  
transmission by a duly licensed practitioner authorized by the 5666  
laws of this state to issue a prescription. 5667

(HHH) "Durable medical equipment" means equipment, including 5668  
repair and replacement parts for such equipment, that can 5669  
withstand repeated use, is primarily and customarily used to serve 5670  
a medical purpose, generally is not useful to a person in the 5671  
absence of illness or injury, and is not worn in or on the body. 5672  
"Durable medical equipment" does not include mobility enhancing 5673  
equipment. 5674

(III) "Mobility enhancing equipment" means equipment, 5675  
including repair and replacement parts for such equipment, that is 5676  
primarily and customarily used to provide or increase the ability 5677  
to move from one place to another and is appropriate for use 5678  
either in a home or a motor vehicle, that is not generally used by 5679  
persons with normal mobility, and that does not include any motor 5680  
vehicle or equipment on a motor vehicle normally provided by a 5681

motor vehicle manufacturer. "Mobility enhancing equipment" does 5682  
not include durable medical equipment. 5683

(JJJ) "Prosthetic device" means a replacement, corrective, or 5684  
supportive device, including repair and replacement parts for the 5685  
device, worn on or in the human body to artificially replace a 5686  
missing portion of the body, prevent or correct physical deformity 5687  
or malfunction, or support a weak or deformed portion of the body. 5688  
As used in this division, "prosthetic device" does not include 5689  
corrective eyeglasses, contact lenses, or dental prosthesis. 5690

(KKK)(1) "Fractional aircraft ownership program" means a 5691  
program in which persons within an affiliated group sell and 5692  
manage fractional ownership program aircraft, provided that at 5693  
least one hundred airworthy aircraft are operated in the program 5694  
and the program meets all of the following criteria: 5695

(a) Management services are provided by at least one program 5696  
manager within an affiliated group on behalf of the fractional 5697  
owners. 5698

(b) Each program aircraft is owned or possessed by at least 5699  
one fractional owner. 5700

(c) Each fractional owner owns or possesses at least a 5701  
one-sixteenth interest in at least one fixed-wing program 5702  
aircraft. 5703

(d) A dry-lease aircraft interchange arrangement is in effect 5704  
among all of the fractional owners. 5705

(e) Multi-year program agreements are in effect regarding the 5706  
fractional ownership, management services, and dry-lease aircraft 5707  
interchange arrangement aspects of the program. 5708

(2) As used in division (KKK)(1) of this section: 5709

(a) "Affiliated group" has the same meaning as in division 5710  
(B)(3)(e) of this section. 5711

(b) "Fractional owner" means a person that owns or possesses 5712  
at least a one-sixteenth interest in a program aircraft and has 5713  
entered into the agreements described in division (KKK)(1)(e) of 5714  
this section. 5715

(c) "Fractional ownership program aircraft" or "program 5716  
aircraft" means a turbojet aircraft that is owned or possessed by 5717  
a fractional owner and that has been included in a dry-lease 5718  
aircraft interchange arrangement and agreement under divisions 5719  
(KKK)(1)(d) and (e) of this section, or an aircraft a program 5720  
manager owns or possesses primarily for use in a fractional 5721  
aircraft ownership program. 5722

(d) "Management services" means administrative and aviation 5723  
support services furnished under a fractional aircraft ownership 5724  
program in accordance with a management services agreement under 5725  
division (KKK)(1)(e) of this section, and offered by the program 5726  
manager to the fractional owners, including, at a minimum, the 5727  
establishment and implementation of safety guidelines; the 5728  
coordination of the scheduling of the program aircraft and crews; 5729  
program aircraft maintenance; program aircraft insurance; crew 5730  
training for crews employed, furnished, or contracted by the 5731  
program manager or the fractional owner; the satisfaction of 5732  
record-keeping requirements; and the development and use of an 5733  
operations manual and a maintenance manual for the fractional 5734  
aircraft ownership program. 5735

(e) "Program manager" means the person that offers management 5736  
services to fractional owners pursuant to a management services 5737  
agreement under division (KKK)(1)(e) of this section. 5738

(LLL) "Electronic publishing" means providing access to one 5739  
or more of the following primarily for business customers, 5740  
including the federal government or a state government or a 5741  
political subdivision thereof, to conduct research: news; 5742  
business, financial, legal, consumer, or credit materials; 5743

editorials, columns, reader commentary, or features; photos or 5744  
images; archival or research material; legal notices, identity 5745  
verification, or public records; scientific, educational, 5746  
instructional, technical, professional, trade, or other literary 5747  
materials; or other similar information which has been gathered 5748  
and made available by the provider to the consumer in an 5749  
electronic format. Providing electronic publishing includes the 5750  
functions necessary for the acquisition, formatting, editing, 5751  
storage, and dissemination of data or information that is the 5752  
subject of a sale. 5753

(MMM) "Medicaid health insuring corporation" means a health 5754  
insuring corporation that holds a certificate of authority under 5755  
Chapter 1751. of the Revised Code and is under contract with the 5756  
department of job and family services pursuant to section 5111.17 5757  
of the Revised Code. 5758

(NNN) "Managed care premium" means any premium, capitation, 5759  
or other payment a medicaid health insuring corporation receives 5760  
for providing or arranging for the provision of health care 5761  
services to its members or enrollees residing in this state. 5762

(OOO) "Captive deer" means deer and other cervidae that have 5763  
been legally acquired, or their offspring, that are privately 5764  
owned for agricultural or farming purposes. 5765

(PPP) "Gift card" means a document, card, certificate, or 5766  
other record, whether tangible or intangible, that may be redeemed 5767  
by a consumer for a dollar value when making a purchase of 5768  
tangible personal property or services. 5769

**Sec. 5739.02.** For the purpose of providing revenue with which 5770  
to meet the needs of the state, for the use of the general revenue 5771  
fund of the state, for the purpose of securing a thorough and 5772  
efficient system of common schools throughout the state, for the 5773  
purpose of affording revenues, in addition to those from general 5774

property taxes, permitted under constitutional limitations, and 5775  
from other sources, for the support of local governmental 5776  
functions, and for the purpose of reimbursing the state for the 5777  
expense of administering this chapter, an excise tax is hereby 5778  
levied on each retail sale made in this state. 5779

(A)(1) The tax shall be collected as provided in section 5780  
5739.025 of the Revised Code. The rate of the tax shall be five 5781  
and one-half per cent. The tax applies and is collectible when the 5782  
sale is made, regardless of the time when the price is paid or 5783  
delivered. 5784

(2) In the case of the lease or rental, with a fixed term of 5785  
more than thirty days or an indefinite term with a minimum period 5786  
of more than thirty days, of any motor vehicles designed by the 5787  
manufacturer to carry a load of not more than one ton, watercraft, 5788  
outboard motor, or aircraft, or of any tangible personal property, 5789  
other than motor vehicles designed by the manufacturer to carry a 5790  
load of more than one ton, to be used by the lessee or renter 5791  
primarily for business purposes, the tax shall be collected by the 5792  
vendor at the time the lease or rental is consummated and shall be 5793  
calculated by the vendor on the basis of the total amount to be 5794  
paid by the lessee or renter under the lease agreement. If the 5795  
total amount of the consideration for the lease or rental includes 5796  
amounts that are not calculated at the time the lease or rental is 5797  
executed, the tax shall be calculated and collected by the vendor 5798  
at the time such amounts are billed to the lessee or renter. In 5799  
the case of an open-end lease or rental, the tax shall be 5800  
calculated by the vendor on the basis of the total amount to be 5801  
paid during the initial fixed term of the lease or rental, and for 5802  
each subsequent renewal period as it comes due. As used in this 5803  
division, "motor vehicle" has the same meaning as in section 5804  
4501.01 of the Revised Code, and "watercraft" includes an outdrive 5805  
unit attached to the watercraft. 5806

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

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

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

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

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

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

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without 5838  
charge by an employer to an employee provided the employer records 5839  
the meals as part compensation for services performed or work 5840  
done; 5841

(6) Sales of motor fuel upon receipt, use, distribution, or 5842  
sale of which in this state a tax is imposed by the law of this 5843  
state, but this exemption shall not apply to the sale of motor 5844  
fuel on which a refund of the tax is allowable under division (A) 5845  
of section 5735.14 of the Revised Code; and the tax commissioner 5846  
may deduct the amount of tax levied by this section applicable to 5847  
the price of motor fuel when granting a refund of motor fuel tax 5848  
pursuant to division (A) of section 5735.14 of the Revised Code 5849  
and shall cause the amount deducted to be paid into the general 5850  
revenue fund of this state; 5851

(7) Sales of natural gas by a natural gas company, of water 5852  
by a water-works company, or of steam by a heating company, if in 5853  
each case the thing sold is delivered to consumers through pipes 5854  
or conduits, and all sales of communications services by a 5855  
telegraph company, all terms as defined in section 5727.01 of the 5856  
Revised Code, and sales of electricity delivered through wires; 5857

(8) Casual sales by a person, or auctioneer employed directly 5858  
by the person to conduct such sales, except as to such sales of 5859  
motor vehicles, watercraft or outboard motors required to be 5860  
titled under section 1548.06 of the Revised Code, watercraft 5861  
documented with the United States coast guard, snowmobiles, and 5862  
all-purpose vehicles as defined in section 4519.01 of the Revised 5863  
Code; 5864

(9)(a) Sales of services or tangible personal property, other 5865  
than motor vehicles, mobile homes, and manufactured homes, by 5866  
churches, organizations exempt from taxation under section 5867  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 5868  
organizations operated exclusively for charitable purposes as 5869

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.

(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.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable

purposes in this state, no part of the net income of which inures 5901  
to the benefit of any private shareholder or individual, and no 5902  
substantial part of the activities of which consists of carrying 5903  
on propaganda or otherwise attempting to influence legislation; 5904  
sales to offices administering one or more homes for the aged or 5905  
one or more hospital facilities exempt under section 140.08 of the 5906  
Revised Code; and sales to organizations described in division (D) 5907  
of section 5709.12 of the Revised Code. 5908

"Charitable purposes" means the relief of poverty; the 5909  
improvement of health through the alleviation of illness, disease, 5910  
or injury; the operation of an organization exclusively for the 5911  
provision of professional, laundry, printing, and purchasing 5912  
services to hospitals or charitable institutions; the operation of 5913  
a home for the aged, as defined in section 5701.13 of the Revised 5914  
Code; the operation of a radio or television broadcasting station 5915  
that is licensed by the federal communications commission as a 5916  
noncommercial educational radio or television station; the 5917  
operation of a nonprofit animal adoption service or a county 5918  
humane society; the promotion of education by an institution of 5919  
learning that maintains a faculty of qualified instructors, 5920  
teaches regular continuous courses of study, and confers a 5921  
recognized diploma upon completion of a specific curriculum; the 5922  
operation of a parent-teacher association, booster group, or 5923  
similar organization primarily engaged in the promotion and 5924  
support of the curricular or extracurricular activities of a 5925  
primary or secondary school; the operation of a community or area 5926  
center in which presentations in music, dramatics, the arts, and 5927  
related fields are made in order to foster public interest and 5928  
education therein; the production of performances in music, 5929  
dramatics, and the arts; or the promotion of education by an 5930  
organization engaged in carrying on research in, or the 5931  
dissemination of, scientific and technological knowledge and 5932  
information primarily for the public. 5933

Nothing in this division shall be deemed to exempt sales to 5934  
any organization for use in the operation or carrying on of a 5935  
trade or business, or sales to a home for the aged for use in the 5936  
operation of independent living facilities as defined in division 5937  
(A) of section 5709.12 of the Revised Code. 5938

(13) Building and construction materials and services sold to 5939  
construction contractors for incorporation into a structure or 5940  
improvement to real property under a construction contract with 5941  
this state or a political subdivision of this state, or with the 5942  
United States government or any of its agencies; building and 5943  
construction materials and services sold to construction 5944  
contractors for incorporation into a structure or improvement to 5945  
real property that are accepted for ownership by this state or any 5946  
of its political subdivisions, or by the United States government 5947  
or any of its agencies at the time of completion of the structures 5948  
or improvements; building and construction materials sold to 5949  
construction contractors for incorporation into a horticulture 5950  
structure or livestock structure for a person engaged in the 5951  
business of horticulture or producing livestock; building 5952  
materials and services sold to a construction contractor for 5953  
incorporation into a house of public worship or religious 5954  
education, or a building used exclusively for charitable purposes 5955  
under a construction contract with an organization whose purpose 5956  
is as described in division (B)(12) of this section; building 5957  
materials and services sold to a construction contractor for 5958  
incorporation into a building under a construction contract with 5959  
an organization exempt from taxation under section 501(c)(3) of 5960  
the Internal Revenue Code of 1986 when the building is to be used 5961  
exclusively for the organization's exempt purposes; building and 5962  
construction materials sold for incorporation into the original 5963  
construction of a sports facility under section 307.696 of the 5964  
Revised Code; building and construction materials and services 5965  
sold to a construction contractor for incorporation into real 5966

property outside this state if such materials and services, when 5967  
sold to a construction contractor in the state in which the real 5968  
property is located for incorporation into real property in that 5969  
state, would be exempt from a tax on sales levied by that state; 5970  
and, until one calendar year after the construction of a 5971  
convention center that qualifies for property tax exemption under 5972  
section 5709.084 of the Revised Code is completed, building and 5973  
construction materials and services sold to a construction 5974  
contractor for incorporation into the real property comprising 5975  
that convention center; 5976

(14) Sales of ships or vessels or rail rolling stock used or 5977  
to be used principally in interstate or foreign commerce, and 5978  
repairs, alterations, fuel, and lubricants for such ships or 5979  
vessels or rail rolling stock; 5980

(15) Sales to persons primarily engaged in any of the 5981  
activities mentioned in division (B)(42)(a), (g), or (h) of this 5982  
section, to persons engaged in making retail sales, or to persons 5983  
who purchase for sale from a manufacturer tangible personal 5984  
property that was produced by the manufacturer in accordance with 5985  
specific designs provided by the purchaser, of packages, including 5986  
material, labels, and parts for packages, and of machinery, 5987  
equipment, and material for use primarily in packaging tangible 5988  
personal property produced for sale, including any machinery, 5989  
equipment, and supplies used to make labels or packages, to 5990  
prepare packages or products for labeling, or to label packages or 5991  
products, by or on the order of the person doing the packaging, or 5992  
sold at retail. "Packages" includes bags, baskets, cartons, 5993  
crates, boxes, cans, bottles, bindings, wrappings, and other 5994  
similar devices and containers, but does not include motor 5995  
vehicles or bulk tanks, trailers, or similar devices attached to 5996  
motor vehicles. "Packaging" means placing in a package. Division 5997  
(B)(15) of this section does not apply to persons engaged in 5998

highway transportation for hire. 5999

(16) Sales of food to persons using supplemental nutrition 6000  
assistance program benefits to purchase the food. As used in this 6001  
division, "food" has the same meaning as in 7 U.S.C. 2012 and 6002  
federal regulations adopted pursuant to the Food and Nutrition Act 6003  
of 2008. 6004

(17) Sales to persons engaged in farming, agriculture, 6005  
horticulture, or floriculture, of tangible personal property for 6006  
use or consumption primarily in the production by farming, 6007  
agriculture, horticulture, or floriculture of other tangible 6008  
personal property for use or consumption primarily in the 6009  
production of tangible personal property for sale by farming, 6010  
agriculture, horticulture, or floriculture; or material and parts 6011  
for incorporation into any such tangible personal property for use 6012  
or consumption in production; and of tangible personal property 6013  
for such use or consumption in the conditioning or holding of 6014  
products produced by and for such use, consumption, or sale by 6015  
persons engaged in farming, agriculture, horticulture, or 6016  
floriculture, except where such property is incorporated into real 6017  
property; 6018

(18) Sales of drugs for a human being that may be dispensed 6019  
only pursuant to a prescription; insulin as recognized in the 6020  
official United States pharmacopoeia; urine and blood testing 6021  
materials when used by diabetics or persons with hypoglycemia to 6022  
test for glucose or acetone; hypodermic syringes and needles when 6023  
used by diabetics for insulin injections; epoetin alfa when 6024  
purchased for use in the treatment of persons with medical 6025  
disease; hospital beds when purchased by hospitals, nursing homes, 6026  
or other medical facilities; and medical oxygen and medical 6027  
oxygen-dispensing equipment when purchased by hospitals, nursing 6028  
homes, or other medical facilities; 6029

(19) Sales of prosthetic devices, durable medical equipment 6030

for home use, or mobility enhancing equipment, when made pursuant 6031  
to a prescription and when such devices or equipment are for use 6032  
by a human being. 6033

(20) Sales of emergency and fire protection vehicles and 6034  
equipment to nonprofit organizations for use solely in providing 6035  
fire protection and emergency services, including trauma care and 6036  
emergency medical services, for political subdivisions of the 6037  
state; 6038

(21) Sales of tangible personal property manufactured in this 6039  
state, if sold by the manufacturer in this state to a retailer for 6040  
use in the retail business of the retailer outside of this state 6041  
and if possession is taken from the manufacturer by the purchaser 6042  
within this state for the sole purpose of immediately removing the 6043  
same from this state in a vehicle owned by the purchaser; 6044

(22) Sales of services provided by the state or any of its 6045  
political subdivisions, agencies, instrumentalities, institutions, 6046  
or authorities, or by governmental entities of the state or any of 6047  
its political subdivisions, agencies, instrumentalities, 6048  
institutions, or authorities; 6049

(23) Sales of motor vehicles to nonresidents of this state 6050  
under the circumstances described in division (B) of section 6051  
5739.029 of the Revised Code; 6052

(24) Sales to persons engaged in the preparation of eggs for 6053  
sale of tangible personal property used or consumed directly in 6054  
such preparation, including such tangible personal property used 6055  
for cleaning, sanitizing, preserving, grading, sorting, and 6056  
classifying by size; packages, including material and parts for 6057  
packages, and machinery, equipment, and material for use in 6058  
packaging eggs for sale; and handling and transportation equipment 6059  
and parts therefor, except motor vehicles licensed to operate on 6060  
public highways, used in intraplant or interplant transfers or 6061

shipment of eggs in the process of preparation for sale, when the 6062  
plant or plants within or between which such transfers or 6063  
shipments occur are operated by the same person. "Packages" 6064  
includes containers, cases, baskets, flats, fillers, filler flats, 6065  
cartons, closure materials, labels, and labeling materials, and 6066  
"packaging" means placing therein. 6067

(25)(a) Sales of water to a consumer for residential use, 6068  
~~except the sale of bottled water, distilled water, mineral water,~~ 6069  
~~carbonated water, or ice;~~ 6070

(b) Sales of water by a nonprofit corporation engaged 6071  
exclusively in the treatment, distribution, and sale of water to 6072  
consumers, if such water is delivered to consumers through pipes 6073  
or tubing. 6074

(26) Fees charged for inspection or reinspection of motor 6075  
vehicles under section 3704.14 of the Revised Code; 6076

(27) Sales to persons licensed to conduct a food service 6077  
operation pursuant to section 3717.43 of the Revised Code, of 6078  
tangible personal property primarily used directly for the 6079  
following: 6080

(a) To prepare food for human consumption for sale; 6081

(b) To preserve food that has been or will be prepared for 6082  
human consumption for sale by the food service operator, not 6083  
including tangible personal property used to display food for 6084  
selection by the consumer; 6085

(c) To clean tangible personal property used to prepare or 6086  
serve food for human consumption for sale. 6087

(28) Sales of animals by nonprofit animal adoption services 6088  
or county humane societies; 6089

(29) Sales of services to a corporation described in division 6090  
(A) of section 5709.72 of the Revised Code, and sales of tangible 6091

personal property that qualifies for exemption from taxation under 6092  
section 5709.72 of the Revised Code; 6093

(30) Sales and installation of agricultural land tile, as 6094  
defined in division (B)(5)(a) of section 5739.01 of the Revised 6095  
Code; 6096

(31) Sales and erection or installation of portable grain 6097  
bins, as defined in division (B)(5)(b) of section 5739.01 of the 6098  
Revised Code; 6099

(32) The sale, lease, repair, and maintenance of, parts for, 6100  
or items attached to or incorporated in, motor vehicles that are 6101  
primarily used for transporting tangible personal property 6102  
belonging to others by a person engaged in highway transportation 6103  
for hire, except for packages and packaging used for the 6104  
transportation of tangible personal property; 6105

(33) Sales to the state headquarters of any veterans' 6106  
organization in this state that is either incorporated and issued 6107  
a charter by the congress of the United States or is recognized by 6108  
the United States veterans administration, for use by the 6109  
headquarters; 6110

(34) Sales to a telecommunications service vendor, mobile 6111  
telecommunications service vendor, or satellite broadcasting 6112  
service vendor of tangible personal property and services used 6113  
directly and primarily in transmitting, receiving, switching, or 6114  
recording any interactive, one- or two-way electromagnetic 6115  
communications, including voice, image, data, and information, 6116  
through the use of any medium, including, but not limited to, 6117  
poles, wires, cables, switching equipment, computers, and record 6118  
storage devices and media, and component parts for the tangible 6119  
personal property. The exemption provided in this division shall 6120  
be in lieu of all other exemptions under division (B)(42)(a) or 6121  
(n) of this section to which the vendor may otherwise be entitled, 6122

based upon the use of the thing purchased in providing the 6123  
telecommunications, mobile telecommunications, or satellite 6124  
broadcasting service. 6125

(35)(a) Sales where the purpose of the consumer is to use or 6126  
consume the things transferred in making retail sales and 6127  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 6128  
certificates, or other advertising material that prices and 6129  
describes tangible personal property offered for retail sale. 6130

