

**As Passed by the House**

**129th General Assembly  
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**Sub. H. B. No. 50**

**Representative Snitchler**

**Cosponsors: Representatives Burke, Murray, Schuring, Blessing, Boose,  
Bubp, Combs, Grossman, Martin, Slesnick Speaker Batchelder**

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**A B I L L**

To amend sections 709.023 and 718.01 of the Revised 1  
Code to exempt from municipal income tax the 2  
compensation paid to persons performing personal 3  
services for a political subdivision on its 4  
property when that property is annexed to a 5  
municipal corporation under the expedited type-II 6  
annexation proceeding unless the compensation is 7  
taxable because of the person's residency. 8

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

**Section 1.** That sections 709.023 and 718.01 of the Revised 9  
Code be amended to read as follows: 10

**Sec. 709.023.** (A) A petition filed under section 709.021 of 11  
the Revised Code that requests to follow this section is for the 12  
special procedure of annexing land into a municipal corporation 13  
when, subject to division (H) of this section, the land also is 14  
not to be excluded from the township under section 503.07 of the 15  
Revised Code. The owners who sign this petition by their signature 16  
expressly waive their right to appeal in law or equity from the 17  
board of county commissioners' entry of any resolution under this 18

section, waive any rights they may have to sue on any issue 19  
relating to a municipal corporation requiring a buffer as provided 20  
in this section, and waive any rights to seek a variance that 21  
would relieve or exempt them from that buffer requirement. 22

The petition circulated to collect signatures for the special 23  
procedure in this section shall contain in boldface capital 24  
letters immediately above the heading of the place for signatures 25  
on each part of the petition the following: "WHOEVER SIGNS THIS 26  
PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY 27  
FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION 28  
PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT 29  
OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS 30  
DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE." 31

(B) Upon the filing of the petition in the office of the 32  
clerk of the board of county commissioners, the clerk shall cause 33  
the petition to be entered upon the board's journal at its next 34  
regular session. This entry shall be the first official act of the 35  
board on the petition. Within five days after the filing of the 36  
petition, the agent for the petitioners shall notify in the manner 37  
and form specified in this division the clerk of the legislative 38  
authority of the municipal corporation to which annexation is 39  
proposed, the fiscal officer of each township any portion of which 40  
is included within the territory proposed for annexation, the 41  
clerk of the board of county commissioners of each county in which 42  
the territory proposed for annexation is located other than the 43  
county in which the petition is filed, and the owners of property 44  
adjacent to the territory proposed for annexation or adjacent to a 45  
road that is adjacent to that territory and located directly 46  
across that road from that territory. The notice shall refer to 47  
the time and date when the petition was filed and the county in 48  
which it was filed and shall have attached or shall be accompanied 49  
by a copy of the petition and any attachments or documents 50

accompanying the petition as filed. 51

Notice to a property owner is sufficient if sent by regular 52  
United States mail to the tax mailing address listed on the county 53  
auditor's records. Notice to the appropriate government officer 54  
shall be given by certified mail, return receipt requested, or by 55  
causing the notice to be personally served on the officer, with 56  
proof of service by affidavit of the person who delivered the 57  
notice. Proof of service of the notice on each appropriate 58  
government officer shall be filed with the board of county 59  
commissioners with which the petition was filed. 60

(C) Within twenty days after the date that the petition is 61  
filed, the legislative authority of the municipal corporation to 62  
which annexation is proposed shall adopt an ordinance or 63  
resolution stating what services the municipal corporation will 64  
provide, and an approximate date by which it will provide them, to 65  
the territory proposed for annexation, upon annexation. The 66  
municipal corporation is entitled in its sole discretion to 67  
provide to the territory proposed for annexation, upon annexation, 68  
services in addition to the services described in that ordinance 69  
or resolution. 70

If the territory proposed for annexation is subject to zoning 71  
regulations adopted under either Chapter 303. or 519. of the 72  
Revised Code at the time the petition is filed, the legislative 73  
authority of the municipal corporation also shall adopt an 74  
ordinance or resolution stating that, if the territory is annexed 75  
and becomes subject to zoning by the municipal corporation and 76  
that municipal zoning permits uses in the annexed territory that 77  
the municipal corporation determines are clearly incompatible with 78  
the uses permitted under current county or township zoning 79  
regulations in the adjacent land remaining within the township 80  
from which the territory was annexed, the legislative authority of 81  
the municipal corporation will require, in the zoning ordinance 82

permitting the incompatible uses, the owner of the annexed 83  
territory to provide a buffer separating the use of the annexed 84  
territory and the adjacent land remaining within the township. For 85  
the purposes of this section, "buffer" includes open space, 86  
landscaping, fences, walls, and other structured elements; streets 87  
and street rights-of-way; and bicycle and pedestrian paths and 88  
sidewalks. 89

The clerk of the legislative authority of the municipal 90  
corporation to which annexation is proposed shall file the 91  
ordinances or resolutions adopted under this division with the 92  
board of county commissioners within twenty days following the 93  
date that the petition is filed. The board shall make these 94  
ordinances or resolutions available for public inspection. 95

(D) Within twenty-five days after the date that the petition 96  
is filed, the legislative authority of the municipal corporation 97  
to which annexation is proposed and each township any portion of 98  
which is included within the territory proposed for annexation may 99  
adopt and file with the board of county commissioners an ordinance 100  
or resolution consenting or objecting to the proposed annexation. 101  
An objection to the proposed annexation shall be based solely upon 102  
the petition's failure to meet the conditions specified in 103  
division (E) of this section. 104

If the municipal corporation and each of those townships 105  
timely files an ordinance or resolution consenting to the proposed 106  
annexation, the board at its next regular session shall enter upon 107  
its journal a resolution granting the proposed annexation. If, 108  
instead, the municipal corporation or any of those townships files 109  
an ordinance or resolution that objects to the proposed 110  
annexation, the board of county commissioners shall proceed as 111  
provided in division (E) of this section. Failure of the municipal 112  
corporation or any of those townships to timely file an ordinance 113  
or resolution consenting or objecting to the proposed annexation 114

shall be deemed to constitute consent by that municipal 115  
corporation or township to the proposed annexation. 116

(E) Unless the petition is granted under division (D) of this 117  
section, not less than thirty or more than forty-five days after 118  
the date that the petition is filed, the board of county 119  
commissioners shall review it to determine if each of the 120  
following conditions has been met: 121

(1) The petition meets all the requirements set forth in, and 122  
was filed in the manner provided in, section 709.021 of the 123  
Revised Code. 124

(2) The persons who signed the petition are owners of the 125  
real estate located in the territory proposed for annexation and 126  
constitute all of the owners of real estate in that territory