(b) Sales to direct marketing vendors of preliminary 6131  
materials such as photographs, artwork, and typesetting that will 6132  
be used in printing advertising material; of printed matter that 6133  
offers free merchandise or chances to win sweepstake prizes and 6134  
that is mailed to potential customers with advertising material 6135  
described in division (B)(35)(a) of this section; and of equipment 6136  
such as telephones, computers, facsimile machines, and similar 6137  
tangible personal property primarily used to accept orders for 6138  
direct marketing retail sales. 6139

(c) Sales of automatic food vending machines that preserve 6140  
food with a shelf life of forty-five days or less by refrigeration 6141  
and dispense it to the consumer. 6142

For purposes of division (B)(35) of this section, "direct 6143  
marketing" means the method of selling where consumers order 6144  
tangible personal property by United States mail, delivery 6145  
service, or telecommunication and the vendor delivers or ships the 6146  
tangible personal property sold to the consumer from a warehouse, 6147  
catalogue distribution center, or similar fulfillment facility by 6148  
means of the United States mail, delivery service, or common 6149  
carrier. 6150

(36) Sales to a person engaged in the business of 6151  
horticulture or producing livestock of materials to be 6152  
incorporated into a horticulture structure or livestock structure; 6153

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

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

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

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

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

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or

distribution system, including only those motor vehicles as are 6185  
specially designed and equipped for such use. The exemption 6186  
provided in this division shall be in lieu of all other exemptions 6187  
in division (B)(42)(a) or (n) of this section to which a provider 6188  
of electricity may otherwise be entitled based on the use of the 6189  
tangible personal property or service purchased in generating, 6190  
transmitting, or distributing electricity. 6191

(41) Sales to a person providing services under division 6192  
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 6193  
personal property and services used directly and primarily in 6194  
providing taxable services under that section. 6195

(42) Sales where the purpose of the purchaser is to do any of 6196  
the following: 6197

(a) To incorporate the thing transferred as a material or a 6198  
part into tangible personal property to be produced for sale by 6199  
manufacturing, assembling, processing, or refining; or to use or 6200  
consume the thing transferred directly in producing tangible 6201  
personal property for sale by mining, including, without 6202  
limitation, the extraction from the earth of all substances that 6203  
are classed geologically as minerals, production of crude oil and 6204  
natural gas, or directly in the rendition of a public utility 6205  
service, except that the sales tax levied by this section shall be 6206  
collected upon all meals, drinks, and food for human consumption 6207  
sold when transporting persons. Persons engaged in rendering 6208  
services in the exploration for, and production of, crude oil and 6209  
natural gas for others are deemed engaged directly in the 6210  
exploration for, and production of, crude oil and natural gas. 6211  
This paragraph does not exempt from "retail sale" or "sales at 6212  
retail" the sale of tangible personal property that is to be 6213  
incorporated into a structure or improvement to real property. 6214

(b) To hold the thing transferred as security for the 6215  
performance of an obligation of the vendor; 6216

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	6217 6218
(d) To use or consume the thing directly in commercial fishing;	6219 6220
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	6221 6222 6223 6224
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	6225 6226 6227 6228 6229
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	6230 6231 6232
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	6233 6234 6235 6236 6237 6238
(i) To use the thing transferred as qualified research and development equipment;	6239 6240
(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	6241 6242 6243 6244 6245 6246 6247

by means of direct marketing. This division does not apply to 6248  
motor vehicles registered for operation on the public highways. As 6249  
used in this division, "affiliated group" has the same meaning as 6250  
in division (B)(3)(e) of section 5739.01 of the Revised Code and 6251  
"direct marketing" has the same meaning as in division (B)(35) of 6252  
this section. 6253

(k) To use or consume the thing transferred to fulfill a 6254  
contractual obligation incurred by a warrantor pursuant to a 6255  
warranty provided as a part of the price of the tangible personal 6256  
property sold or by a vendor of a warranty, maintenance or service 6257  
contract, or similar agreement the provision of which is defined 6258  
as a sale under division (B)(7) of section 5739.01 of the Revised 6259  
Code; 6260

(l) To use or consume the thing transferred in the production 6261  
of a newspaper for distribution to the public; 6262

(m) To use tangible personal property to perform a service 6263  
listed in division (B)(3) of section 5739.01 of the Revised Code, 6264  
if the property is or is to be permanently transferred to the 6265  
consumer of the service as an integral part of the performance of 6266  
the service; 6267

(n) To use or consume the thing transferred primarily in 6268  
producing tangible personal property for sale by farming, 6269  
agriculture, horticulture, or floriculture. Persons engaged in 6270  
rendering farming, agriculture, horticulture, or floriculture 6271  
services for others are deemed engaged primarily in farming, 6272  
agriculture, horticulture, or floriculture. This paragraph does 6273  
not exempt from "retail sale" or "sales at retail" the sale of 6274  
tangible personal property that is to be incorporated into a 6275  
structure or improvement to real property. 6276

(o) To use or consume the thing transferred in acquiring, 6277  
formatting, editing, storing, and disseminating data or 6278

information by electronic publishing. 6279

As used in division (B)(42) of this section, "thing" includes 6280  
all transactions included in divisions (B)(3)(a), (b), and (e) of 6281  
section 5739.01 of the Revised Code. 6282

(43) Sales conducted through a coin operated device that 6283  
activates vacuum equipment or equipment that dispenses water, 6284  
whether or not in combination with soap or other cleaning agents 6285  
or wax, to the consumer for the consumer's use on the premises in 6286  
washing, cleaning, or waxing a motor vehicle, provided no other 6287  
personal property or personal service is provided as part of the 6288  
transaction. 6289

(44) Sales of replacement and modification parts for engines, 6290  
airframes, instruments, and interiors in, and paint for, aircraft 6291  
used primarily in a fractional aircraft ownership program, and 6292  
sales of services for the repair, modification, and maintenance of 6293  
such aircraft, and machinery, equipment, and supplies primarily 6294  
used to provide those services. 6295

(45) Sales of telecommunications service that is used 6296  
directly and primarily to perform the functions of a call center. 6297  
As used in this division, "call center" means any physical 6298  
location where telephone calls are placed or received in high 6299  
volume for the purpose of making sales, marketing, customer 6300  
service, technical support, or other specialized business 6301  
activity, and that employs at least fifty individuals that engage 6302  
in call center activities on a full-time basis, or sufficient 6303  
individuals to fill fifty full-time equivalent positions. 6304

(46) Sales by a telecommunications service vendor of 900 6305  
service to a subscriber. This division does not apply to 6306  
information services, as defined in division (FF) of section 6307  
5739.01 of the Revised Code. 6308

(47) Sales of value-added non-voice data service. This 6309

division does not apply to any similar service that is not 6310  
otherwise a telecommunications service. 6311

(48)(a) Sales of machinery, equipment, and software to a 6312  
qualified direct selling entity for use in a warehouse or 6313  
distribution center primarily for storing, transporting, or 6314  
otherwise handling inventory that is held for sale to independent 6315  
salespersons who operate as direct sellers and that is held 6316  
primarily for distribution outside this state; 6317

(b) As used in division (B)(48)(a) of this section: 6318

(i) "Direct seller" means a person selling consumer products 6319  
to individuals for personal or household use and not from a fixed 6320  
retail location, including selling such product at in-home product 6321  
demonstrations, parties, and other one-on-one selling. 6322

(ii) "Qualified direct selling entity" means an entity 6323  
selling to direct sellers at the time the entity enters into a tax 6324  
credit agreement with the tax credit authority pursuant to section 6325  
122.17 of the Revised Code, provided that the agreement was 6326  
entered into on or after January 1, 2007. Neither contingencies 6327  
relevant to the granting of, nor later developments with respect 6328  
to, the tax credit shall impair the status of the qualified direct 6329  
selling entity under division (B)(48) of this section after 6330  
execution of the tax credit agreement by the tax credit authority. 6331

(c) Division (B)(48) of this section is limited to machinery, 6332  
equipment, and software first stored, used, or consumed in this 6333  
state within the period commencing June 24, 2008, and ending on 6334  
the date that is five years after that date. 6335

(49) Sales of materials, parts, equipment, or engines used in 6336  
the repair or maintenance of aircraft or avionics systems of such 6337  
aircraft, and sales of repair, remodeling, replacement, or 6338  
maintenance services in this state performed on aircraft or on an 6339  
aircraft's avionics, engine, or component materials or parts. As 6340

used in division (B)(49) of this section, "aircraft" means 6341  
aircraft of more than six thousand pounds maximum certified 6342  
takeoff weight or used exclusively in general aviation. 6343

(50) Sales of full flight simulators that are used for pilot 6344  
or flight-crew training, sales of repair or replacement parts or 6345  
components, and sales of repair or maintenance services for such 6346  
full flight simulators. "Full flight simulator" means a replica of 6347  
a specific type, or make, model, and series of aircraft cockpit. 6348  
It includes the assemblage of equipment and computer programs 6349  
necessary to represent aircraft operations in ground and flight 6350  
conditions, a visual system providing an out-of-the-cockpit view, 6351  
and a system that provides cues at least equivalent to those of a 6352  
three-degree-of-freedom motion system, and has the full range of 6353  
capabilities of the systems installed in the device as described 6354  
in appendices A and B of part 60 of chapter 1 of title 14 of the 6355  
Code of Federal Regulations. 6356

(51) Any transfer or lease of tangible personal property 6357  
between the state and a successful proposer in accordance with 6358  
sections 126.60 to 126.605 of the Revised Code, provided the 6359  
property is part of a project as defined in section 126.60 of the 6360  
Revised Code and the state retains ownership of the project or 6361  
part thereof that is being transferred or leased, between the 6362  
state and JobsOhio in accordance with section 4313.02 of the 6363  
Revised Code. 6364

(C) For the purpose of the proper administration of this 6365  
chapter, and to prevent the evasion of the tax, it is presumed 6366  
that all sales made in this state are subject to the tax until the 6367  
contrary is established. 6368

(D) The levy of this tax on retail sales of recreation and 6369  
sports club service shall not prevent a municipal corporation from 6370  
levying any tax on recreation and sports club dues or on any 6371  
income generated by recreation and sports club dues. 6372

(E) The tax collected by the vendor from the consumer under 6373  
this chapter is not part of the price, but is a tax collection for 6374  
the benefit of the state, and of counties levying an additional 6375  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 6376  
Code and of transit authorities levying an additional sales tax 6377  
pursuant to section 5739.023 of the Revised Code. Except for the 6378  
discount authorized under section 5739.12 of the Revised Code and 6379  
the effects of any rounding pursuant to section 5703.055 of the 6380  
Revised Code, no person other than the state or such a county or 6381  
transit authority shall derive any benefit from the collection or 6382  
payment of the tax levied by this section or section 5739.021, 6383  
5739.023, or 5739.026 of the Revised Code. 6384

**Sec. 5739.021.** (A) For the purpose of providing additional 6385  
general revenues for the county or supporting criminal and 6386  
administrative justice services in the county, or both, and to pay 6387  
the expenses of administering such levy, any county may levy a tax 6388  
at the rate of not more than one per cent at any multiple of 6389  
one-fourth of one per cent upon every retail sale made in the 6390  
county, except sales of watercraft and outboard motors required to 6391  
be titled pursuant to Chapter 1548. of the Revised Code and sales 6392  
of motor vehicles, and may increase the rate of an existing tax to 6393  
not more than one per cent at any multiple of one-fourth of one 6394  
per cent. 6395

The tax shall be levied and the rate increased pursuant to a 6396  
resolution of the board of county commissioners. The resolution 6397  
shall state the purpose for which the tax is to be levied and the 6398  
number of years for which the tax is to be levied, or that it is 6399  
for a continuing period of time. If the tax is to be levied for 6400  
the purpose of providing additional general revenues and for the 6401  
purpose of supporting criminal and administrative justice 6402  
services, the resolution shall state the rate or amount of the tax 6403  
to be apportioned to each such purpose. The rate or amount may be 6404

different for each year the tax is to be levied, but the rates or 6405  
amounts actually apportioned each year shall not be different from 6406  
that stated in the resolution for that year. If the resolution is 6407  
adopted as an emergency measure necessary for the immediate 6408  
preservation of the public peace, health, or safety, it must 6409  
receive an affirmative vote of all of the members of the board of 6410  
county commissioners and shall state the reasons for such 6411  
necessity. The board shall deliver a certified copy of the 6412  
resolution to the tax commissioner, not later than the sixty-fifth 6413  
day prior to the date on which the tax is to become effective, 6414  
which shall be the first day of the calendar quarter. 6415

Prior to the adoption of any resolution under this section, 6416  
the board of county commissioners shall conduct two public 6417  
hearings on the resolution, the second hearing to be not less than 6418  
three nor more than ten days after the first. Notice of the date, 6419  
time, and place of the hearings shall be given by publication in a 6420  
newspaper of general circulation in the county, or as provided in 6421  
section 7.16 of the Revised Code, once a week on the same day of 6422  
the week for two consecutive weeks, the second publication being 6423  
not less than ten nor more than thirty days prior to the first 6424  
hearing. 6425

Except as provided in division (B)(3) of this section, the 6426  
resolution shall be subject to a referendum as provided in 6427  
sections 305.31 to 305.41 of the Revised Code. 6428

If a petition for a referendum is filed, the county auditor 6429  
with whom the petition was filed shall, within five days, notify 6430  
the board of county commissioners and the tax commissioner of the 6431  
filing of the petition by certified mail. If the board of 6432  
elections with which the petition was filed declares the petition 6433  
invalid, the board of elections, within five days, shall notify 6434  
the board of county commissioners and the tax commissioner of that 6435  
declaration by certified mail. If the petition is declared to be 6436

invalid, the effective date of the tax or increased rate of tax 6437  
levied by this section shall be the first day of a calendar 6438  
quarter following the expiration of sixty-five days from the date 6439  
the commissioner receives notice from the board of elections that 6440  
the petition is invalid. 6441

(B)(1) A resolution that is not adopted as an emergency 6442  
measure may direct the board of elections to submit the question 6443  
of levying the tax or increasing the rate of tax to the electors 6444  
of the county at a special election held on the date specified by 6445  
the board of county commissioners in the resolution, provided that 6446  
the election occurs not less than ninety days after a certified 6447  
copy of such resolution is transmitted to the board of elections 6448  
and the election is not held in February or August of any year. 6449  
Upon transmission of the resolution to the board of elections, the 6450  
board of county commissioners shall notify the tax commissioner in 6451  
writing of the levy question to be submitted to the electors. No 6452  
resolution adopted under this division shall go into effect unless 6453  
approved by a majority of those voting upon it, and, except as 6454  
provided in division (B)(3) of this section, shall become 6455  
effective on the first day of a calendar quarter following the 6456  
expiration of sixty-five days from the date the tax commissioner 6457  
receives notice from the board of elections of the affirmative 6458  
vote. 6459

(2) A resolution that is adopted as an emergency measure 6460  
shall go into effect as provided in division (A) of this section, 6461  
but may direct the board of elections to submit the question of 6462  
repealing the tax or increase in the rate of the tax to the 6463  
electors of the county at the next general election in the county 6464  
occurring not less than ninety days after a certified copy of the 6465  
resolution is transmitted to the board of elections. Upon 6466  
transmission of the resolution to the board of elections, the 6467  
board of county commissioners shall notify the tax commissioner in 6468

writing of the levy question to be submitted to the electors. The 6469  
ballot question shall be the same as that prescribed in section 6470  
5739.022 of the Revised Code. The board of elections shall notify 6471  
the board of county commissioners and the tax commissioner of the 6472  
result of the election immediately after the result has been 6473  
declared. If a majority of the qualified electors voting on the 6474  
question of repealing the tax or increase in the rate of the tax 6475  
vote for repeal of the tax or repeal of the increase, the board of 6476  
county commissioners, on the first day of a calendar quarter 6477  
following the expiration of sixty-five days after the date the 6478  
board and tax commissioner receive notice of the result of the 6479  
election, shall, in the case of a repeal of the tax, cease to levy 6480  
the tax, or, in the case of a repeal of an increase in the rate of 6481  
the tax, cease to levy the increased rate and levy the tax at the 6482  
rate at which it was imposed immediately prior to the increase in 6483  
rate. 6484

(3) If a vendor ~~that is registered with the central~~ 6485  
~~electronic registration system provided for in section 5740.05 of~~ 6486  
~~the Revised Code~~ makes a sale in this state by printed catalog and 6487  
the consumer computed the tax on the sale based on local rates 6488  
published in the catalog, any tax levied or repealed or rate 6489  
changed under this section shall not apply to such a sale until 6490  
the first day of a calendar quarter following the expiration of 6491  
one hundred twenty days from the date of notice by the tax 6492  
commissioner pursuant to division (H) of this section. 6493

(C) If a resolution is rejected at a referendum or if a 6494  
resolution adopted after January 1, 1982, as an emergency measure 6495  
is repealed by the electors pursuant to division (B)(2) of this 6496  
section or section 5739.022 of the Revised Code, then for one year 6497  
after the date of the election at which the resolution was 6498  
rejected or repealed the board of county commissioners may not 6499  
adopt any resolution authorized by this section as an emergency 6500

measure. 6501

(D) The board of county commissioners, at any time while a 6502  
tax levied under this section is in effect, may by resolution 6503  
reduce the rate at which the tax is levied to a lower rate 6504  
authorized by this section. Any reduction in the rate at which the 6505  
tax is levied shall be made effective on the first day of a 6506  
calendar quarter next following the sixty-fifth day after a 6507  
certified copy of the resolution is delivered to the tax 6508  
commissioner. 6509

(E) The tax on every retail sale subject to a tax levied 6510  
pursuant to this section shall be in addition to the tax levied by 6511  
section 5739.02 of the Revised Code and any tax levied pursuant to 6512  
section 5739.023 or 5739.026 of the Revised Code. 6513

A county that levies a tax pursuant to this section shall 6514  
levy a tax at the same rate pursuant to section 5741.021 of the 6515  
Revised Code. 6516

The additional tax levied by the county shall be collected 6517  
pursuant to section 5739.025 of the Revised Code. If the 6518  
additional tax or some portion thereof is levied for the purpose 6519  
of criminal and administrative justice services, the revenue from 6520  
the tax, or the amount or rate apportioned to that purpose, shall 6521  
be credited to a special fund created in the county treasury for 6522  
receipt of that revenue. 6523

Any tax levied pursuant to this section is subject to the 6524  
exemptions provided in section 5739.02 of the Revised Code and in 6525  
addition shall not be applicable to sales not within the taxing 6526  
power of a county under the Constitution of the United States or 6527  
the Ohio Constitution. 6528

(F) For purposes of this section, a copy of a resolution is 6529  
"certified" when it contains a written statement attesting that 6530  
the copy is a true and exact reproduction of the original 6531

resolution. 6532

(G) If a board of commissioners intends to adopt a resolution 6533  
to levy a tax in whole or in part for the purpose of criminal and 6534  
administrative justice services, the board shall prepare and make 6535  
available at the first public hearing at which the resolution is 6536  
considered a statement containing the following information: 6537

(1) For each of the two preceding fiscal years, the amount of 6538  
expenditures made by the county from the county general fund for 6539  
the purpose of criminal and administrative justice services; 6540

(2) For the fiscal year in which the resolution is adopted, 6541  
the board's estimate of the amount of expenditures to be made by 6542  
the county from the county general fund for the purpose of 6543  
criminal and administrative justice services; 6544

(3) For each of the two fiscal years after the fiscal year in 6545  
which the resolution is adopted, the board's preliminary plan for 6546  
expenditures to be made from the county general fund for the 6547  
purpose of criminal and administrative justice services, both 6548  
under the assumption that the tax will be imposed for that purpose 6549  
and under the assumption that the tax would not be imposed for 6550  
that purpose, and for expenditures to be made from the special 6551  
fund created under division (E) of this section under the 6552  
assumption that the tax will be imposed for that purpose. 6553

The board shall prepare the statement and the preliminary 6554  
plan using the best information available to the board at the time 6555  
the statement is prepared. Neither the statement nor the 6556  
preliminary plan shall be used as a basis to challenge the 6557  
validity of the tax in any court of competent jurisdiction, nor 6558  
shall the statement or preliminary plan limit the authority of the 6559  
board to appropriate, pursuant to section 5705.38 of the Revised 6560  
Code, an amount different from that specified in the preliminary 6561  
plan. 6562

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

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

**Sec. 5739.023.** (A)(1) For the purpose of providing additional 6596  
general revenues for a transit authority and paying the expenses 6597  
of administering such levy, any transit authority as defined in 6598  
division (U) of section 5739.01 of the Revised Code may levy a tax 6599  
upon every retail sale made in the territory of the transit 6600  
authority, except sales of watercraft and outboard motors required 6601  
to be titled pursuant to Chapter 1548. of the Revised Code and 6602  
sales of motor vehicles, at a rate of not more than one and 6603  
one-half per cent at any multiple of one-fourth of one per cent 6604  
and may increase the existing rate of tax to not more than one and 6605  
one-half per cent at any multiple of one-fourth of one per cent. 6606  
The tax shall be levied and the rate increased pursuant to a 6607  
resolution of the legislative authority of the transit authority 6608  
and a certified copy of the resolution shall be delivered by the 6609  
fiscal officer to the board of elections as provided in section 6610  
3505.071 of the Revised Code and to the tax commissioner. The 6611  
resolution shall specify the number of years for which the tax is 6612  
to be in effect or that the tax is for a continuing period of 6613  
time, and the date of the election on the question of the tax 6614  
pursuant to section 306.70 of the Revised Code. The board of 6615  
elections shall certify the results of the election to the transit 6616  
authority and tax commissioner. 6617

(2) Except as provided in division (C) of this section, the 6618  
tax levied by the resolution shall become effective on the first 6619  
day of a calendar quarter next following the sixty-fifth day 6620  
following the date the tax commissioner receives from the board of 6621  
elections the certification of the results of the election on the 6622  
question of the tax. 6623

(B) The legislative authority may, at any time while the tax 6624  
is in effect, by resolution fix the rate of the tax at any rate 6625  
authorized by this section and not in excess of that approved by 6626  
the voters pursuant to section 306.70 of the Revised Code. Except 6627

as provided in division (C) of this section, any change in the 6628  
rate of the tax shall be made effective on the first day of a 6629  
calendar quarter next following the sixty-fifth day following the 6630  
date the tax commissioner receives the certification of the 6631  
resolution; provided, that in any case where bonds, or notes in 6632  
anticipation of bonds, of a regional transit authority have been 6633  
issued under section 306.40 of the Revised Code without a vote of 6634  
the electors while the tax proposed to be reduced was in effect, 6635  
the board of trustees of the regional transit authority shall 6636  
continue to levy and collect under authority of the original 6637  
election authorizing the tax a rate of tax that the board of 6638  
trustees reasonably estimates will produce an amount in that year 6639  
equal to the amount of principal of and interest on those bonds as 6640  
is payable in that year. 6641

(C) Upon receipt from the board of elections of the 6642  
certification of the results of the election required by division 6643  
(A) of this section, or from the legislative authority of the 6644  
certification of a resolution under division (B) of this section, 6645  
the tax commissioner shall provide notice of a tax rate change in 6646  
a manner that is reasonably accessible to all affected vendors. 6647  
The commissioner shall provide this notice at least sixty days 6648  
prior to the effective date of the rate change. The commissioner, 6649  
by rule, may establish the method by which notice will be 6650  
provided. 6651

(D) If a vendor ~~that is registered with the central~~ 6652  
~~electronic registration system provided for in section 5740.05 of~~ 6653  
~~the Revised Code~~ makes a sale in this state by printed catalog and 6654  
the consumer computed the tax on the sale based on local rates 6655  
published in the catalog, any tax levied or rate changed under 6656  
this section shall not apply to such a sale until the first day of 6657  
a calendar quarter following the expiration of one hundred twenty 6658  
days from the date of notice by the tax commissioner pursuant to 6659

division (C) of this section. 6660

(E) The tax on every retail sale subject to a tax levied 6661  
pursuant to this section is in addition to the tax levied by 6662  
section 5739.02 of the Revised Code and any tax levied pursuant to 6663  
section 5739.021 or 5739.026 of the Revised Code. 6664

(F) The additional tax levied by the transit authority shall 6665  
be collected pursuant to section 5739.025 of the Revised Code. 6666

(G) Any tax levied pursuant to this section is subject to the 6667  
exemptions provided in section 5739.02 of the Revised Code and in 6668  
addition shall not be applicable to sales not within the taxing 6669  
power of a transit authority under the constitution of the United 6670  
States or the constitution of this state. 6671

(H) The rate of a tax levied under this section is subject to 6672  
reduction under section 5739.028 of the Revised Code, if a ballot 6673  
question is approved by voters pursuant to that section. 6674

**Sec. 5739.026.** (A) A board of county commissioners may levy a 6675  
tax of one-fourth or one-half of one per cent on every retail sale 6676  
in the county, except sales of watercraft and outboard motors 6677  
required to be titled pursuant to Chapter 1548. of the Revised 6678  
Code and sales of motor vehicles, and may increase an existing 6679  
rate of one-fourth of one per cent to one-half of one per cent, to 6680  
pay the expenses of administering the tax and, except as provided 6681  
in division (A)(6) of this section, for any one or more of the 6682  
following purposes provided that the aggregate levy for all such 6683  
purposes does not exceed one-half of one per cent: 6684

(1) To provide additional revenues for the payment of bonds 6685  
or notes issued in anticipation of bonds issued by a convention 6686  
facilities authority established by the board of county 6687  
commissioners under Chapter 351. of the Revised Code and to 6688  
provide additional operating revenues for the convention 6689

facilities authority; 6690

(2) To provide additional revenues for a transit authority 6691  
operating in the county; 6692

(3) To provide additional revenue for the county's general 6693  
fund; 6694

(4) To provide additional revenue for permanent improvements 6695  
within the county to be distributed by the community improvements 6696  
board in accordance with section 307.283 and to pay principal, 6697  
interest, and premium on bonds issued under section 307.284 of the 6698  
Revised Code; 6699

(5) To provide additional revenue for the acquisition, 6700  
construction, equipping, or repair of any specific permanent 6701  
improvement or any class or group of permanent improvements, which 6702  
improvement or class or group of improvements shall be enumerated 6703  
in the resolution required by division (D) of this section, and to 6704  
pay principal, interest, premium, and other costs associated with 6705  
the issuance of bonds or notes in anticipation of bonds issued 6706  
pursuant to Chapter 133. of the Revised Code for the acquisition, 6707  
construction, equipping, or repair of the specific permanent 6708  
improvement or class or group of permanent improvements; 6709

(6) To provide revenue for the implementation and operation 6710  
of a 9-1-1 system in the county. If the tax is levied or the rate 6711  
increased exclusively for such purpose, the tax shall not be 6712  
levied or the rate increased for more than five years. At the end 6713  
of the last year the tax is levied or the rate increased, any 6714  
balance remaining in the special fund established for such purpose 6715  
shall remain in that fund and be used exclusively for such purpose 6716  
until the fund is completely expended, and, notwithstanding 6717  
section 5705.16 of the Revised Code, the board of county 6718  
commissioners shall not petition for the transfer of money from 6719  
such special fund, and the tax commissioner shall not approve such 6720

a petition. 6721

If the tax is levied or the rate increased for such purpose 6722  
for more than five years, the board of county commissioners also 6723  
shall levy the tax or increase the rate of the tax for one or more 6724  
of the purposes described in divisions (A)(1) to (5) of this 6725  
section and shall prescribe the method for allocating the revenues 6726  
from the tax each year in the manner required by division (C) of 6727  
this section. 6728

(7) To provide additional revenue for the operation or 6729  
maintenance of a detention facility, as that term is defined under 6730  
division (F) of section 2921.01 of the Revised Code; 6731

(8) To provide revenue to finance the construction or 6732  
renovation of a sports facility, but only if the tax is levied for 6733  
that purpose in the manner prescribed by section 5739.028 of the 6734  
Revised Code. 6735

As used in division (A)(8) of this section: 6736

(a) "Sports facility" means a facility intended to house 6737  
major league professional athletic teams. 6738

(b) "Constructing" or "construction" includes providing 6739  
fixtures, furnishings, and equipment. 6740

(9) To provide additional revenue for the acquisition of 6741  
agricultural easements, as defined in section 5301.67 of the 6742  
Revised Code; to pay principal, interest, and premium on bonds 6743  
issued under section 133.60 of the Revised Code; and for the 6744  
supervision and enforcement of agricultural easements held by the 6745  
county; 6746

(10) To provide revenue for the provision of ambulance, 6747  
paramedic, or other emergency medical services. 6748

Pursuant to section 755.171 of the Revised Code, a board of 6749  
county commissioners may pledge and contribute revenue from a tax 6750

levied for the purpose of division (A)(5) of this section to the 6751  
payment of debt charges on bonds issued under section 755.17 of 6752  
the Revised Code. 6753

The rate of tax shall be a multiple of one-fourth of one per 6754  
cent, unless a portion of the rate of an existing tax levied under 6755  
section 5739.023 of the Revised Code has been reduced, and the 6756  
rate of tax levied under this section has been increased, pursuant 6757  
to section 5739.028 of the Revised Code, in which case the 6758  
aggregate of the rates of tax levied under this section and 6759  
section 5739.023 of the Revised Code shall be a multiple of 6760  
one-fourth of one per cent. The tax shall be levied and the rate 6761  
increased pursuant to a resolution adopted by a majority of the 6762  
members of the board. The board shall deliver a certified copy of 6763  
the resolution to the tax commissioner, not later than the 6764  
sixty-fifth day prior to the date on which the tax is to become 6765  
effective, which shall be the first day of a calendar quarter. 6766

Prior to the adoption of any resolution to levy the tax or to 6767  
increase the rate of tax exclusively for the purpose set forth in 6768  
division (A)(3) of this section, the board of county commissioners 6769  
shall conduct two public hearings on the resolution, the second 6770  
hearing to be no fewer than three nor more than ten days after the 6771  
first. Notice of the date, time, and place of the hearings shall 6772  
be given by publication in a newspaper of general circulation in 6773  
the county, or as provided in section 7.16 of the Revised Code, 6774  
once a week on the same day of the week for two consecutive weeks. 6775  
The second publication shall be no fewer than ten nor more than 6776  
thirty days prior to the first hearing. Except as provided in 6777  
division (E) of this section, the resolution shall be subject to a 6778  
referendum as provided in sections 305.31 to 305.41 of the Revised 6779  
Code. If the resolution is adopted as an emergency measure 6780  
necessary for the immediate preservation of the public peace, 6781  
health, or safety, it must receive an affirmative vote of all of 6782

the members of the board of county commissioners and shall state 6783  
the reasons for the necessity. 6784

If the tax is for more than one of the purposes set forth in 6785  
divisions (A)(1) to (7), (9), and (10) of this section, or is 6786  
exclusively for one of the purposes set forth in division (A)(1), 6787  
(2), (4), (5), (6), (7), (9), or (10) of this section, the 6788  
resolution shall not go into effect unless it is approved by a 6789  
majority of the electors voting on the question of the tax. 6790

(B) The board of county commissioners shall adopt a 6791  
resolution under section 351.02 of the Revised Code creating the 6792  
convention facilities authority, or under section 307.283 of the 6793  
Revised Code creating the community improvements board, before 6794  
adopting a resolution levying a tax for the purpose of a 6795  
convention facilities authority under division (A)(1) of this 6796  
section or for the purpose of a community improvements board under 6797  
division (A)(4) of this section. 6798

(C)(1) If the tax is to be used for more than one of the 6799  
purposes set forth in divisions (A)(1) to (7), (9), and (10) of 6800  
this section, the board of county commissioners shall establish 6801  
the method that will be used to determine the amount or proportion 6802  
of the tax revenue received by the county during each year that 6803  
will be distributed for each of those purposes, including, if 6804  
applicable, provisions governing the reallocation of a convention 6805  
facilities authority's allocation if the authority is dissolved 6806  
while the tax is in effect. The allocation method may provide that 6807  
different proportions or amounts of the tax shall be distributed 6808  
among the purposes in different years, but it shall clearly 6809  
describe the method that will be used for each year. Except as 6810  
otherwise provided in division (C)(2) of this section, the 6811  
allocation method established by the board is not subject to 6812  
amendment during the life of the tax. 6813

(2) Subsequent to holding a public hearing on the proposed 6814

amendment, the board of county commissioners may amend the 6815  
allocation method established under division (C)(1) of this 6816  
section for any year, if the amendment is approved by the 6817  
governing board of each entity whose allocation for the year would 6818  
be reduced by the proposed amendment. In the case of a tax that is 6819  
levied for a continuing period of time, the board may not so amend 6820  
the allocation method for any year before the sixth year that the 6821  
tax is in effect. 6822

(a) If the additional revenues provided to the convention 6823  
facilities authority are pledged by the authority for the payment 6824  
of convention facilities authority revenue bonds for as long as 6825  
such bonds are outstanding, no reduction of the authority's 6826  
allocation of the tax shall be made for any year except to the 6827  
extent that the reduced authority allocation, when combined with 6828  
the authority's other revenues pledged for that purpose, is 6829  
sufficient to meet the debt service requirements for that year on 6830  
such bonds. 6831

(b) If the additional revenues provided to the county are 6832  
pledged by the county for the payment of bonds or notes described 6833  
in division (A)(4) or (5) of this section, for as long as such 6834  
bonds or notes are outstanding, no reduction of the county's or 6835  
the community improvements board's allocation of the tax shall be 6836  
made for any year, except to the extent that the reduced county or 6837  
community improvements board allocation is sufficient to meet the 6838  
debt service requirements for that year on such bonds or notes. 6839

(c) If the additional revenues provided to the transit 6840  
authority are pledged by the authority for the payment of revenue 6841  
bonds issued under section 306.37 of the Revised Code, for as long 6842  
as such bonds are outstanding, no reduction of the authority's 6843  
allocation of tax shall be made for any year, except to the extent 6844  
that the authority's reduced allocation, when combined with the 6845  
authority's other revenues pledged for that purpose, is sufficient 6846

to meet the debt service requirements for that year on such bonds. 6847

(d) If the additional revenues provided to the county are 6848  
pledged by the county for the payment of bonds or notes issued 6849  
under section 133.60 of the Revised Code, for so long as the bonds 6850  
or notes are outstanding, no reduction of the county's allocation 6851  
of the tax shall be made for any year, except to the extent that 6852  
the reduced county allocation is sufficient to meet the debt 6853  
service requirements for that year on the bonds or notes. 6854

(D)(1) The resolution levying the tax or increasing the rate 6855  
of tax shall state the rate of the tax or the rate of the 6856  
increase; the purpose or purposes for which it is to be levied; 6857  
the number of years for which it is to be levied or that it is for 6858  
a continuing period of time; the allocation method required by 6859  
division (C) of this section; and if required to be submitted to 6860  
the electors of the county under division (A) of this section, the 6861  
date of the election at which the proposal shall be submitted to 6862  
the electors of the county, which shall be not less than ninety 6863  
days after the certification of a copy of the resolution to the 6864  
board of elections and, if the tax is to be levied exclusively for 6865  
the purpose set forth in division (A)(3) of this section, shall 6866  
not occur in February or August of any year. Upon certification of 6867  
the resolution to the board of elections, the board of county 6868  
commissioners shall notify the tax commissioner in writing of the 6869  
levy question to be submitted to the electors. If approved by a 6870  
majority of the electors, the tax shall become effective on the 6871  
first day of a calendar quarter next following the sixty-fifth day 6872  
following the date the board of county commissioners and tax 6873  
commissioner receive from the board of elections the certification 6874  
of the results of the election, except as provided in division (E) 6875  
of this section. 6876

(2)(a) A resolution specifying that the tax is to be used 6877  
exclusively for the purpose set forth in division (A)(3) of this 6878

section that is not adopted as an emergency measure may direct the 6879  
board of elections to submit the question of levying the tax or 6880  
increasing the rate of the tax to the electors of the county at a 6881  
special election held on the date specified by the board of county 6882  
commissioners in the resolution, provided that the election occurs 6883  
not less than ninety days after the resolution is certified to the 6884  
board of elections and the election is not held in February or 6885  
August of any year. Upon certification of the resolution to the 6886  
board of elections, the board of county commissioners shall notify 6887  
the tax commissioner in writing of the levy question to be 6888  
submitted to the electors. No resolution adopted under division 6889  
(D)(2)(a) of this section shall go into effect unless approved by 6890  
a majority of those voting upon it and, except as provided in 6891  
division (E) of this section, not until the first day of a 6892  
calendar quarter following the expiration of sixty-five days from 6893  
the date the tax commissioner receives notice from the board of 6894  
elections of the affirmative vote. 6895

(b) A resolution specifying that the tax is to be used 6896  
exclusively for the purpose set forth in division (A)(3) of this 6897  
section that is adopted as an emergency measure shall become 6898  
effective as provided in division (A) of this section, but may 6899  
direct the board of elections to submit the question of repealing 6900  
the tax or increase in the rate of the tax to the electors of the 6901  
county at the next general election in the county occurring not 6902  
less than ninety days after the resolution is certified to the 6903  
board of elections. Upon certification of the resolution to the 6904  
board of elections, the board of county commissioners shall notify 6905  
the tax commissioner in writing of the levy question to be 6906  
submitted to the electors. The ballot question shall be the same 6907  
as that prescribed in section 5739.022 of the Revised Code. The 6908  
board of elections shall notify the board of county commissioners 6909  
and the tax commissioner of the result of the election immediately 6910  
after the result has been declared. If a majority of the qualified 6911

electors voting on the question of repealing the tax or increase 6912  
in the rate of the tax vote for repeal of the tax or repeal of the 6913  
increase, the board of county commissioners, on the first day of a 6914  
calendar quarter following the expiration of sixty-five days after 6915  
the date the board and tax commissioner received notice of the 6916  
result of the election, shall, in the case of a repeal of the tax, 6917  
cease to levy the tax, or, in the case of a repeal of an increase 6918  
in the rate of the tax, cease to levy the increased rate and levy 6919  
the tax at the rate at which it was imposed immediately prior to 6920  
the increase in rate. 6921

(c) A board of county commissioners, by resolution, may 6922  
reduce the rate of a tax levied exclusively for the purpose set 6923  
forth in division (A)(3) of this section to a lower rate 6924  
authorized by this section. Any such reduction shall be made 6925  
effective on the first day of the calendar quarter next following 6926  
the sixty-fifth day after the tax commissioner receives a 6927  
certified copy of the resolution from the board. 6928

(E) If a vendor ~~that is registered with the central~~ 6929  
~~electronic registration system provided for in section 5740.05 of~~ 6930  
~~the Revised Code~~ makes a sale in this state by printed catalog and 6931  
the consumer computed the tax on the sale based on local rates 6932  
published in the catalog, any tax levied or repealed or rate 6933  
changed under this section shall not apply to such a sale until 6934  
the first day of a calendar quarter following the expiration of 6935  
one hundred twenty days from the date of notice by the tax 6936  
commissioner pursuant to division (G) of this section. 6937

(F) The tax levied pursuant to this section shall be in 6938  
addition to the tax levied by section 5739.02 of the Revised Code 6939  
and any tax levied pursuant to section 5739.021 or 5739.023 of the 6940  
Revised Code. 6941

A county that levies a tax pursuant to this section shall 6942  
levy a tax at the same rate pursuant to section 5741.023 of the 6943

Revised Code. 6944

The additional tax levied by the county shall be collected 6945  
pursuant to section 5739.025 of the Revised Code. 6946

Any tax levied pursuant to this section is subject to the 6947  
exemptions provided in section 5739.02 of the Revised Code and in 6948  
addition shall not be applicable to sales not within the taxing 6949  
power of a county under the Constitution of the United States or 6950  
the Ohio Constitution. 6951

(G) Upon receipt from a board of county commissioners of a 6952  
certified copy of a resolution required by division (A) of this 6953  
section, or from the board of elections a notice of the results of 6954  
an election required by division (D)(1), (2)(a), (b), or (c) of 6955  
this section, the tax commissioner shall provide notice of a tax 6956  
rate change in a manner that is reasonably accessible to all 6957  
affected vendors. The commissioner shall provide this notice at 6958  
least sixty days prior to the effective date of the rate change. 6959  
The commissioner, by rule, may establish the method by which 6960  
notice will be provided. 6961

**Sec. 5739.04.** If modification of a county's jurisdictional 6962  
boundaries or a transit authority's territory results in a change 6963  
in the tax rate levied under section 5739.021, 5739.023, or 6964  
5739.026 of the Revised Code, the tax commissioner, within thirty 6965  
days of such change, shall notify any vendor ~~that is registered~~ 6966  
~~with the central electronic registration system provided for in~~ 6967  
~~section 5740.05 of the Revised Code~~ or the vendor's certified 6968  
service provider, if the vendor has selected one, of such change. 6969  
The rate change shall not apply to sales made by such vendor until 6970  
the first day of a calendar quarter following the expiration of 6971  
sixty days from the date of notice by the ~~tax~~ commissioner. 6972

**Sec. 5739.17.** (A) No person shall engage in making retail 6973

sales subject to a tax imposed by or pursuant to section 5739.02, 6974  
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 6975  
without having a license therefor, except as otherwise provided in 6976  
divisions (A)(1), (2), and (3) of this section. 6977

(1) In the dissolution of a partnership by death, the 6978  
surviving partner may operate under the license of the partnership 6979  
for a period of sixty days. 6980

(2) The heirs or legal representatives of deceased persons, 6981  
and receivers and trustees in bankruptcy, appointed by any 6982  
competent authority, may operate under the license of the person 6983  
so succeeded in possession. 6984

(3) Two or more persons who are not partners may operate a 6985  
single place of business under one license. In such case neither 6986  
the retirement of any such person from business at that place of 6987  
business, nor the entrance of any person, under an existing 6988  
arrangement, shall affect the license or require the issuance of a 6989  
new license, unless the person retiring from the business is the 6990  
individual named on the vendor's license. 6991

Except as otherwise provided in this section, each applicant 6992  
for a license shall make out and deliver to the county auditor of 6993  
each county in which the applicant desires to engage in business, 6994  
upon a blank to be furnished by such auditor for that purpose, a 6995  
statement showing the name of the applicant, each place of 6996  
business in the county where the applicant will make retail sales, 6997  
the nature of the business, and any other information the tax 6998  
commissioner reasonably prescribes in the form of a statement 6999  
prescribed by the commissioner. 7000

At the time of making the application, the applicant shall 7001  
pay into the county treasury a license fee in the sum of 7002  
twenty-five dollars for each fixed place of business in the county 7003  
that will be the situs of retail sales. Upon receipt of the 7004

application and exhibition of the county treasurer's receipt, 7005  
showing the payment of the license fee, the county auditor shall 7006  
issue to the applicant a license for each fixed place of business 7007  
designated in the application, authorizing the applicant to engage 7008  
in business at that location. ~~ff~~ 7009

(B) If a vendor's identity changes, the vendor shall apply 7010  
for a new license. If a vendor wishes to move an existing fixed 7011  
place of business to a new location within the same county, the 7012  
vendor shall obtain a new vendor's license or submit a request to 7013  
the ~~tax~~ commissioner to transfer the existing vendor's license to 7014  
the new location. When the new location has been verified as being 7015  
within the same county, the commissioner shall authorize the 7016  
transfer and notify the county auditor of the change of location. 7017  
If a vendor wishes to move an existing fixed place of business to 7018  
another county, the vendor's license shall not transfer and the 7019  
vendor shall obtain a new vendor's license from the county in 7020  
which the business is to be located. The form of the license shall 7021  
be prescribed by the commissioner. The fees collected shall be 7022  
credited to the general fund of the county. If a vendor fails to 7023  
notify the commissioner of a change of location of its fixed place 7024  
of business or that its business has closed, the commissioner may 7025  
cancel the vendor's license if ordinary mail sent to the location 7026  
shown on the license is returned because of an undeliverable 7027  
address. 7028

(C) The ~~tax~~ commissioner may establish or participate in a 7029  
registration system whereby any vendor may obtain a vendor's 7030  
license by submitting to the commissioner a vendor's license 7031  
application and a license fee of twenty-five dollars for each 7032  
fixed place of business at which the vendor intends to make retail 7033  
sales. Under this registration system, the commissioner shall 7034  
issue a vendor's license to the applicant on behalf of the county 7035  
auditor of the county in which the applicant desires to engage in 7036

business, and shall forward a copy of the application and license 7037  
fee to that county. All such license fees received by the 7038  
commissioner for the issuance of vendor's licenses shall be 7039  
deposited into the vendor's license application fund, which is 7040  
hereby created in the state treasury. The commissioner shall 7041  
certify to the director of budget and management within ten 7042  
business days after the close of a month the license fees to be 7043  
transmitted to each county from the vendor's license application 7044  
fund for vendor's license applications received by the 7045  
commissioner during that month. License fees transmitted to a 7046  
county for which payment was not received by the commissioner may 7047  
be netted against a future distribution to that county, including 7048  
distributions made pursuant to section 5739.21 of the Revised 7049  
Code. 7050

A vendor that makes retail sales subject to tax under Chapter 7051  
5739. of the Revised Code pursuant to a permit issued by the 7052  
division of liquor control shall obtain a vendor's license in the 7053  
identical name and for the identical address as shown on the 7054  
permit. 7055

Except as otherwise provided in this section, if a vendor has 7056  
no fixed place of business and sells from a vehicle, each vehicle 7057  
intended to be used within a county constitutes a place of 7058  
business for the purpose of this section. 7059

~~(B)~~(D) As used in this ~~division~~ section, "transient vendor" 7060  
means any person who makes sales of tangible personal property 7061  
from vending machines located on land owned by others, who leases 7062  
titled motor vehicles, titled watercraft, or titled outboard 7063  
motors, who effectuates leases that are taxed according to 7064  
division (A)(2) of section 5739.02 of the Revised Code, or who, in 7065  
the usual course of the person's business, transports inventory, 7066  
stock of goods, or similar tangible personal property to a 7067  
temporary place of business or temporary exhibition, show, fair, 7068

flea market, or similar event in a county in which the person has 7069  
no fixed place of business, for the purpose of making retail sales 7070  
of such property. A "temporary place of business" means any public 7071  
or quasi-public place including, but not limited to, a hotel, 7072  
rooming house, storeroom, building, part of a building, tent, 7073  
vacant lot, railroad car, or motor vehicle that is temporarily 7074  
occupied for the purpose of making retail sales of goods to the 7075  
public. A place of business is not temporary if the same person 7076  
conducted business at the place continuously for more than six 7077  
months or occupied the premises as the person's permanent 7078  
residence for more than six months, or if the person intends it to 7079  
be a fixed place of business. 7080

Any transient vendor, in lieu of obtaining a vendor's license 7081  
under division (A) of this section for counties in which the 7082  
transient vendor has no fixed place of business, may apply to the 7083  
tax commissioner, on a form prescribed by the commissioner, for a 7084  
transient vendor's license. The transient vendor's license 7085  
authorizes the transient vendor to make retail sales in any county 7086  
in which the transient vendor does not maintain a fixed place of 7087  
business. Any holder of a transient vendor's license shall not be 7088  
required to obtain a separate vendor's license from the county 7089  
auditor in that county. Upon the commissioner's determination that 7090  
an applicant is a transient vendor, the applicant shall pay a 7091  
license fee in the amount of twenty-five dollars, at which time 7092  
the tax commissioner shall issue the license. The tax commissioner 7093  
may require a vendor to be licensed as a transient vendor if, in 7094  
the opinion of the commissioner, such licensing is necessary for 7095  
the efficient administration of the tax. 7096

Any holder of a valid transient vendor's license may make 7097  
retail sales at a temporary place of business or temporary 7098  
exhibition, show, fair, flea market, or similar event, held 7099  
anywhere in the state without complying with any provision of 7100

section 311.37 of the Revised Code. Any holder of a valid vendor's  
license may make retail sales as a transient vendor at a temporary  
place of business or temporary exhibition, show, fair, flea  
market, or similar event held in any county in which the vendor  
maintains a fixed place of business for which the vendor holds a  
vendor's license without obtaining a transient vendor's license.

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

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

~~Only sales described in division (B)(3)(e), (f), (g), (h),  
(i), (j), (k), (l), (m), (p), or (t) of section 5739.01 of the  
Revised Code may be made under authority of a service vendor's  
license, and that license authorizes sales to be made at any place  
in this state. Any service vendor who makes sales of other  
services or tangible personal property subject to the sales tax  
also shall be licensed under division (A), (B), or (D) of this  
section.~~

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

~~(1) The vendor makes retail sales of tangible personal property;~~ 7133  
7134

~~(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors;~~ 7135  
7136  
7137

~~(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or~~ 7138  
7139  
7140

~~(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code.~~ 7141  
7142  
7143

~~A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.~~ 7144  
7145

~~Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales 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.~~ 7146  
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~~(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~~ 7160  
7161  
7162  
7163

(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.

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

Subject to section 5743.031 of the Revised Code, a licensed wholesale dealer may not sell cigarettes to any person in this state other than a licensed retail dealer, except a licensed

wholesale dealer may sell cigarettes to another licensed wholesale 7194  
dealer if the tax commissioner has authorized the sale of the 7195  
cigarettes between those wholesale dealers and the wholesale 7196  
dealer that sells the cigarettes received them directly from a 7197  
licensed manufacturer or licensed importer. 7198

The tax commissioner shall adopt rules governing sales of 7199  
cigarettes between licensed wholesale dealers, including rules 7200  
establishing criteria for authorizing such sales. 7201

No manufacturer or importer shall sell cigarettes to any 7202  
person in this state other than to a licensed wholesale dealer or 7203  
licensed importer. No importer shall purchase cigarettes from any 7204  
person other than a licensed manufacturer or licensed importer. 7205

A retail dealer may purchase other tobacco products only from 7206  
a licensed distributor. A licensed distributor may sell tobacco 7207  
products only to a retail dealer, except a licensed distributor 7208  
may sell tobacco products to another licensed distributor if the 7209  
tax commissioner has authorized the sale of the tobacco products 7210  
between those distributors and the distributor that sells the 7211  
tobacco products received them directly from a manufacturer or 7212  
importer of tobacco products. 7213

The tax commissioner may adopt rules governing sales of 7214  
tobacco products between licensed distributors, including rules 7215  
establishing criteria for authorizing such sales. 7216

The identities of cigarette manufacturers and importers, 7217  
licensed cigarette wholesalers, licensed distributors of other 7218  
tobacco products, and registered manufacturers, and importers, ~~and~~ 7219  
~~brokers~~ of other tobacco products are subject to public 7220  
disclosure. The tax commissioner shall maintain an alphabetical 7221  
list of all such manufacturers, importers, wholesalers, and 7222  
distributors, ~~and brokers~~, shall post the list on a web site 7223  
accessible to the public through the internet, and shall 7224

periodically update the web site posting. 7225

As used in this section, "licensed" means the manufacturer, 7226  
importer, wholesale dealer, or distributor holds a current and 7227  
valid license issued under section 5743.15 or 5743.61 of the 7228  
Revised Code, and "registered" means registered with the ~~tax~~ 7229  
commissioner under section 5743.66 of the Revised Code. 7230

**Sec. 5743.61.** (A) Except as otherwise provided in this 7231  
division, no distributor shall engage in the business of 7232  
distributing tobacco products within this state without having a 7233  
license issued by the department of taxation to engage in that 7234  
business. On the dissolution of a partnership by death, the 7235  
surviving partner may operate under the license of the partnership 7236  
until the expiration of the license, and the heirs or legal 7237  
representatives of deceased persons, and receivers and trustees in 7238  
bankruptcy appointed by any competent authority, may operate under 7239  
the license of the person succeeded in possession by the heir, 7240  
representative, receiver, or trustee in bankruptcy if the partner 7241  
or successor notifies the department of taxation of the 7242  
dissolution or succession within thirty days after the dissolution 7243  
or succession. 7244

(B)(1) Each applicant for a license to engage in the business 7245  
of distributing tobacco products, annually, on or before the first 7246  
day of February, shall make and deliver to the tax commissioner, 7247  
upon a form furnished by the commissioner for that purpose, a 7248  
statement showing the name of the applicant, each physical place 7249  
from which the applicant distributes to distributors, retail 7250  
dealers, or wholesale dealers, and any other information the 7251  
commissioner considers necessary for the administration of 7252  
sections 5743.51 to 5743.66 of the Revised Code. 7253

(2) At the time of making the license application, the 7254  
applicant shall pay an application fee of one thousand dollars for 7255

each place listed on the application where the applicant proposes 7256  
to carry on that business. The fee charged for the application 7257  
shall accompany the application and shall be made payable to the 7258  
treasurer of state for deposit into the cigarette tax enforcement 7259  
fund. 7260

(3) Upon receipt of the application and payment of any 7261  
licensing fee required by this section, the commissioner shall 7262  
issue to the applicant a license for each place of distribution 7263  
designated in the application authorizing the applicant to engage 7264  
in business at that location for one year commencing on the first 7265  
day of February. For licenses issued after the first day of 7266  
February, the license application fee shall be reduced 7267  
proportionately by the remainder of the twelve-month period for 7268  
which the license is issued, except that the application fee 7269  
required to be paid under this section shall be not less than two 7270  
hundred dollars. If the original license is lost, destroyed, or 7271  
defaced, a duplicate license may be obtained from the commissioner 7272  
upon payment of a license replacement fee of twenty-five dollars. 7273

(C) The holder of a tobacco products license may transfer the 7274  
license to a place of business on condition that the licensee's 7275  
ownership and business structure remains unchanged and the 7276  
licensee applies to the commissioner for the transfer on a form 7277  
issued by the commissioner, and pays a transfer fee of twenty-five 7278  
dollars. 7279

(D) If a distributor fails to file forms as required under 7280  
Chapter 1346. or section 5743.52 of the Revised Code or pay the 7281  
tax due for two consecutive periods or three periods during any 7282  
twelve-month period, the commissioner may suspend the license 7283  
issued to the distributor under this section. The suspension is 7284  
effective ten days after the commissioner notifies the distributor 7285  
of the suspension in writing personally or by certified mail. The 7286  
commissioner shall lift the suspension when the distributor files 7287

the delinquent forms and pays the tax due, including any 7288  
penalties, interest, and additional charges. The commissioner may 7289  
refuse to issue the annual renewal of the license required by this 7290  
section and may refuse to issue a new license for the same 7291  
location until all delinquent forms are filed and outstanding 7292  
taxes are paid. This division does not apply to any unpaid or 7293  
underpaid tax liability that is the subject of a petition or 7294  
appeal filed pursuant to section 5743.56, 5717.02, or 5717.04 of 7295  
the Revised Code. 7296

(E)(1) The tax commissioner may impose a penalty of up to one 7297  
thousand dollars on any person found to be engaging in the 7298  
business of distributing tobacco products without a license as 7299  
required by this section. 7300

(2) Any person engaging in the business of distributing 7301  
tobacco products without a license as required by this section 7302  
shall comply with divisions (B)(1) and (2) of this section within 7303  
ten days after being notified of the requirement to do so. Failure 7304  
to comply with division (E)(2) of this section subjects a person 7305  
to penalties imposed under section 5743.99 of the Revised Code. 7306

**Sec. 5743.66.** (A) Each manufacturer, or importer, ~~or broker~~ 7307  
of tobacco products shall register with the tax commissioner 7308  
before it sells or distributes tobacco products to distributors in 7309  
this state, and, upon the request of the ~~tax~~ commissioner, shall 7310  
provide complete information on sales made to distributors in this 7311  
state and a current list of prices charged for tobacco products 7312  
sold to distributors in this state. 7313

(B) On or before the last day of each month, every 7314  
manufacturer, or importer, ~~or broker~~ of tobacco products shall 7315  
file a report with the commissioner listing all sales of tobacco 7316  
products to distributors located in this state during the 7317  
preceding month and any other information the commissioner finds 7318

necessary for the proper administration of sections 5743.51 to 7319  
5743.66 of the Revised Code. 7320

**Sec. 5747.082.** (A) As used in this section: 7321

(1) "Electronic technology" means electronic technology 7322  
acceptable to the tax commissioner under division (B) of this 7323  
section. 7324

(2) "Original tax return" means any report, return, or other 7325  
tax document required to be filed under this chapter for the 7326  
purpose of reporting the taxes due under, and withholdings 7327  
required by, this chapter. "Original tax return" does not include 7328  
an amended return or any declaration or form required by or filed 7329  
in connection with section 5747.09 of the Revised Code. 7330

(3) "Related member" has the same meaning as in section 7331  
5733.042 of the Revised Code. 7332

(4) "Tax return preparer" means any person that operates a 7333  
business that prepares, or directly or indirectly employs another 7334  
person to prepare, for a taxpayer an original tax return in 7335  
exchange for compensation or remuneration from the taxpayer or the 7336  
taxpayer's related member. With respect to the preparation of a 7337  
return or application for refund under this chapter, "tax return 7338  
preparer" does not include an individual who performs only one or 7339  
more of the following activities: 7340

(a) Furnishes typing, reproducing, or other mechanical 7341  
assistance; 7342

(b) Prepares an application for refund or a return on behalf 7343  
of an employer by whom the individual is regularly and 7344  
continuously employed, or on behalf of an officer or employee of 7345  
that employer; 7346

(c) Prepares as a fiduciary an application for refund or a 7347  
return; 7348

(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, 2013, if, during the previous calendar year, the tax return preparer prepared no more than twenty-five original tax returns. This division does not apply to a tax return preparer in any calendar year that begins on or after January 1, 2013, if, during the previous calendar year, the tax return preparer prepared not more than ten original tax returns.

(D) If a tax return preparer required by this section to submit original tax returns by electronic technology files an original tax return by some means other than by electronic technology, the tax commissioner shall impose a penalty of fifty dollars for each return, in excess of seventy-five in a calendar

year 2010, 2011, or 2012, or in excess of eleven in any calendar 7381  
year thereafter, that is not filed by electronic technology. Upon 7382  
good cause shown by the tax return preparer, the tax commissioner 7383  
may waive all or any portion of the penalty or may refund all or 7384  
any portion of the penalty the tax return preparer has paid. 7385

**Sec. 5751.01.** As used in this chapter: 7386

(A) "Person" means, but is not limited to, individuals, 7387  
combinations of individuals of any form, receivers, assignees, 7388  
trustees in bankruptcy, firms, companies, joint-stock companies, 7389  
business trusts, estates, partnerships, limited liability 7390  
partnerships, limited liability companies, associations, joint 7391  
ventures, clubs, societies, for-profit corporations, S 7392  
corporations, qualified subchapter S subsidiaries, qualified 7393  
subchapter S trusts, trusts, entities that are disregarded for 7394  
federal income tax purposes, and any other entities. 7395

(B) "Consolidated elected taxpayer" means a group of two or 7396  
more persons treated as a single taxpayer for purposes of this 7397  
chapter as the result of an election made under section 5751.011 7398  
of the Revised Code. 7399

(C) "Combined taxpayer" means a group of two or more persons 7400  
treated as a single taxpayer for purposes of this chapter under 7401  
section 5751.012 of the Revised Code. 7402

(D) "Taxpayer" means any person, or any group of persons in 7403  
the case of a consolidated elected taxpayer or combined taxpayer 7404  
treated as one taxpayer, required to register or pay tax under 7405  
this chapter. "Taxpayer" does not include excluded persons. 7406

(E) "Excluded person" means any of the following: 7407

(1) Any person with not more than one hundred fifty thousand 7408  
dollars of taxable gross receipts during the calendar year. 7409  
Division (E)(1) of this section does not apply to a person that is 7410

a member of a consolidated elected taxpayer; 7411

(2) A public utility that paid the excise tax imposed by 7412  
section 5727.24 or 5727.30 of the Revised Code based on one or 7413  
more measurement periods that include the entire tax period under 7414  
this chapter, except that a public utility that is a combined 7415  
company is a taxpayer with regard to the following gross receipts: 7416

(a) Taxable gross receipts directly attributed to a public 7417  
utility activity, but not directly attributed to an activity that 7418  
is subject to the excise tax imposed by section 5727.24 or 5727.30 7419  
of the Revised Code; 7420

(b) Taxable gross receipts that cannot be directly attributed 7421  
to any activity, multiplied by a fraction whose numerator is the 7422  
taxable gross receipts described in division (E)(2)(a) of this 7423  
section and whose denominator is the total taxable gross receipts 7424  
that can be directly attributed to any activity; 7425

(c) Except for any differences resulting from the use of an 7426  
accrual basis method of accounting for purposes of determining 7427  
gross receipts under this chapter and the use of the cash basis 7428  
method of accounting for purposes of determining gross receipts 7429  
under section 5727.24 of the Revised Code, the gross receipts 7430  
directly attributed to the activity of a natural gas company shall 7431  
be determined in a manner consistent with division (D) of section 7432  
5727.03 of the Revised Code. 7433

As used in division (E)(2) of this section, "combined 7434  
company" and "public utility" have the same meanings as in section 7435  
5727.01 of the Revised Code. 7436

(3) A financial institution, as defined in section 5725.01 of 7437  
the Revised Code, that paid the corporation franchise tax charged 7438  
by division (D) of section 5733.06 of the Revised Code based on 7439  
one or more taxable years that include the entire tax period under 7440  
this chapter; 7441

(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

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

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

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

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

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

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

(b) In the case of a limited liability company, one person

owns the company if that person's membership interest, as defined 7473  
in section 1705.01 of the Revised Code, is fifty per cent or more 7474  
of the combined membership interests of all persons owning such 7475  
interests in the company; 7476

(c) In the case of a partnership, trust, or other 7477  
unincorporated business organization other than a limited 7478  
liability company, one person owns the organization if, under the 7479  
articles of organization or other instrument governing the affairs 7480  
of the organization, that person has a beneficial interest in the 7481  
organization's profits, surpluses, losses, or distributions of 7482  
fifty per cent or more of the combined beneficial interests of all 7483  
persons having such an interest in the organization; 7484

(d) In the case of multiple ownership, the ownership 7485  
interests of more than one person may be aggregated to meet the 7486  
fifty per cent ownership tests in this division only when each 7487  
such owner is described in division (E)(3), (5), (6), or (7) of 7488  
this section and is engaged in activities permissible for a 7489  
financial holding company under 12 U.S.C. 1843(k) or is a person 7490  
directly or indirectly owned by one or more insurance companies 7491  
described in division (E)(9) of this section that is authorized to 7492  
do the business of insurance in this state. 7493

(9) A domestic insurance company or foreign insurance 7494  
company, as defined in section 5725.01 of the Revised Code, that 7495  
paid the insurance company premiums tax imposed by section 5725.18 7496  
or Chapter 5729. of the Revised Code, or an unauthorized insurance 7497  
company whose gross premiums are subject to tax under section 7498  
3905.36 of the Revised Code based on one or more measurement 7499  
periods that include the entire tax period under this chapter; 7500

(10) A person that solely facilitates or services one or more 7501  
securitizations or similar transactions for any person described 7502  
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 7503  
For purposes of this division, "securitization" means transferring 7504

one or more assets to one or more persons and then issuing 7505  
securities backed by the right to receive payment from the asset 7506  
or assets so transferred. 7507

(11) Except as otherwise provided in this division, a 7508  
pre-income tax trust as defined in division (FF)(4) of section 7509  
5747.01 of the Revised Code and any pass-through entity of which 7510  
such pre-income tax trust owns or controls, directly, indirectly, 7511  
or constructively through related interests, more than five per 7512  
cent of the ownership or equity interests. If the pre-income tax 7513  
trust has made a qualifying pre-income tax trust election under 7514  
division (FF)(3) of section 5747.01 of the Revised Code, then the 7515  
trust and the pass-through entities of which it owns or controls, 7516  
directly, indirectly, or constructively through related interests, 7517  
more than five per cent of the ownership or equity interests, 7518  
shall not be excluded persons for purposes of the tax imposed 7519  
under section 5751.02 of the Revised Code. 7520

(12) Nonprofit organizations or the state and its agencies, 7521  
instrumentalities, or political subdivisions. 7522

(F) Except as otherwise provided in divisions (F)(2), (3), 7523  
and (4) of this section, "gross receipts" means the total amount 7524  
realized by a person, without deduction for the cost of goods sold 7525  
or other expenses incurred, that contributes to the production of 7526  
gross income of the person, including the fair market value of any 7527  
property and any services received, and any debt transferred or 7528  
forgiven as consideration. 7529

(1) The following are examples of gross receipts: 7530

(a) Amounts realized from the sale, exchange, or other 7531  
disposition of the taxpayer's property to or with another; 7532

(b) Amounts realized from the taxpayer's performance of 7533  
services for another; 7534

(c) Amounts realized from another's use or possession of the 7535

taxpayer's property or capital;	7536
(d) Any combination of the foregoing amounts.	7537
(2) "Gross receipts" excludes the following amounts:	7538
(a) Interest income except interest on credit sales;	7539
(b) Dividends and distributions from corporations, and	7540
distributive or proportionate shares of receipts and income from a	7541
pass-through entity as defined under section 5733.04 of the	7542
Revised Code;	7543
(c) Receipts from the sale, exchange, or other disposition of	7544
an asset described in section 1221 or 1231 of the Internal Revenue	7545
Code, without regard to the length of time the person held the	7546
asset. Notwithstanding section 1221 of the Internal Revenue Code,	7547
receipts from hedging transactions also are excluded to the extent	7548
the transactions are entered into primarily to protect a financial	7549
position, such as managing the risk of exposure to (i) foreign	7550
currency fluctuations that affect assets, liabilities, profits,	7551
losses, equity, or investments in foreign operations; (ii)	7552
interest rate fluctuations; or (iii) commodity price fluctuations.	7553
As used in division (F)(2)(c) of this section, "hedging	7554
transaction" has the same meaning as used in section 1221 of the	7555
Internal Revenue Code and also includes transactions accorded	7556
hedge accounting treatment under statement of financial accounting	7557
standards number 133 of the financial accounting standards board.	7558
For the purposes of division (F)(2)(c) of this section, the actual	7559
transfer of title of real or tangible personal property to another	7560
entity is not a hedging transaction.	7561
(d) Proceeds received attributable to the repayment,	7562
maturity, or redemption of the principal of a loan, bond, mutual	7563
fund, certificate of deposit, or marketable instrument;	7564
(e) The principal amount received under a repurchase	7565
agreement or on account of any transaction properly characterized	7566

as a loan to the person;	7567
(f) Contributions received by a trust, plan, or other 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;	7568 7569 7570 7571
(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;	7572 7573 7574 7575 7576 7577 7578 7579 7580
(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;	7581 7582 7583
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	7584 7585 7586
(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;	7587 7588 7589 7590 7591 7592 7593
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	7594 7595 7596
(l) Property, money, and other amounts received or acquired	7597

by an agent on behalf of another in excess of the agent's 7598  
commission, fee, or other remuneration; 7599

(m) Tax refunds, other tax benefit recoveries, and 7600  
reimbursements for the tax imposed under this chapter made by 7601  
entities that are part of the same combined taxpayer or 7602  
consolidated elected taxpayer group, and reimbursements made by 7603  
entities that are not members of a combined taxpayer or 7604  
consolidated elected taxpayer group that are required to be made 7605  
for economic parity among multiple owners of an entity whose tax 7606  
obligation under this chapter is required to be reported and paid 7607  
entirely by one owner, pursuant to the requirements of sections 7608  
5751.011 and 5751.012 of the Revised Code; 7609

(n) Pension reversions; 7610

(o) Contributions to capital; 7611

(p) Sales or use taxes collected as a vendor or an 7612  
out-of-state seller on behalf of the taxing jurisdiction from a 7613  
consumer or other taxes the taxpayer is required by law to collect 7614  
directly from a purchaser and remit to a local, state, or federal 7615  
tax authority; 7616

(q) In the case of receipts from the sale of cigarettes or 7617  
tobacco products by a wholesale dealer, retail dealer, 7618  
distributor, manufacturer, or seller, all as defined in section 7619  
5743.01 of the Revised Code, an amount equal to the federal and 7620  
state excise taxes paid by any person on or for such cigarettes or 7621  
tobacco products under subtitle E of the Internal Revenue Code or 7622  
Chapter 5743. of the Revised Code; 7623

(r) In the case of receipts from the sale of motor fuel by a 7624  
licensed motor fuel dealer, licensed retail dealer, or licensed 7625  
permissive motor fuel dealer, all as defined in section 5735.01 of 7626  
the Revised Code, an amount equal to federal and state excise 7627  
taxes paid by any person on such motor fuel under section 4081 of 7628

the Internal Revenue Code or Chapter 5735. of the Revised Code; 7629

(s) In the case of receipts from the sale of beer or 7630  
intoxicating liquor, as defined in section 4301.01 of the Revised 7631  
Code, by a person holding a permit issued under Chapter 4301. or 7632  
4303. of the Revised Code, an amount equal to federal and state 7633  
excise taxes paid by any person on or for such beer or 7634  
intoxicating liquor under subtitle E of the Internal Revenue Code 7635  
or Chapter 4301. or 4305. of the Revised Code; 7636

(t) Receipts realized by a new motor vehicle dealer or used 7637  
motor vehicle dealer, as defined in section 4517.01 of the Revised 7638  
Code, from the sale or other transfer of a motor vehicle, as 7639  
defined in that section, to another motor vehicle dealer for the 7640  
purpose of resale by the transferee motor vehicle dealer, but only 7641  
if the sale or other transfer was based upon the transferee's need 7642  
to meet a specific customer's preference for a motor vehicle; 7643

(u) Receipts from a financial institution described in 7644  
division (E)(3) of this section for services provided to the 7645  
financial institution in connection with the issuance, processing, 7646  
servicing, and management of loans or credit accounts, if such 7647  
financial institution and the recipient of such receipts have at 7648  
least fifty per cent of their ownership interests owned or 7649  
controlled, directly or constructively through related interests, 7650  
by common owners; 7651

(v) Receipts realized from administering anti-neoplastic 7652  
drugs and other cancer chemotherapy, biologicals, therapeutic 7653  
agents, and supportive drugs in a physician's office to patients 7654  
with cancer; 7655

(w) Funds received or used by a mortgage broker that is not a 7656  
dealer in intangibles, other than fees or other consideration, 7657  
pursuant to a table-funding mortgage loan or warehouse-lending 7658  
mortgage loan. Terms used in division (F)(2)(w) of this section 7659

have the same meanings as in section 1322.01 of the Revised Code, 7660  
except "mortgage broker" means a person assisting a buyer in 7661  
obtaining a mortgage loan for a fee or other consideration paid by 7662  
the buyer or a lender, or a person engaged in table-funding or 7663  
warehouse-lending mortgage loans that are first lien mortgage 7664  
loans. 7665

(x) Property, money, and other amounts received by a 7666  
professional employer organization, as defined in section 4125.01 7667  
of the Revised Code, from a client employer, as defined in that 7668  
section, in excess of the administrative fee charged by the 7669  
professional employer organization to the client employer; 7670

(y) In the case of amounts retained as commissions by a 7671  
permit holder under Chapter 3769. of the Revised Code, an amount 7672  
equal to the amounts specified under that chapter that must be 7673  
paid to or collected by the tax commissioner as a tax and the 7674  
amounts specified under that chapter to be used as purse money; 7675

(z) Qualifying distribution center receipts. 7676

(i) For purposes of division (F)(2)(z) of this section: 7677

(I) "Qualifying distribution center receipts" means receipts 7678  
of a supplier from qualified property that is delivered to a 7679  
qualified distribution center, multiplied by a quantity that 7680  
equals one minus the Ohio delivery percentage. 7681

(II) "Qualified property" means tangible personal property 7682  
delivered to a qualified distribution center that is shipped to 7683  
that qualified distribution center solely for further shipping by 7684  
the qualified distribution center to another location in this 7685  
state or elsewhere. "Further shipping" includes storing and 7686  
repackaging such property into smaller or larger bundles, so long 7687  
as such property is not subject to further manufacturing or 7688  
processing. 7689

(III) "Qualified distribution center" means a warehouse or 7690

other similar facility in this state that, for the qualifying 7691  
year, is operated by a person that is not part of a combined 7692  
taxpayer group and that has a qualifying certificate. However, all 7693  
warehouses or other similar facilities that are operated by 7694  
persons in the same taxpayer group and that are located within one 7695  
mile of each other shall be treated as one qualified distribution 7696  
center. 7697

(IV) "Qualifying year" means the calendar year to which the 7698  
qualifying certificate applies. 7699

(V) "Qualifying period" means the period of the first day of 7700  
July of the second year preceding the qualifying year through the 7701  
thirtieth day of June of the year preceding the qualifying year. 7702

(VI) "Qualifying certificate" means the certificate issued by 7703  
the tax commissioner after the operator of a distribution center 7704  
files an annual application with the commissioner. The application 7705  
and annual fee shall be filed and paid for each qualified 7706  
distribution center on or before the first day of September before 7707  
the qualifying year or within forty-five days after the 7708  
distribution center opens, whichever is later. 7709

The applicant must substantiate to the commissioner's 7710  
satisfaction that, for the qualifying period, all persons 7711  
operating the distribution center have more than fifty per cent of 7712  
the cost of the qualified property shipped to a location such that 7713  
it would be situated outside this state under the provisions of 7714  
division (E) of section 5751.033 of the Revised Code. The 7715  
applicant must also substantiate that the distribution center 7716  
cumulatively had costs from its suppliers equal to or exceeding 7717  
five hundred million dollars during the qualifying period. (For 7718  
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 7719  
excludes any person that is part of the consolidated elected 7720  
taxpayer group, if applicable, of the operator of the qualified 7721  
distribution center.) The commissioner may require the applicant 7722

to have an independent certified public accountant certify that 7723  
the calculation of the minimum thresholds required for a qualified 7724  
distribution center by the operator of a distribution center has 7725  
been made in accordance with generally accepted accounting 7726  
principles. The commissioner shall issue or deny the issuance of a 7727  
certificate within sixty days after the receipt of the 7728  
application. A denial is subject to appeal under section 5717.02 7729  
of the Revised Code. If the operator files a timely appeal under 7730  
section 5717.02 of the Revised Code, the operator shall be granted 7731  
a qualifying certificate, provided that the operator is liable for 7732  
any tax, interest, or penalty upon amounts claimed as qualifying 7733  
distribution center receipts, other than those receipts exempt 7734  
under division (C)(1) of section 5751.011 of the Revised Code, 7735  
that would have otherwise not been owed by its suppliers if the 7736  
qualifying certificate was valid. 7737

(VII) "Ohio delivery percentage" means the proportion of the 7738  
total property delivered to a destination inside Ohio from the 7739  
qualified distribution center during the qualifying period 7740  
compared with total deliveries from such distribution center 7741  
everywhere during the qualifying period. 7742

(ii) If the distribution center is new and was not open for 7743  
the entire qualifying period, the operator of the distribution 7744  
center may request that the commissioner grant a qualifying 7745  
certificate. If the certificate is granted and it is later 7746  
determined that more than fifty per cent of the qualified property 7747  
during that year was not shipped to a location such that it would 7748  
be situated outside of this state under the provisions of division 7749  
(E) of section 5751.033 of the Revised Code or if it is later 7750  
determined that the person that operates the distribution center 7751  
had average monthly costs from its suppliers of less than forty 7752  
million dollars during that year, then the operator of the 7753  
distribution center shall be liable for any tax, interest, or 7754

penalty upon amounts claimed as qualifying distribution center 7755  
receipts, other than those receipts exempt under division (C)(1) 7756  
of section 5751.011 of the Revised Code, that would have not 7757  
otherwise been owed by its suppliers during the qualifying year if 7758  
the qualifying certificate was valid. (For purposes of division 7759  
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 7760  
is part of the consolidated elected taxpayer group, if applicable, 7761  
of the operator of the qualified distribution center.) 7762

(iii) When filing an application for a qualifying certificate 7763  
under division (F)(2)(z)(i)(VI) of this section, the operator of a 7764  
qualified distribution center also shall provide documentation, as 7765  
the commissioner requires, for the commissioner to ascertain the 7766  
Ohio delivery percentage. The commissioner, upon issuing the 7767  
qualifying certificate, also shall certify the Ohio delivery 7768  
percentage. The operator of the qualified distribution center may 7769  
appeal the commissioner's certification of the Ohio delivery 7770  
percentage in the same manner as an appeal is taken from the 7771  
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 7772  
of this section. 7773

Within thirty days after all appeals have been exhausted, the 7774  
operator of the qualified distribution center shall notify the 7775  
affected suppliers of qualified property that such suppliers are 7776  
required to file, within sixty days after receiving notice from 7777  
the operator of the qualified distribution center, amended reports 7778  
for the impacted calendar quarter or quarters or calendar year, 7779  
whichever the case may be. Any additional tax liability or tax 7780  
overpayment shall be subject to interest but shall not be subject 7781  
to the imposition of any penalty so long as the amended returns 7782  
are timely filed. The supplier of tangible personal property 7783  
delivered to the qualified distribution center shall include in 7784  
its report of taxable gross receipts the receipts from the total 7785  
sales of property delivered to the qualified distribution center 7786

for the calendar quarter or calendar year, whichever the case may  
be, multiplied by the Ohio delivery percentage for the qualifying  
year. Nothing in division (F)(2)(z)(iii) of this section shall be  
construed as imposing liability on the operator of a qualified  
distribution center for the tax imposed by this chapter arising  
from any change to the Ohio delivery percentage.

(iv) In the case where the distribution center is new and not  
open for the entire qualifying period, the operator shall make a  
good faith estimate of an Ohio delivery percentage for use by  
suppliers in their reports of taxable gross receipts for the  
remainder of the qualifying period. The operator of the facility  
shall disclose to the suppliers that such Ohio delivery percentage  
is an estimate and is subject to recalculation. By the due date of  
the next application for a qualifying certificate, the operator  
shall determine the actual Ohio delivery percentage for the  
estimated qualifying period and proceed as provided in division  
(F)(2)(z)(iii) of this section with respect to the calculation and  
recalculation of the Ohio delivery percentage. The supplier is  
required to file, within sixty days after receiving notice from  
the operator of the qualified distribution center, amended reports  
for the impacted calendar quarter or quarters or calendar year,  
whichever the case may be. Any additional tax liability or tax  
overpayment shall be subject to interest but shall not be subject  
to the imposition of any penalty so long as the amended returns  
are timely filed.

(v) Qualifying certificates and Ohio delivery percentages  
issued by the commissioner shall be open to public inspection and  
shall be timely published by the commissioner. A supplier relying  
in good faith on a certificate issued under this division shall  
not be subject to tax on the qualifying distribution center  
receipts under division (F)(2)(z) of this section. A person  
receiving a qualifying certificate is responsible for paying the

tax, interest, and penalty upon amounts claimed as qualifying 7819  
distribution center receipts that would not otherwise have been 7820  
owed by the supplier if the qualifying certificate were available 7821  
when it is later determined that the qualifying certificate should 7822  
not have been issued because the statutory requirements were in 7823  
fact not met. 7824

(vi) The annual fee for a qualifying certificate shall be one 7825  
hundred thousand dollars for each qualified distribution center. 7826  
If a qualifying certificate is not issued, the annual fee is 7827  
subject to refund after the exhaustion of all appeals provided for 7828  
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 7829  
under this division may be assessed in the same manner as the tax 7830  
imposed under this chapter. The first one hundred thousand dollars 7831  
of the annual application fees collected each calendar year shall 7832  
be credited to the ~~commercial activity tax administrative revenue~~ revenue 7833  
enhancement fund. The remainder of the annual application fees 7834  
collected shall be distributed in the same manner required under 7835  
section 5751.20 of the Revised Code. 7836

(vii) The tax commissioner may require that adequate security 7837  
be posted by the operator of the distribution center on appeal 7838  
when the commissioner disagrees that the applicant has met the 7839  
minimum thresholds for a qualified distribution center as set 7840  
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 7841  
section. 7842

(aa) Receipts of an employer from payroll deductions relating 7843  
to the reimbursement of the employer for advancing moneys to an 7844  
unrelated third party on an employee's behalf; 7845

(bb) Cash discounts allowed and taken; 7846

(cc) Returns and allowances; 7847

(dd) Bad debts from receipts on the basis of which the tax 7848  
imposed by this chapter was paid in a prior quarterly tax payment 7849

period. For the purpose of this division, "bad debts" means any 7850  
debts that have become worthless or uncollectible between the 7851  
preceding and current quarterly tax payment periods, have been 7852  
uncollected for at least six months, and that may be claimed as a 7853  
deduction under section 166 of the Internal Revenue Code and the 7854  
regulations adopted under that section, or that could be claimed 7855  
as such if the taxpayer kept its accounts on the accrual basis. 7856  
"Bad debts" does not include repossessed property, uncollectible 7857  
amounts on property that remains in the possession of the taxpayer 7858  
until the full purchase price is paid, or expenses in attempting 7859  
to collect any account receivable or for any portion of the debt 7860  
recovered; 7861

(ee) Any amount realized from the sale of an account 7862  
receivable to the extent the receipts from the underlying 7863  
transaction giving rise to the account receivable were included in 7864  
the gross receipts of the taxpayer; 7865

(ff) Any receipts directly attributed to providing public 7866  
services pursuant to sections 126.60 to 126.605 of the Revised 7867  
Code, or any receipts directly attributed to a transfer agreement 7868  
or to the enterprise transferred under that agreement under 7869  
section 4313.02 of the Revised Code. 7870

~~(gg) Any receipts for which the tax imposed by this chapter 7871  
is prohibited by the Constitution or laws of the United States or 7872  
the Constitution of Ohio. 7873~~

~~(hh)~~(i) As used in this division: 7874

(I) "Qualified uranium receipts" means receipts from the 7875  
sale, exchange, lease, loan, production, processing, or other 7876  
disposition of uranium within a uranium enrichment zone certified 7877  
by the tax commissioner under division ~~(F)(2)(hh)(ii)~~ 7878  
(F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does 7879  
not include any receipts with a situs in this state outside a 7880

uranium enrichment zone certified by the tax commissioner under 7881  
division ~~(F)(2)(hh)(ii)~~ (F)(2)(gg)(ii) of this section. 7882

(II) "Uranium enrichment zone" means all real property that 7883  
is part of a uranium enrichment facility licensed by the United 7884  
States nuclear regulatory commission and that was or is owned or 7885  
controlled by the United States department of energy or its 7886  
successor. 7887

(ii) Any person that owns, leases, or operates real or 7888  
tangible personal property constituting or located within a 7889  
uranium enrichment zone may apply to the tax commissioner to have 7890  
the uranium enrichment zone certified for the purpose of excluding 7891  
qualified uranium receipts under division ~~(F)(2)(hh)~~ (F)(2)(gg) of 7892  
this section. The application shall include such information that 7893  
the tax commissioner prescribes. Within sixty days after receiving 7894  
the application, the tax commissioner shall certify the zone for 7895  
that purpose if the commissioner determines that the property 7896  
qualifies as a uranium enrichment zone as defined in division 7897  
~~(F)(2)(hh)~~ (F)(2)(gg) of this section, or, if the tax commissioner 7898  
determines that the property does not qualify, the commissioner 7899  
shall deny the application or request additional information from 7900  
the applicant. If the tax commissioner denies an application, the 7901  
commissioner shall state the reasons for the denial. The applicant 7902  
may appeal the denial of an application to the board of tax 7903  
appeals pursuant to section 5717.02 of the Revised Code. If the 7904  
applicant files a timely appeal, the tax commissioner shall 7905  
conditionally certify the applicant's property. The conditional 7906  
certification shall expire when all of the applicant's appeals are 7907  
exhausted. Until final resolution of the appeal, the applicant 7908  
shall retain the applicant's records in accordance with section 7909  
5751.12 of the Revised Code, notwithstanding any time limit on the 7910  
preservation of records under that section. 7911

~~(ii)(hh)~~ Amounts realized by licensed motor fuel dealers or 7912

licensed permissive motor fuel dealers from the exchange of 7913  
petroleum products, including motor fuel, between such dealers, 7914  
provided that delivery of the petroleum products occurs at a 7915  
refinery, terminal, pipeline, or marine vessel and that the 7916  
exchanging dealers agree neither dealer shall require monetary 7917  
compensation from the other for the value of the exchanged 7918  
petroleum products other than such compensation for differences in 7919  
product location or grade. Division ~~(F)(2)(ii)~~ (F)(2)(hh) of this 7920  
section does not apply to amounts realized as a result of 7921  
differences in location or grade of exchanged petroleum products 7922  
or from handling, lubricity, dye, or other additive injections 7923  
fees, pipeline security fees, or similar fees. As used in this 7924  
division, "motor fuel," "licensed motor fuel dealer," "licensed 7925  
permissive motor fuel dealer," and "terminal" have the same 7926  
meanings as in section 5735.01 of the Revised Code. 7927

~~(hh)(ii)~~ In the case of amounts collected by a licensed 7928  
casino operator from casino gaming, amounts in excess of the 7929  
casino operator's gross casino revenue. In this division, "casino 7930  
operator" and "casino gaming" have the meanings defined in section 7931  
3772.01 of the Revised Code, and "gross casino revenue" has the 7932  
meaning defined in section 5753.01 of the Revised Code. 7933

(jj) Any receipts for which the tax imposed by this chapter 7934  
is prohibited by the constitution or laws of the United States or 7935  
the constitution of this state. 7936

(3) In the case of a taxpayer when acting as a real estate 7937  
broker, "gross receipts" includes only the portion of any fee for 7938  
the service of a real estate broker, or service of a real estate 7939  
salesperson associated with that broker, that is retained by the 7940  
broker and not paid to an associated real estate salesperson or 7941  
another real estate broker. For the purposes of this division, 7942  
"real estate broker" and "real estate salesperson" have the same 7943  
meanings as in section 4735.01 of the Revised Code. 7944

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's 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;	7975
(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	7976 7977 7978
(c) Any amount the person pays for services performed in this state on its behalf by another.	7979 7980
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	7981 7982
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	7983 7984 7985
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	7986 7987
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	7988 7989
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	7990 7991 7992 7993 7994 7995 7996 7997
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	7998 7999 8000
(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.	8001 8002 8003
(N) "Calendar year taxpayer" means a taxpayer for which the	8004

tax period is a calendar year. 8005

(O) "Calendar quarter taxpayer" means a taxpayer for which 8006  
the tax period is a calendar quarter. 8007

(P) "Agent" means a person authorized by another person to 8008  
act on its behalf to undertake a transaction for the other, 8009  
including any of the following: 8010

(1) A person receiving a fee to sell financial instruments; 8011

(2) A person retaining only a commission from a transaction 8012  
with the other proceeds from the transaction being remitted to 8013  
another person; 8014

(3) A person issuing licenses and permits under section 8015  
1533.13 of the Revised Code; 8016

(4) A lottery sales agent holding a valid license issued 8017  
under section 3770.05 of the Revised Code; 8018

(5) A person acting as an agent of the division of liquor 8019  
control under section 4301.17 of the Revised Code. 8020

(Q) "Received" includes amounts accrued under the accrual 8021  
method of accounting. 8022

(R) "Reporting person" means a person in a consolidated 8023  
elected taxpayer or combined taxpayer group that is designated by 8024  
that group to legally bind the group for all filings and tax 8025  
liabilities and to receive all legal notices with respect to 8026  
matters under this chapter, or, for the purposes of section 8027  
5751.04 of the Revised Code, a separate taxpayer that is not a 8028  
member of such a group. 8029

**Sec. 5751.011.** (A) A group of two or more persons may elect 8030  
to be a consolidated elected taxpayer for the purposes of this 8031  
chapter if the group satisfies all of the following requirements: 8032

(1) The group elects to include all persons, including 8033

persons enumerated in divisions (E)(2) to (10) of section 5751.01 8034  
of the Revised Code, having at least eighty per cent, or having at 8035  
least fifty per cent, of the value of their ownership interests 8036  
owned or controlled, directly or constructively through related 8037  
interests, by common owners during all or any portion of the tax 8038  
period, together with the common owners. 8039

A group making its initial election on the basis of the 8040  
eighty per cent ownership test may change its election so that its 8041  
consolidated elected taxpayer group is formed on the basis of the 8042  
fifty per cent ownership test if all of the following are 8043  
satisfied: 8044

(a) When the initial election was made, the group did not 8045  
have any persons satisfying the fifty per cent ownership test; 8046

(b) One or more of the persons in the initial group 8047  
subsequently acquires ownership interests in a person such that 8048  
the fifty per cent ownership test is satisfied, the eighty per 8049  
cent ownership test is not satisfied, and the acquired person 8050  
would be required to be included in a combined taxpayer group 8051  
under section 5751.012 of the Revised Code; 8052

(c) The group requests the change in ~~a written request~~ 8053  
writing to the ~~tax~~ commissioner ~~on or before the due date for~~ 8054  
~~filing the first return due under section 5751.051 of the Revised~~ 8055  
~~Code after the date of the acquisition as required by division (D)~~ 8056  
of this section; 8057

(d) The group has not previously changed its election. 8058

At the election of the group, all entities that are not 8059  
incorporated or formed under the laws of a state or of the United 8060  
States and that meet the consolidated elected ownership test shall 8061  
either be included in the group or all shall be excluded from the 8062  
group. If, at the time of registration, the group does not include 8063  
any such entities that meet the consolidated elected ownership 8064

test, the group shall elect to either include or exclude the newly 8065  
acquired entities before the due date of the first return due 8066  
after the date of the acquisition. 8067

~~Each group shall notify the tax commissioner of the foregoing~~ 8068  
~~elections before the due date of the return for the period in~~ 8069  
~~which the election becomes binding.~~ If fifty per cent of the value 8070  
of a person's ownership interests is owned or controlled by each 8071  
of two consolidated elected taxpayer groups formed under the fifty 8072  
per cent ownership or control test, that person is a member of 8073  
each group for the purposes of this section, and each group shall 8074  
include in the group's taxable gross receipts fifty per cent of 8075  
that person's taxable gross receipts. Otherwise, all of that 8076  
person's taxable gross receipts shall be included in the taxable 8077  
gross receipts of the consolidated elected taxpayer group of which 8078  
the person is a member. In no event shall the ownership or control 8079  
of fifty per cent of the value of a person's ownership interests 8080  
by two otherwise unrelated groups form the basis for consolidating 8081  
the groups into a single consolidated elected taxpayer group or 8082  
permit any exclusion under division (C) of this section of taxable 8083  
gross receipts between members of the two groups. Division (A)(3) 8084  
of this section applies with respect to the elections described in 8085  
this division. 8086

(2) The group makes the election to be treated as a 8087  
consolidated elected taxpayer in the manner prescribed under 8088  
division (D) of this section. 8089

(3) Subject to review and audit by the tax commissioner, the 8090  
group agrees that all of the following apply: 8091

(a) The group shall file reports as a single taxpayer for at 8092  
least the next eight calendar quarters following the election so 8093  
long as at least two or more of the members of the group meet the 8094  
requirements of division (A)(1) of this section. 8095

(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters.

(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.

(C)(1)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) Subject to divisions (C)(1)(c) and (C)(2) of this section, nothing in this section shall have the effect of requiring a consolidated elected taxpayer group to include gross receipts received by a person enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code if that person is a member of the group pursuant to the elections made by the group under division (A)(1) of this section.

(c)(i) As used in division (C)(1)(c) of this section, "dealer transfer" means a transfer of property that satisfies both of the

following: (I) the property is directly transferred by any means 8127  
from one member of the group to another member of the group that 8128  
is a dealer in intangibles but is not a qualifying dealer as 8129  
defined in section 5707.031 of the Revised Code; and (II) the 8130  
property is subsequently delivered by the dealer in intangibles to 8131  
a person that is not a member of the group. 8132

(ii) In the event of a dealer transfer, a consolidated 8133  
elected taxpayer group shall not exclude, under division (C) of 8134  
this section, gross receipts from the transfer described in 8135  
division (C)(1)(c)(i)(I) of this section. 8136

(2) Gross receipts related to the sale or transmission of 8137  
electricity through the use of an intermediary regional 8138  
transmission organization approved by the federal energy 8139  
regulatory commission shall be excluded from taxable gross 8140  
receipts under division (C)(1) of this section if all other 8141  
requirements of that division are met, even if the receipts are 8142  
from and to the same member of the group. 8143

(D) To make the election to be a consolidated elected 8144  
taxpayer, a group of persons shall notify the ~~tax~~ commissioner of 8145  
the election ~~in the manner prescribed by the commissioner and pay~~ 8146  
~~the commissioner a registration fee equal to the lesser of two~~ 8147  
~~hundred dollars or twenty dollars for each person in the group. No~~ 8148  
~~additional fee shall be imposed for the addition of new members to~~ 8149  
~~the group once the group has remitted a fee in the amount of two~~ 8150  
~~hundred dollars. The election on a form prescribed by the~~ 8151  
~~commissioner for that purpose, which shall be signed by one or~~ 8152  
~~more individuals with authority, separately or together, to make a~~ 8153  
~~binding election on behalf of all persons in the group. Elections~~ 8154  
~~under division (A) of this section shall be made and the fee paid~~ 8155  
~~on or before the beginning of due date for filing the first~~ 8156  
~~calendar quarter to which return due after the election applies. 8157~~  
~~The fee shall be collected and used in the same manner as provided 8158~~

~~in section 5751.04 of the Revised Code.~~ 8159

~~The election shall be made on a form prescribed by the tax 8160  
commissioner for that purpose and shall be signed by one or more 8161  
individuals with authority, separately or together, to make a 8162  
binding election on behalf of all persons in the group.~~ 8163

Any person acquired or formed after the filing of the 8164  
registration shall be included in the group if the person meets 8165  
the requirements of division (A)(1) of this section, and the group 8166  
shall notify the ~~tax~~ commissioner of any additions to the group 8167  
~~with the next tax return it files with on a form prescribed by the 8168  
commissioner for such purpose.~~ 8169

**Sec. 5751.012.** (A) All persons, other than persons enumerated 8170  
in divisions (E)(2) to (10) of section 5751.01 of the Revised 8171  
Code, having more than fifty per cent of the value of their 8172  
ownership interest owned or controlled, directly or constructively 8173  
through related interests, by common owners during all or any 8174  
portion of the tax period, together with the common owners, shall 8175  
be members of a combined taxpayer group if those persons are not 8176  
members of a consolidated elected taxpayer group pursuant to an 8177  
election under section 5751.011 of the Revised Code. 8178

(B) A combined taxpayer group shall register, file returns, 8180  
and pay taxes under this chapter as a single taxpayer. 8181

~~(C) A combined taxpayer and shall neither exclude taxable 8182  
gross receipts between its members nor from others that are not 8183  
members.~~ 8184

~~(D) A combined taxpayer shall pay to the tax commissioner a 8185  
registration fee equal to the lesser of two hundred dollars or 8186  
twenty dollars for each person in the group. No additional fee 8187  
shall be imposed for the addition of new members to the group once 8188~~

~~the group has remitted a fee in the amount of two hundred dollars. 8189  
The fee shall be timely paid before the later of the beginning of 8190  
the first calendar quarter or November 15, 2005. The fee shall be 8191  
collected and used in the same manner as provided in section 8192  
5751.04 of the Revised Code. 8193~~

(C) Any person acquired or formed after the filing of the 8194  
registration shall be included in the group if the person meets 8195  
the requirements of division (A) of this section, and the group 8196  
must notify the ~~tax~~ commissioner of any additions ~~with the next~~ 8197  
~~quarterly tax return it files with~~ to the group on a form 8198  
prescribed by the commissioner for such purpose. 8199

**Sec. 5751.03.** (A) Except as provided in ~~divisions~~ division 8200  
(B) ~~and (D)~~ of this section and in ~~sections~~ section 5751.031 ~~and~~ 8201  
~~5751.032~~ of the Revised Code, the tax levied under this section 8202  
for each tax period shall be the product of two and six-tenths 8203  
mills per dollar times the remainder of the taxpayer's taxable 8204  
gross receipts for the tax period after subtracting the exclusion 8205  
amount provided for in division (C) of this section. 8206

(B) Notwithstanding division (C) of this section, the tax on 8207  
the first one million dollars in taxable gross receipts each 8208  
calendar year shall be one hundred fifty dollars. ~~For calendar~~ 8209  
~~year 2006, the tax imposed under this division shall be paid not~~ 8210  
~~later than May 10, 2006, by both calendar year taxpayers and~~ 8211  
~~calendar quarter taxpayers. For calendar years 2007, 2008, and~~ 8212  
~~2009, the tax imposed under this division shall be paid with the~~ 8213  
~~fourth quarter tax return or annual tax return for the prior~~ 8214  
~~calendar year by both calendar year taxpayers and calendar quarter~~ 8215  
~~taxpayers. For calendar years 2010 and thereafter, the The tax~~ 8216  
imposed under this division shall be paid not later than the tenth 8217  
day of May of each year along with the first quarter or annual tax 8218  
return, as applicable. 8219

(C)(1) Each ~~calendar quarter~~ taxpayer may exclude the first 8220  
~~two hundred fifty thousand~~ one million dollars of taxable gross 8221  
receipts for a calendar ~~quarter year~~. Calendar quarter taxpayers 8222  
shall apply the full exclusion amount to the first calendar 8223  
quarter return the taxpayer files that calendar year and may carry 8224  
forward and apply any unused exclusion amount to ~~the three~~ 8225  
subsequent calendar quarters within that same calendar year. ~~Each~~ 8226  
~~calendar year taxpayer may exclude the first one million dollars~~ 8227  
~~of taxable gross receipts for a calendar year.~~ 8228

(2) A taxpayer switching from a calendar year tax period to a 8229  
calendar quarter tax period may, for the first quarter of the 8230  
change, apply the ~~prior calendar quarter~~ full one-million-dollar 8231  
~~exclusion amounts~~ amount to the first calendar quarter return the 8232  
taxpayer files that calendar year. Such taxpayers may carry 8233  
forward and apply any unused exclusion amount to subsequent 8234  
calendar quarters within that same calendar year. The tax rate 8235  
shall be based on the rate imposed that calendar quarter when the 8236  
taxpayer switches from a calendar year to a calendar quarter tax 8237  
period. 8238

~~(D) There is hereby allowed a credit against the tax imposed~~ 8239  
~~under this chapter for each of the following calendar years if a~~ 8240  
~~transfer was made in the preceding calendar year from the general~~ 8241  
~~revenue fund to the commercial activity tax refund fund under~~ 8242  
~~division (D) of section 5751.032 of the Revised Code: calendar~~ 8243  
~~years 2008, 2010, and 2012. The credit is allowed for taxpayers~~ 8244  
~~that paid in full the tax imposed under this chapter for the~~ 8245  
~~calendar year in which the transfer was made. The amount of a~~ 8246  
~~taxpayer's credit equals the amount computed under division (D) of~~ 8247  
~~section 5751.032 of the Revised Code~~ (3) A taxpayer shall not 8248  
exclude more than one million dollars pursuant to division (C) of 8249  
this section in a calendar year. 8250

Sec. 5751.04. (A) As used in this section, "person" includes 8251  
a reporting person. 8252

(B) Not later than thirty days after a person first has more 8253  
than one hundred fifty thousand dollars in taxable gross receipts 8254  
in a calendar year, each person subject to this chapter shall 8255  
register with the tax commissioner on the form prescribed by the 8256  
commissioner. The form shall include the following: 8257

(1) The person's name; 8258

~~(2) If applicable, the name of the state or country under the 8259  
laws of which the person is incorporated;~~ 8260

~~(3) If applicable, the location of a person's principal 8261  
office and the name and address of the officer or agent of the 8262  
corporation in charge of the business;~~ 8263

~~(4) If applicable, the names of the person's president, 8264  
secretary, treasurer, and statutory agent designated pursuant to 8265  
section 1703.041 of the Revised Code, with the post office address 8266  
of each;~~ 8267

~~(5) The person's primary address;~~ 8268

~~(3) The kind of business in which the person is engaged, 8269  
including applicable business or industry codes for the person;~~ 8270

~~(6) If required by the tax commissioner, the date of the 8271  
beginning of the person's annual accounting period that includes 8272  
the first day of January of the taxable calendar year;~~ 8273

~~(7) If the person is not a corporation or a sole proprietor, 8274  
the names of the person's owners and officers, if required by the 8275  
tax commissioner;~~ 8276

~~(8)~~(4) The person's federal employer identification number or 8277  
numbers or, if those are not applicable, the person's social 8278  
security number or equivalent, as applicable; 8279

<u>+9)(5) The person's organizational type;</u>	8280
<u>(6) The date the person is first subject to the tax imposed by this chapter;</u>	8281 8282
<u>(7) 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 taxpayer or combined taxpayer group;</u>	8283 8284 8285 8286
<u>(8) All other information that the commissioner requires to administer and enforce this chapter.</u>	8287 8288
<del>(C) Except as otherwise provided in this division, each person registering with the tax commissioner as required by division (B) of this section shall pay a registration fee. The fee shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register electronically. The registration fee shall be paid in the manner prescribed by the tax commissioner at the same time the registration is due if a person is subject to the tax imposed under this chapter before January 1, 2006. If a person first becomes subject to the tax after that date, the registration fee is payable with the first tax period return the person is required to file as prescribed by section 5751.051 of the Revised Code.</del>	8289 8290 8291 8292 8293 8294 8295 8296 8297 8298 8299 8300
<u>(1) To help defray the costs of administering the tax imposed by this chapter, the commissioner shall collect a registration fee in the amount of twenty dollars per person up to a maximum of two hundred dollars per consolidated elected taxpayer or combined taxpayer group. The commissioner shall systematically deduct and collect the fee from the first tax payment each taxpayer makes after registering or adding members, as applicable. No separate registration fee may be collected in addition to the tax imposed by this chapter.</u>	8301 8302 8303 8304 8305 8306 8307 8308 8309
<u>(2) If a person does not register within the time prescribed</u>	8310

by this section, an additional fee is imposed in the amount of one 8311  
hundred dollars per month or part thereof that the fee is 8312  
outstanding, not to exceed one thousand dollars. The tax 8313  
commissioner may abate the additional fee. The fee imposed under 8314  
this division may be assessed in the same manner as the tax 8315  
imposed under this chapter. ~~Proceeds~~ 8316

(D) Proceeds from the fee imposed under division (C) of this 8317  
section shall be credited to the ~~commercial activity tax~~ 8318  
~~administrative revenue enhancement~~ fund, which is hereby created 8319  
in the state treasury ~~for the commissioner to use in implementing~~ 8320  
~~and administering the tax imposed under this chapter.~~ 8321

~~Registration fees paid under this section, excluding any~~ 8322  
~~additional fee imposed for a person's failure to timely register,~~ 8323  
~~shall be credited against the first payment of tax payable under~~ 8324  
~~section 5751.03 of the Revised Code.~~ 8325

~~(D)~~(E) If a person that has registered under this section is 8326  
no longer a taxpayer subject to this chapter, ~~including no longer~~ 8327  
~~being a taxpayer because of the application of division (E)(1) of~~ 8328  
~~section 5751.01 of the Revised Code,~~ the person shall notify the 8329  
commissioner that the person's registration should be cancelled. 8330

~~(E)~~(F) With respect to registrations received by the 8331  
commissioner before ~~the effective date of the amendment of this~~ 8332  
~~section by the main operating appropriations act of the 128th~~ 8333  
~~general assembly October 16, 2009,~~ the taxpayer listed as the 8334  
primary taxpayer on the registration shall be the reporting person 8335  
until the taxpayer notifies the commissioner otherwise. 8336

**Sec. 5751.05.** (A) If a person subject to this chapter 8337  
anticipates that the person's taxable gross receipts will be more 8338  
than one million dollars in a calendar year, the person shall 8339  
notify the tax commissioner on the person's initial registration 8340  
form and file on a quarterly basis as a calendar quarter taxpayer. 8341

Any taxpayer with taxable gross receipts of one million dollars or 8342  
less shall register as a calendar year taxpayer and shall file 8343  
annually. 8344

(B) Any person that is a calendar year taxpayer under 8345  
division (A) of this section shall become a calendar quarter 8346  
taxpayer in the subsequent calendar year if the person's taxable 8347  
gross receipts for the prior calendar year are more than one 8348  
million dollars, and shall remain a calendar quarter taxpayer 8349  
until the person notifies the ~~tax~~ commissioner, and receives 8350  
approval in writing from the ~~tax~~ commissioner, to switch back to 8351  
being a calendar year taxpayer. ~~Nothing in this division prohibits~~ 8352  
~~a person that has elected to be a calendar year taxpayer from~~ 8353  
~~notifying the tax commissioner, using the procedures prescribed by~~ 8354  
~~the commissioner, that it is switching back to being a calendar~~ 8355  
~~quarter taxpayer.~~ 8356

(C) ~~Any taxpayer that is not a calendar quarter taxpayer~~ 8357  
~~pursuant to this section is a calendar year taxpayer.~~ The 8358  
commissioner may grant written approval for a calendar quarter 8359  
taxpayer to use an alternative reporting schedule or estimate the 8360  
amount of tax due for a calendar quarter if the taxpayer 8361  
demonstrates to the commissioner the need for such a deviation. 8362  
The commissioner may adopt a rule to apply division (C) of this 8363  
section to a group of taxpayers without the taxpayers having to 8364  
receive written approval from the commissioner. 8365

**Sec. 5751.051.** (A)(1) Not later than the tenth day of the 8366  
second month after the end of each calendar quarter, every 8367  
taxpayer other than a calendar year taxpayer shall file with the 8368  
tax commissioner a tax return in such form as the commissioner 8369  
prescribes. The return shall include, but is not limited to, the 8370  
amount of the taxpayer's taxable gross receipts for the calendar 8371  
quarter and shall indicate the amount of tax due under section 8372

5751.03 of the Revised Code for the calendar quarter. 8373

(2)(a) Subject to division (C) of section 5751.05 of the 8374  
Revised Code, a calendar quarter taxpayer shall report the taxable 8375  
gross receipts for that calendar quarter. 8376

(b) With respect to taxable gross receipts incorrectly 8377  
reported in a calendar quarter that has a lower tax rate, the tax 8378  
shall be computed at the tax rate in effect for the quarterly 8379  
return in which such receipts should have been reported. Nothing 8380  
in division (A)(2)(b) of this section prohibits a taxpayer from 8381  
filing an application for refund under section 5751.08 of the 8382  
Revised Code with regard to the incorrect reporting of taxable 8383  
gross receipts discovered after filing the annual return described 8384  
in division (A)(3) of this section. 8385

A tax return shall not be deemed to be an incorrect reporting 8386  
of taxable gross receipts for the purposes of division (A)(2)(b) 8387  
of this section if the return reflects between ninety-five and one 8388  
hundred five per cent of the actual taxable gross receipts for the 8389  
calendar quarter. 8390

(3) For the purposes of division (A)(2)(b) of this section, 8391  
the tax return filed for the fourth calendar quarter of a calendar 8392  
year is the annual return for the privilege tax imposed by this 8393  
chapter. Such return shall report any additional taxable gross 8394  
receipts not previously reported in the calendar year and shall 8395  
adjust for any over-reported taxable gross receipts in the 8396  
calendar year. If the taxpayer ceases to be a taxpayer before the 8397  
end of the calendar year, the last return the taxpayer is required 8398  
to file shall be the annual return for the taxpayer and the 8399  
taxpayer shall report any additional taxable gross receipts not 8400  
previously reported in the calendar year and shall adjust for any 8401  
over-reported taxable gross receipts in the calendar year. 8402

(4) Because the tax imposed by this chapter is a privilege 8403

tax, the tax rate with respect to taxable gross receipts for a 8404  
calendar quarter is not fixed until the end of the measurement 8405  
period for each calendar quarter. Subject to division (A)(2)(b) of 8406  
this section, the total amount of taxable gross receipts reported 8407  
for a given calendar quarter shall be subject to the tax rate in 8408  
effect in that quarter. 8409

(5) Not later than the tenth day of May following the end of 8410  
each calendar year, every calendar year taxpayer shall file with 8411  
the tax commissioner a tax return in such form as the commissioner 8412  
prescribes. The return shall include, but is not limited to, the 8413  
amount of the taxpayer's taxable gross receipts for the calendar 8414  
year and shall indicate the amount of tax due under section 8415  
5751.03 of the Revised Code for the calendar year. 8416

(B)(1) A person that first becomes subject to the tax imposed 8417  
under this chapter shall pay the minimum tax imposed under 8418  
division (B) of section 5751.03 of the Revised Code ~~along with the~~ 8419  
~~registration fee imposed under this section, if applicable,~~ on or 8420  
before the day the return is required to be filed for that quarter 8421  
under division (A)(1) of this section, regardless of whether the 8422  
person ~~elects to be~~ registers as a calendar year taxpayer under 8423  
section 5751.05 of the Revised Code. 8424

(2) The amount of the minimum tax for a person subject to 8425  
division (B)(1) of this section shall be reduced to seventy-five 8426  
dollars if the registration is timely filed after the first day of 8427  
May and before the first day of January of the following calendar 8428  
year. 8429

**Sec. 5751.12.** The tax commissioner may prescribe requirements 8430  
for the keeping of records and other pertinent documents, the 8431  
filing of copies of federal income tax returns and determinations, 8432  
and computations reconciling federal income tax returns with the 8433  
returns and reports required by section ~~5751.05~~ 5751.051 of the 8434

Revised Code. The commissioner may require any person, by rule or notice served on that person, to keep those records that the commissioner considers necessary to show whether, and the extent to which, a person is subject to this chapter. Those records and other documents shall be open during business hours to the inspection of the commissioner, and shall be preserved for a period of four years unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. If such records are normally kept by the person electronically, the person shall provide such records to the commissioner electronically at the commissioner's request.

Any information required by the ~~tax~~ commissioner under this chapter is confidential as provided for in section 5703.21 of the Revised Code. However, the commissioner shall make public an electronic list of all actively registered persons required to remit the tax under this chapter, including legal names, trade names, addresses, and account numbers. In addition, such list shall include all persons that cancelled their registration at any time during the preceding four calendar years, including the effective date of the registration was cancelled cancellation.

**Sec. 5751.20.** (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid" for a school district means the following:

(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: division (A) of section 3317.022 of the Revised Code, including the amounts calculated under sections 3317.029 and 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under sections 3317.05, 3317.052, and 3317.053 of the Revised Code; except that, for fiscal years 2008 and 2009, the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be substituted for the amount computed under division (D) of section 3317.022 of the Revised Code, and the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the sum of the amounts computed under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code;

(c) For fiscal years 2012 and 2013, the amount paid in accordance with ~~the section~~ Section 267.30.50 of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(3) "State education aid" for a joint vocational school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code, except that, for fiscal years 2008 and 2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

- (b) For fiscal years 2010 and 2011, the amount paid in accordance with ~~the section~~ Section 265.30.50 of H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 8496  
8497  
8498  
8499
- (c) For fiscal years 2012 and 2013, the amount paid in accordance with ~~the section~~ Section 267.30.60 of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 8500  
8501  
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8503
- (4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code. 8504  
8505  
8506
- (5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section. 8507  
8508
- (6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section. 8509  
8510
- (7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section. 8511  
8512
- (8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section. 8513  
8514
- (9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section. 8515  
8516
- (10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section. 8517  
8518
- (11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss. 8519  
8520  
8521  
8522
- (12) "Fixed-sum levy loss" means the amount determined under division (E) of this section. 8523  
8524
- (13) "Machinery and equipment" means personal property 8525

subject to the assessment rate specified in division (F) of 8526  
section 5711.22 of the Revised Code. 8527

(14) "Inventory" means personal property subject to the 8528  
assessment rate specified in division (E) of section 5711.22 of 8529  
the Revised Code. 8530

(15) "Furniture and fixtures" means personal property subject 8531  
to the assessment rate specified in division (G) of section 8532  
5711.22 of the Revised Code. 8533

(16) "Qualifying levies" are levies in effect for tax year 8534  
2004 or applicable to tax year 2005 or approved at an election 8535  
conducted before September 1, 2005. For the purpose of determining 8536  
the rate of a qualifying levy authorized by section 5705.212 or 8537  
5705.213 of the Revised Code, the rate shall be the rate that 8538  
would be in effect for tax year 2010. 8539

(17) "Telephone property" means tangible personal property of 8540  
a telephone, telegraph, or interexchange telecommunications 8541  
company subject to an assessment rate specified in section 8542  
5727.111 of the Revised Code in tax year 2004. 8543

(18) "Telephone property tax value loss" means the amount 8544  
determined under division (C)(4) of this section. 8545

(19) "Telephone property fixed-rate levy loss" means the 8546  
amount determined under division (D)(4) of this section. 8547

(20) "Taxes charged and payable" means taxes charged and 8548  
payable after the reduction required by section 319.301 of the 8549  
Revised Code but before the reductions required by sections 8550  
319.302 and 323.152 of the Revised Code. 8551

(21) "Median estate tax collections" means, in the case of a 8552  
municipal corporation to which revenue from the taxes levied in 8553  
Chapter 5731. of the Revised Code was distributed in each of 8554  
calendar years 2006, 2007, 2008, and 2009, the median of those 8555

distributions. In the case of a municipal corporation to which no 8556  
distributions were made in one or more of those years, "median 8557  
estate tax collections" means zero. 8558

(22) "Total resources," in the case of a school district, 8559  
means the sum of the amounts in divisions (A)(22)(a) to (h) of 8560  
this section less any reduction required under division (A)(32) or 8561  
(33) of this section. 8562

(a) The state education aid for fiscal year 2010; 8563

(b) The sum of the payments received by the school district 8564  
in fiscal year 2010 for current expense levy losses pursuant to 8565  
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 8566  
section 5751.21 of the Revised Code, excluding the portion of such 8567  
payments attributable to levies for joint vocational school 8568  
district purposes; 8569

(c) The sum of fixed-sum levy loss payments received by the 8570  
school district in fiscal year 2010 pursuant to division (E)(1) of 8571  
section 5727.85 and division (E)(1) of section 5751.21 of the 8572  
Revised Code for fixed-sum levies ~~imposed~~ charged and payable for 8573  
a purpose other than paying debt charges; 8574

(d) Fifty per cent of the school district's taxes charged and 8575  
payable against all property on the tax list of real and public 8576  
utility property for current expense purposes for tax year 2008, 8577  
including taxes charged and payable from emergency levies ~~imposed~~ 8578  
charged and payable under section 5709.194 of the Revised Code and 8579  
excluding taxes levied for joint vocational school district 8580  
purposes; 8581

(e) Fifty per cent of the school district's taxes charged and 8582  
payable against all property on the tax list of real and public 8583  
utility property for current expenses for tax year 2009, including 8584  
taxes charged and payable from emergency levies and excluding 8585  
taxes levied for joint vocational school district purposes; 8586

(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;	8587 8588 8589 8590
(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;	8591 8592
(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.	8593 8594
(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.	8595 8596 8597 8598
(a) The state education aid for fiscal year 2010;	8599
(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;	8600 8601 8602 8603
(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;	8604 8605 8606 8607
(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;	8608 8609 8610 8611
(e) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2008;	8612 8613 8614 8615 8616

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational 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.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(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 mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and ~~division~~ 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 mental health and developmental disability 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.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(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 senior 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 senior services related purposes, the taxes charged and payable for such

purposes against all property on the tax list of real and public 8648  
utility property for tax year 2009. 8649

(26) "Total resources," in the case of county children's 8650  
services related functions, means the sum of the amounts in 8651  
divisions (A)(26)(a) and (b) of this section less any reduction 8652  
required under division (A)(32) of this section. 8653

(a) The sum of the payments received by the county for 8654  
children's services related functions in calendar year 2010 under 8655  
division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of 8656  
section 5751.22 of the Revised Code as they existed at that time; 8657

(b) With respect to taxes levied by the county for children's 8658  
services related purposes, the taxes charged and payable for such 8659  
purposes against all property on the tax list of real and public 8660  
utility property for tax year 2009. 8661

(27) "Total resources," in the case of county public health 8662  
related functions, means the sum of the amounts in divisions 8663  
(A)(27)(a) and (b) of this section less any reduction required 8664  
under division (A)(32) of this section. 8665

(a) The sum of the payments received by the county for public 8666  
health related functions in calendar year 2010 under division 8667  
(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 8668  
5751.22 of the Revised Code as they existed at that time; 8669

(b) With respect to taxes levied by the county for public 8670  
health related purposes, the taxes charged and payable for such 8671  
purposes against all property on the tax list of real and public 8672  
utility property for tax year 2009. 8673

(28) "Total resources," in the case of all county functions 8674  
not included in divisions (A)(24) to (27) of this section, means 8675  
the sum of the amounts in divisions (A)(28)(a) to (d) of this 8676  
section less any reduction required under division (A)(32) or (33) 8677  
of this section. 8678

(a) The sum of the payments received by the county for all 8679  
other purposes in calendar year 2010 under division (A)(1) of 8680  
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 8681  
the Revised Code as they existed at that time; 8682

(b) The county's percentage share of county undivided local 8683  
government fund allocations as certified to the tax commissioner 8684  
for calendar year 2010 by the county auditor under division (J) of 8685  
section 5747.51 of the Revised Code or division (F) of section 8686  
5747.53 of the Revised Code multiplied by the total amount 8687  
actually distributed in calendar year 2010 from the county 8688  
undivided local government fund; 8689

(c) With respect to taxes levied by the county for all other 8690  
purposes, the taxes charged and payable for such purposes against 8691  
all property on the tax list of real and public utility property 8692  
for tax year 2009, excluding taxes charged and payable for the 8693  
purpose of paying debt charges; 8694

(d) The sum of the amounts distributed to the county in 8695  
calendar year 2010 for the taxes levied pursuant to sections 8696  
5739.021 and 5741.021 of the Revised Code. 8697

(29) "Total resources," in the case of a municipal 8698  
corporation, means the sum of the amounts in divisions (A)(29)(a) 8699  
to (g) of this section less any reduction required under division 8700  
(A)(32) or (33) of this section. 8701

(a) The sum of the payments received by the municipal 8702  
corporation in calendar year 2010 for current expense levy losses 8703  
under division (A)(1) of section 5727.86 and divisions (A)(1) and 8704  
(2) of section 5751.22 of the Revised Code as they existed at that 8705  
time; 8706

(b) The municipal corporation's percentage share of county 8707  
undivided local government fund allocations as certified to the 8708  
tax commissioner for calendar year 2010 by the county auditor 8709

under division (J) of section 5747.51 of the Revised Code or 8710  
division (F) of section 5747.53 of the Revised Code multiplied by 8711  
the total amount actually distributed in calendar year 2010 from 8712  
the county undivided local government fund; 8713

(c) The sum of the amounts distributed to the municipal 8714  
corporation in calendar year 2010 pursuant to section 5747.50 of 8715  
the Revised Code; 8716

(d) With respect to taxes levied by the municipal 8717  
corporation, the taxes charged and payable against all property on 8718  
the tax list of real and public utility property for current 8719  
expenses, defined in division (A)~~(33)~~(35) of this section, for tax 8720  
year 2009; 8721

(e) The amount of admissions tax collected by the municipal 8722  
corporation in calendar year 2008, or if such information has not 8723  
yet been reported to the tax commissioner, in the most recent year 8724  
before 2008 for which the municipal corporation has reported data 8725  
to the commissioner; 8726

(f) The amount of income taxes collected by the municipal 8727  
corporation in calendar year 2008, or if such information has not 8728  
yet been reported to the tax commissioner, in the most recent year 8729  
before 2008 for which the municipal corporation has reported data 8730  
to the commissioner; 8731

(g) The municipal corporation's median estate tax 8732  
collections. 8733

(30) "Total resources," in the case of a township, means the 8734  
sum of the amounts in divisions (A)(30)(a) to (c) of this section 8735  
less any reduction required under division (A)(32) or (33) of this 8736  
section. 8737

(a) The sum of the payments received by the township in 8738  
calendar year 2010 pursuant to division (A)(1) of section 5727.86 8739  
of the Revised Code and divisions (A)(1) and (2) of section 8740

5751.22 of the Revised Code as they existed at that time, 8741  
excluding payments received for debt purposes; 8742

(b) The township's percentage share of county undivided local 8743  
government fund allocations as certified to the tax commissioner 8744  
for calendar year 2010 by the county auditor under division (J) of 8745  
section 5747.51 of the Revised Code or division (F) of section 8746  
5747.53 of the Revised Code multiplied by the total amount 8747  
actually distributed in calendar year 2010 from the county 8748  
undivided local government fund; 8749

(c) With respect to taxes levied by the township, the taxes 8750  
charged and payable against all property on the tax list of real 8751  
and public utility property for tax year 2009 excluding taxes 8752  
charged and payable for the purpose of paying debt charges. 8753

(31) "Total resources," in the case of a local taxing unit 8754  
that is not a county, municipal corporation, or township, means 8755  
the sum of the amounts in divisions (A)(31)(a) to (e) of this 8756  
section less any reduction required under division (A)(32) of this 8757  
section. 8758

(a) The sum of the payments received by the local taxing unit 8759  
in calendar year 2010 pursuant to division (A)(1) of section 8760  
5727.86 of the Revised Code and divisions (A)(1) and (2) of 8761  
section 5751.22 of the Revised Code as they existed at that time; 8762

(b) The local taxing unit's percentage share of county 8763  
undivided local government fund allocations as certified to the 8764  
tax commissioner for calendar year 2010 by the county auditor 8765  
under division (J) of section 5747.51 of the Revised Code or 8766  
division (F) of section 5747.53 of the Revised Code multiplied by 8767  
the total amount actually distributed in calendar year 2010 from 8768  
the county undivided local government fund; 8769

(c) With respect to taxes levied by the local taxing unit, 8770  
the taxes charged and payable against all property on the tax list 8771

of real and public utility property for tax year 2009 excluding 8772  
taxes charged and payable for the purpose of paying debt charges; 8773

(d) The amount received from the tax commissioner during 8774  
calendar year 2010 for sales or use taxes authorized under 8775  
sections 5739.023 and 5741.022 of the Revised Code; 8776

(e) For institutions of higher education receiving tax 8777  
revenue from a local levy, as identified in section 3358.02 of the 8778  
Revised Code, the final state share of instruction allocation for 8779  
fiscal year 2010 as calculated by the board of regents and 8780  
reported to the state controlling board. 8781

(32) If a fixed-rate levy that is a qualifying levy is not 8782  
~~imposed charged and payable~~ in any year after tax year 2010, 8783  
"total resources" used to compute payments to be made under 8784  
division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) 8785  
of section 5751.22 of the Revised Code in the tax years following 8786  
the last year the levy is ~~imposed charged and payable~~ shall be 8787  
reduced ~~by the amount of~~ to the extent that the payments are 8788  
attributable to the fixed-rate levy loss of that levy as would be 8789  
computed under division (C)(2) of section 5727.85, division (A)(1) 8790  
of section 5727.85, divisions (C)(8) and (9) of section 5751.21, 8791  
or division (A)(1) of section 5751.22 of the Revised Code. 8792

(33) In the case of a county, municipal corporation, school 8793  
district, or township with fixed-rate levy losses attributable to 8794  
a tax levied under section 5705.23 of the Revised Code, "total 8795  
resources" used to compute payments to be made under division 8796  
(C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, 8797  
division (C)(12) of section 5751.21, or division (A)(1)(c) of 8798  
section 5751.22 of the Revised Code shall be reduced by the 8799  
amounts described in divisions (A)(34)(a) to (c) of this section 8800  
to the extent that those amounts were included in calculating the 8801  
"total resources" of the school district or local taxing unit 8802  
under division (A)(22), (28), (29), or (30) of this section. 8803

(34) "Total library resources," in the case of a county, municipal corporation, school district, or township public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, means the sum of the amounts in divisions (A)(34)(a) to (c) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county, municipal corporation, school district, or township public library in calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the Revised Code, as they existed at that time, for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code for the benefit of the public library;

(b) The public library'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;

(c) With respect to a tax levied pursuant to section 5705.23 of the Revised Code for the benefit of the public library, the amount of such tax that is charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding any tax that is charged and payable for the purpose of paying debt charges.

(35) "Municipal current expense property tax levies" means all property tax levies of a municipality, except those with the following levy names: airport resurfacing; bond or any levy name including the word "bond"; capital improvement or any levy name including the word "capital"; debt or any levy name including the word "debt"; equipment or any levy name including the word "equipment," unless the levy is for combined operating and

equipment; employee termination fund; fire pension or any levy 8836  
containing the word "pension," including police pensions; 8837  
fireman's fund or any practically similar name; sinking fund; road 8838  
improvements or any levy containing the word "road"; fire truck or 8839  
apparatus; flood or any levy containing the word "flood"; 8840  
conservancy district; county health; note retirement; sewage, or 8841  
any levy containing the words "sewage" or "sewer"; park 8842  
improvement; parkland acquisition; storm drain; street or any levy 8843  
name containing the word "street"; lighting, or any levy name 8844  
containing the word "lighting"; and water. 8845

~~(34)~~(36) "Current expense TPP allocation" means, in the case 8846  
of a school district or joint vocational school district, the sum 8847  
of the payments received by the school district in fiscal year 8848  
2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of 8849  
the Revised Code to the extent paid for current expense levies. In 8850  
the case of a municipal corporation, "current expense TPP 8851  
allocation" means the sum of the payments received by the 8852  
municipal corporation in calendar year 2010 pursuant to divisions 8853  
(A)(1) and (2) of section 5751.22 of the Revised Code to the 8854  
extent paid for municipal current expense property tax levies as 8855  
defined in division (A)~~(33)~~(35) of this section, excluding any 8856  
such payments received for current expense levy losses 8857  
attributable to a tax levied under section 5705.23 of the Revised 8858  
Code. If a fixed-rate levy that is a qualifying levy is not 8859  
~~imposed~~ charged and payable in any year after tax year 2010, 8860  
"current expense TPP allocation" used to compute payments to be 8861  
made under division (C)(12) of section 5751.21 or division 8862  
(A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax 8863  
years following the last year the levy is ~~imposed~~ charged and 8864  
payable shall be reduced ~~by the amount of~~ to the extent that the 8865  
payments are attributable to the fixed-rate levy loss of that levy 8866  
as would be computed under divisions (C)(10) and (11) of section 8867  
5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 8868

~~(35)~~(37) "TPP allocation" means the sum of payments received 8869  
by a local taxing unit in calendar year 2010 pursuant to divisions 8870  
(A)(1) and (2) of section 5751.22 of the Revised Code, excluding 8871  
any such payments received for fixed-rate levy losses attributable 8872  
to a tax levied under section 5705.23 of the Revised Code. If a 8873  
fixed-rate levy that is a qualifying levy is not ~~imposed~~ charged 8874  
and payable in any year after tax year 2010, "TPP allocation" used 8875  
to compute payments to be made under division (A)(1)(b) or (c) of 8876  
section 5751.22 of the Revised Code in the tax years following the 8877  
last year the levy is ~~imposed~~ charged and payable shall be reduced 8878  
~~by the amount of payment to the extent that the payments are~~ 8879  
attributable to the fixed-rate levy loss of that levy as would be 8880  
computed under division (A)(1) of that section. 8881

~~(36)~~(38) "Total TPP allocation" means, in the case of a 8882  
school district or joint vocational school district, the sum of 8883  
the amounts received in fiscal year 2011 pursuant to divisions 8884  
(C)(10) and (11) and (D) of section 5751.21 of the Revised Code. 8885  
In the case of a local taxing unit, "total TPP allocation" means 8886  
the sum of payments received by the unit in calendar year 2010 8887  
pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of 8888  
the Revised Code. If a fixed-rate levy that is a qualifying levy 8889  
is not ~~imposed~~ charged and payable in any year after tax year 8890  
2010, "total TPP allocation" used to compute payments to be made 8891  
under division (C)(12) of section 5751.21 or division (A)(1)(b) or 8892  
(c) of section 5751.22 of the Revised Code in the tax years 8893  
following the last year the levy is ~~imposed~~ charged and payable 8894  
shall be reduced ~~by the amount of~~ to the extent that the payments 8895  
are attributable to the fixed-rate levy loss of that levy as would 8896  
be computed under divisions (C)(10) and (11) of section 5751.21 or 8897  
division (A)(1) of section 5751.22 of the Revised Code. 8898

~~(37)~~(39) "Non-current expense TPP allocation" means the 8899  
difference of total TPP allocation minus the sum of current 8900

expense TPP allocation and the portion of total TPP allocation 8901  
constituting reimbursement for debt levies, pursuant to division 8902  
(D) of section 5751.21 of the Revised Code in the case of a school 8903  
district or joint vocational school district and pursuant to 8904  
division (A)(3) of section 5751.22 of the Revised Code in the case 8905  
of a municipal corporation. 8906

~~(38)~~(40) "TPP allocation for library purposes" means the sum 8907  
of payments received by a county, municipal corporation, school 8908  
district, or township public library in calendar year 2010 8909  
pursuant to section 5751.22 of the Revised Code for fixed-rate 8910  
levy losses attributable to a tax levied under section 5705.23 of 8911  
the Revised Code. If a fixed-rate levy authorized under section 8912  
5705.23 of the Revised Code that is a qualifying levy is not 8913  
charged and payable in any year after tax year 2010, "TPP 8914  
allocation for library purposes" used to compute payments to be 8915  
made under division (A)(1)(d) of section 5751.22 of the Revised 8916  
Code in the tax years following the last year the levy is charged 8917  
and payable shall be reduced to the extent that the payments are 8918  
attributable to the fixed-rate levy loss of that levy as would be 8919  
computed under division (A)(1) of section 5751.22 of the Revised 8920  
Code. 8921

(41) "Threshold per cent" means, in the case of a school 8922  
district or joint vocational school district, two per cent for 8923  
fiscal year 2012 and four per cent for fiscal years 2013 and 8924  
thereafter. In the case of a local taxing unit or public library 8925  
that receives the proceeds of a tax levied under section 5705.23 8926  
of the Revised Code, "threshold per cent" means two per cent for 8927  
tax year 2011, four per cent for tax year 2012, and six per cent 8928  
for tax years 2013 and thereafter. 8929

(B) The commercial activities tax receipts fund is hereby 8930  
created in the state treasury and shall consist of money arising 8931  
from the tax imposed under this chapter. Eighty-five 8932

one-hundredths of one per cent of the money credited to that fund 8933  
shall be credited to the ~~tax reform system implementation revenue~~ 8934  
enhancement fund, ~~which is hereby created in the state treasury,~~ 8935  
and shall be used to defray the costs incurred by the department 8936  
of taxation in administering the tax imposed by this chapter and 8937  
in implementing tax reform measures. The remainder in the 8938  
commercial activities tax receipts fund shall be credited for each 8939  
fiscal year in the following percentages to the general revenue 8940  
fund, to the school district tangible property tax replacement 8941  
fund, which is hereby created in the state treasury for the 8942  
purpose of making the payments described in section 5751.21 of the 8943  
Revised Code, and to the local government tangible property tax 8944  
replacement fund, which is hereby created in the state treasury 8945  
for the purpose of making the payments described in section 8946  
5751.22 of the Revised Code, in the following percentages: 8947

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%	8949
2007	0%	70.0%	30.0%	8950
2008	0%	70.0%	30.0%	8951
2009	0%	70.0%	30.0%	8952
2010	0%	70.0%	30.0%	8953
2011	0%	70.0%	30.0%	8954
2012	25.0%	52.5%	22.5%	8955
2013 and	50.0%	35.0%	15.0%	8956

thereafter

(C) Not later than September 15, 2005, the tax commissioner 8957  
shall determine for each school district, joint vocational school 8958  
district, and local taxing unit its machinery and equipment, 8959  
inventory property, furniture and fixtures property, and telephone 8960  
property tax value losses, which are the applicable amounts 8961

described in divisions (C)(1), (2), (3), and (4) of this section, 8962  
except as provided in division (C)(5) of this section: 8963

(1) Machinery and equipment property tax value loss is the 8964  
taxable value of machinery and equipment property as reported by 8965  
taxpayers for tax year 2004 multiplied by: 8966

(a) For tax year 2006, thirty-three and eight-tenths per 8967  
cent; 8968

(b) For tax year 2007, sixty-one and three-tenths per cent; 8969

(c) For tax year 2008, eighty-three per cent; 8970

(d) For tax year 2009 and thereafter, one hundred per cent. 8971

(2) Inventory property tax value loss is the taxable value of 8972  
inventory property as reported by taxpayers for tax year 2004 8973  
multiplied by: 8974

(a) For tax year 2006, a fraction, the numerator of which is 8975  
five and three-fourths and the denominator of which is 8976  
twenty-three; 8977

(b) For tax year 2007, a fraction, the numerator of which is 8978  
nine and one-half and the denominator of which is twenty-three; 8979

(c) For tax year 2008, a fraction, the numerator of which is 8980  
thirteen and one-fourth and the denominator of which is 8981  
twenty-three; 8982

(d) For tax year 2009 and thereafter a fraction, the 8983  
numerator of which is seventeen and the denominator of which is 8984  
twenty-three. 8985

(3) Furniture and fixtures property tax value loss is the 8986  
taxable value of furniture and fixture property as reported by 8987  
taxpayers for tax year 2004 multiplied by: 8988

(a) For tax year 2006, twenty-five per cent; 8989

(b) For tax year 2007, fifty per cent; 8990

(c) For tax year 2008, seventy-five per cent; 8991

(d) For tax year 2009 and thereafter, one hundred per cent. 8992

The taxable value of property reported by taxpayers used in 8993  
divisions (C)(1), (2), and (3) of this section shall be such 8994  
values as determined to be final by the tax commissioner as of 8995  
August 31, 2005. Such determinations shall be final except for any 8996  
correction of a clerical error that was made prior to August 31, 8997  
2005, by the tax commissioner. 8998

(4) Telephone property tax value loss is the taxable value of 8999  
telephone property as taxpayers would have reported that property 9000  
for tax year 2004 if the assessment rate for all telephone 9001  
property for that year were twenty-five per cent, multiplied by: 9002

(a) For tax year 2006, zero per cent; 9003

(b) For tax year 2007, zero per cent; 9004

(c) For tax year 2008, zero per cent; 9005

(d) For tax year 2009, sixty per cent; 9006

(e) For tax year 2010, eighty per cent; 9007

(f) For tax year 2011 and thereafter, one hundred per cent. 9008

(5) Division (C)(5) of this section applies to any school 9009  
district, joint vocational school district, or local taxing unit 9010  
in a county in which is located a facility currently or formerly 9011  
devoted to the enrichment or commercialization of uranium or 9012  
uranium products, and for which the total taxable value of 9013  
property listed on the general tax list of personal property for 9014  
any tax year from tax year 2001 to tax year 2004 was fifty per 9015  
cent or less of the taxable value of such property listed on the 9016  
general tax list of personal property for the next preceding tax 9017  
year. 9018

In computing the fixed-rate levy losses under divisions 9019  
(D)(1), (2), and (3) of this section for any school district, 9020

joint vocational school district, or local taxing unit to which 9021  
division (C)(5) of this section applies, the taxable value of such 9022  
property as listed on the general tax list of personal property 9023  
for tax year 2000 shall be substituted for the taxable value of 9024  
such property as reported by taxpayers for tax year 2004, in the 9025  
taxing district containing the uranium facility, if the taxable 9026  
value listed for tax year 2000 is greater than the taxable value 9027  
reported by taxpayers for tax year 2004. For the purpose of making 9028  
the computations under divisions (D)(1), (2), and (3) of this 9029  
section, the tax year 2000 valuation is to be allocated to 9030  
machinery and equipment, inventory, and furniture and fixtures 9031  
property in the same proportions as the tax year 2004 values. For 9032  
the purpose of the calculations in division (A) of section 5751.21 9033  
of the Revised Code, the tax year 2004 taxable values shall be 9034  
used. 9035

To facilitate the calculations required under division (C) of 9036  
this section, the county auditor, upon request from the tax 9037  
commissioner, shall provide by August 1, 2005, the values of 9038  
machinery and equipment, inventory, and furniture and fixtures for 9039  
all single-county personal property taxpayers for tax year 2004. 9040

(D) Not later than September 15, 2005, the tax commissioner 9041  
shall determine for each tax year from 2006 through 2009 for each 9042  
school district, joint vocational school district, and local 9043  
taxing unit its machinery and equipment, inventory, and furniture 9044  
and fixtures fixed-rate levy losses, and for each tax year from 9045  
2006 through 2011 its telephone property fixed-rate levy loss. 9046  
Except as provided in division (F) of this section, such losses 9047  
are the applicable amounts described in divisions (D)(1), (2), 9048  
(3), and (4) of this section: 9049

(1) The machinery and equipment fixed-rate levy loss is the 9050  
machinery and equipment property tax value loss multiplied by the 9051  
sum of the tax rates of fixed-rate qualifying levies. 9052

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through 2010, the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies ~~imposed~~ charged and payable under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 through 2017 in the case of school district levies ~~imposed~~ charged and payable under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy ~~imposed~~ charged and payable under section 5705.194 or 5705.213 of the

Revised Code remains in effect in a year after 2010 only if, for 9085  
that year, the board of education levies a school district levy 9086  
~~imposed~~ charged and payable under section 5705.194, 5705.199, 9087  
5705.213, or 5705.219 of the Revised Code for an annual sum at 9088  
least equal to the annual sum levied by the board in tax year 2004 9089  
less the amount of the payment certified under this division for 9090  
2006. 9091

(2) The total taxable value in tax year 2004 less the sum of 9092  
the machinery and equipment, inventory, furniture and fixtures, 9093  
and telephone property tax value losses in each school district, 9094  
joint vocational school district, and local taxing unit multiplied 9095  
by one-half of one mill per dollar. 9096

(3) For the calculations in divisions (E)(1) and (2) of this 9097  
section, the tax value losses are those that would be calculated 9098  
for tax year 2009 under divisions (C)(1), (2), and (3) of this 9099  
section and for tax year 2011 under division (C)(4) of this 9100  
section. 9101

(4) To facilitate the calculation under divisions (D) and (E) 9102  
of this section, not later than September 1, 2005, any school 9103  
district, joint vocational school district, or local taxing unit 9104  
that has a qualifying levy that was approved at an election 9105  
conducted during 2005 before September 1, 2005, shall certify to 9106  
the tax commissioner a copy of the county auditor's certificate of 9107  
estimated property tax millage for such levy as required under 9108  
division (B) of section 5705.03 of the Revised Code, which is the 9109  
rate that shall be used in the calculations under such divisions. 9110

If the amount determined under division (E) of this section 9111  
for any school district, joint vocational school district, or 9112  
local taxing unit is greater than zero, that amount shall equal 9113  
the reimbursement to be paid pursuant to division (E) of section 9114  
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 9115  
and the one-half of one mill that is subtracted under division 9116

(E)(2) of this section shall be apportioned among all contributing 9117  
fixed-sum levies in the proportion that each levy bears to the sum 9118  
of all fixed-sum levies within each school district, joint 9119  
vocational school district, or local taxing unit. 9120

(F) If a school district levies a tax under section 5705.219 9121  
of the Revised Code, the fixed-rate levy loss for qualifying 9122  
levies, to the extent repealed under that section, shall equal the 9123  
sum of the following amounts in lieu of the amounts computed for 9124  
such levies under division (D) of this section: 9125

(1) The sum of the rates of qualifying levies to the extent 9126  
so repealed multiplied by the sum of the machinery and equipment, 9127  
inventory, and furniture and fixtures tax value losses for 2009 as 9128  
determined under that division; 9129

(2) The sum of the rates of qualifying levies to the extent 9130  
so repealed multiplied by the telephone property tax value loss 9131  
for 2011 as determined under that division. 9132

The fixed-rate levy losses for qualifying levies to the 9133  
extent not repealed under section 5705.219 of the Revised Code 9134  
shall be as determined under division (D) of this section. The 9135  
revised fixed-rate levy losses determined under this division and 9136  
division (D) of this section first apply in the year following the 9137  
first year the district levies the tax under section 5705.219 of 9138  
the Revised Code. 9139

(G) Not later than October 1, 2005, the tax commissioner 9140  
shall certify to the department of education for every school 9141  
district and joint vocational school district the machinery and 9142  
equipment, inventory, furniture and fixtures, and telephone 9143  
property tax value losses determined under division (C) of this 9144  
section, the machinery and equipment, inventory, furniture and 9145  
fixtures, and telephone fixed-rate levy losses determined under 9146  
division (D) of this section, and the fixed-sum levy losses 9147

calculated under division (E) of this section. The calculations 9148  
under divisions (D) and (E) of this section shall separately 9149  
display the levy loss for each levy eligible for reimbursement. 9150

(H) Not later than October 1, 2005, the tax commissioner 9151  
shall certify the amount of the fixed-sum levy losses to the 9152  
county auditor of each county in which a school district, joint 9153  
vocational school district, or local taxing unit with a fixed-sum 9154  
levy loss reimbursement has territory. 9155

(I) Not later than the twenty-eighth day of February each 9156  
year beginning in 2011 and ending in 2014, the tax commissioner 9157  
shall certify to the department of education for each school 9158  
district first levying a tax under section 5705.219 of the Revised 9159  
Code in the preceding year the revised fixed-rate levy losses 9160  
determined under divisions (D) and (F) of this section. 9161

**Sec. 5751.22.** (A) Not later than January 1, 2006, the tax 9162  
commissioner shall compute the payments to be made to each local 9163  
taxing unit, and to each public library that receives the proceeds 9164  
of a tax levied under section 5705.23 of the Revised Code, for 9165  
each year according to divisions (A)(1), (2), (3), and (4) of this 9166  
section as this section existed on that date, and shall distribute 9167  
the payments in the manner prescribed by division (C) of this 9168  
section. The calculation of the fixed-sum levy loss shall cover a 9169  
time period sufficient to include all fixed-sum levies for which 9170  
the commissioner determined, pursuant to division (E) of section 9171  
5751.20 of the Revised Code, that a fixed-sum levy loss is to be 9172  
reimbursed. 9173

(1) Except as provided in division (A)(3) of this section, 9174  
for fixed-rate levy losses determined under division (D) of 9175  
section 5751.20 of the Revised Code, payments shall be made in an 9176  
amount equal to the following: 9177

(a) For tax years 2006 through 2010, one hundred per cent of 9178

such losses;	9179
(b) For the payment in tax year 2011 to be made on or before the twentieth day of November, the sum of the amount in division (A)(1)(b)(i) or (ii) and division (A)(1)(b)(iii) of this section:	9180 9181 9182
(i) If the ratio of six-sevenths of the TPP allocation to total resources is equal to or less than the threshold per cent, zero;	9183 9184 9185
(ii) If the ratio of six-sevenths of the TPP allocation to total resources is greater than the threshold per cent, the difference of six-sevenths of the TPP allocation minus the product of total resources multiplied by the threshold per cent;	9186 9187 9188 9189
(iii) In the case of a municipal corporation, six-sevenths of the product of the non-current expense TPP allocation multiplied by seventy-five per cent.	9190 9191 9192
(c) For tax years 2012 and thereafter, the sum of the amount in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of this section:	9193 9194 9195
(i) If the ratio of TPP allocation to total resources is equal to or less than the threshold per cent, zero;	9196 9197
(ii) If the ratio of TPP allocation to total resources is greater than the threshold per cent, the TPP allocation minus the product of total resources multiplied by the threshold per cent;	9198 9199 9200
(iii) In the case of a municipal corporation, non-current expense TPP allocation multiplied by fifty per cent for tax year 2012 and twenty-five per cent for tax years 2013 and thereafter;	9201 9202 9203
<u>(d) For tax years 2012 and thereafter, in the case of a county, school district, municipal corporation, or township public library, the amount in division (A)(1)(d)(i) or (ii) of this section:</u>	9204 9205 9206 9207
<u>(i) If the ratio of TPP allocation for library purposes to</u>	9208

total library resources is equal to or less than the threshold per cent, zero; 9209  
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(ii) If the ratio of TPP allocation for library purposes to total library resources is greater than the threshold per cent, the TPP allocation for library purposes minus the product of total library resources multiplied by the threshold per cent. 9211  
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(2) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 ~~and thereafter~~ through 2011, except that no payments shall be made for qualifying levies that have expired. For payments required to be made in 2012 and thereafter, payments shall be made in the amount of fifty per cent of the fixed-sum levy loss until the qualifying levy has expired. 9215  
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(3) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used for taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2010, as long as such levies continue to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval. 9223  
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(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation 9239  
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originally made under division (A) of this section of the 9241  
fixed-sum levy losses determined under division (E) of section 9242  
5751.20 of the Revised Code. If the commissioner determines that a 9243  
fixed-sum levy that had been scheduled to be reimbursed in the 9244  
current year has expired, a revised calculation for that and all 9245  
subsequent years shall be made. 9246

(C) Payments to local taxing units and public libraries 9247  
required to be made under division (A) of this section shall be 9248  
paid from the local government tangible property tax replacement 9249  
fund to the county undivided income tax fund in the proper county 9250  
treasury. From May 2006 through November 2010, one-seventh of the 9251  
amount determined under that division shall be paid by the last 9252  
day of May each year, and three-sevenths shall be paid by the last 9253  
day of August and October each year. From May 2011 through 9254  
November 2013, one-seventh of the amount determined under that 9255  
division shall be paid on or before the last day of May each year, 9256  
and six-sevenths shall be paid on or before the ~~twentieth~~ 9257  
thirtieth day of November each year, except that in November 2011, 9258  
the payment shall equal one hundred per cent of the amount 9259  
calculated for that payment. Beginning in May 2014, one-half of 9260  
the amount determined under that division shall be paid on or 9261  
before the last day of May each year, and one-half shall be paid 9262  
on or before the ~~twentieth~~ thirtieth day of November each year. 9263  
Within ~~forty~~ thirty days after receipt of such payments, the 9264  
county treasurer shall distribute amounts determined under 9265  
division (A) of this section to the proper local taxing unit or 9266  
public library as if they had been levied and collected as taxes, 9267  
and the local taxing unit or public library shall apportion the 9268  
amounts so received among its funds in the same proportions as if 9269  
those amounts had been levied and collected as taxes. 9270

(D) For each of the fiscal years 2006 through 2018, if the 9271  
total amount in the local government tangible property tax 9272

replacement fund is insufficient to make all payments under 9273  
division (C) of this section at the times the payments are to be 9274  
made, the director of budget and management shall transfer from 9275  
the general revenue fund to the local government tangible property 9276  
tax replacement fund the difference between the total amount to be 9277  
paid and the amount in the local government tangible property tax 9278  
replacement fund. For each fiscal year after 2018, at the time 9279  
payments under division (A)(2) of this section are to be made, the 9280  
director of budget and management shall transfer from the general 9281  
revenue fund to the local government property tax replacement fund 9282  
the amount necessary to make such payments. 9283

(E) On the fifteenth day of June of each year from 2006 9284  
through 2018, the director of budget and management may transfer 9285  
any balance in the local government tangible property tax 9286  
replacement fund to the general revenue fund. 9287

(F) If all or a part of the territories of two or more local 9288  
taxing units are merged, or unincorporated territory of a township 9289  
is annexed by a municipal corporation, the tax commissioner shall 9290  
adjust the payments made under this section to each of the local 9291  
taxing units in proportion to the square mileage of the merged or 9292  
annexed territory as a percentage of the total square mileage of 9293  
the jurisdiction from which the territory originated, or as 9294  
otherwise provided by a written agreement between the legislative 9295  
authorities of the local taxing units certified to the 9296  
commissioner not later than the first day of June of the calendar 9297  
year in which the payment is to be made. 9298

**Section 2.** That existing sections 122.85, 131.02, 349.01, 9299  
1545.21, 1701.86, 1702.47, 3769.28, 4301.42, 4303.33, 4701.01, 9300  
4701.04, 5703.261, 5703.37, 5703.47, 5705.313, 5709.084, 5709.40, 9301  
5709.41, 5709.73, 5709.78, 5727.84, 5727.86, 5731.39, 5733.056, 9302  
5735.02, 5735.03, 5735.35, 5739.01, 5739.02, 5739.021, 5739.023, 9303

5739.026, 5739.04, 5739.17, 5741.08, 5743.20, 5743.61, 5743.66, 9304  
5747.082, 5751.01, 5751.011, 5751.012, 5751.03, 5751.04, 5751.05, 9305  
5751.051, 5751.12, 5751.20, and 5751.22 and section 5751.032 of 9306  
the Revised Code are hereby repealed. 9307

**Section 757.10.** Notwithstanding sections 5713.01 and 5715.24 9308  
of the Revised Code, for the purpose of equalizing and 9309  
regionalizing real property assessment cycles, beginning in tax 9310  
year 2014 and continuing for not more than five years, the Tax 9311  
Commissioner may extend the revaluation of real property required 9312  
in any county by not more than one year. 9313

**Section 757.20.** The Tax Commissioner is not required to issue 9314  
the certifications that are or were otherwise required to be made 9315  
on or before May 15, 2012, or June 1, 2012, under sections 9316  
3317.026, 3317.027, 3317.028, and divisions (A)(4), (6), and (7) 9317  
of section 3317.021 of the Revised Code. This section is intended 9318  
to be remedial in nature and to be construed liberally to 9319  
accomplish the purpose of avoiding unnecessary certifications. 9320

**Section 757.30.** Section 5709.084 of the Revised Code, as 9321  
amended by this act, is remedial in nature and applies to the tax 9322  
years at issue in any application for exemption from taxation or 9323  
any appeal from such an application pending before the Tax 9324  
Commissioner, the Board of Tax Appeals, any Court of Appeals, or 9325  
the Supreme Court on the effective date of this act and to the 9326  
property that is the subject of any such application or appeal. 9327

**Section 757.40.** The amendment by this act of section 5751.03 9328  
of the Revised Code takes effect January 1, 2013. No taxpayer 9329  
shall carry forward any unused exclusion amount from calendar year 9330  
2012 to calendar year 2013, but shall fully utilize any such 9331  
amount in calendar year 2012. 9332

**Section 806.10.** The items of law contained in this act, and 9333  
their applications, are severable. If any item of law contained in 9334  
this act, or if any application of any item of law contained in 9335  
this act, is held invalid, the invalidity does not affect other 9336  
items of law contained in this act and their applications that can 9337  
be given effect without the invalid item of law or application. 9338

**Section 812.10. Sections subject to referendum: general** 9339  
**effective date.** Except as otherwise provided in this act, the 9340  
amendment, enactment, or repeal by this act of a section is 9341  
subject to the referendum under Ohio Constitution, Article II, 9342  
Section 1c and therefore takes effect on the ninety-first day 9343  
after this act is filed with the Secretary of State. 9344

**Section 812.20. Sections exempt from referendum: general** 9345  
**effective date.** The amendment, enactment, or repeal by this act of 9346  
the following sections is exempt from the referendum under Ohio 9347  
Constitution, Article II, Section 1d and section 1.471 of the 9348  
Revised Code and therefore takes effect immediately when this act 9349  
becomes law: 9350

Sections 5727.84, 5727.86, 5751.20, and 5751.22 of the 9351  
Revised Code. 9352

Section 757.20 of this act. 9353

**Section 815.10.** Section 5751.01 of the Revised Code is 9354  
presented in this act as a composite of the section as amended by 9355  
both Am. Sub. H.B. 153 and Sub. H.B. 277 of the 129th General 9356  
Assembly. The General Assembly, applying the principle stated in 9357  
division (B) of section 1.52 of the Revised Code that amendments 9358  
are to be harmonized if reasonably capable of simultaneous 9359  
operation, finds that the composite is the resulting version of 9360  
the section in effect prior to the effective date of the section 9361  
as presented in this act. 9362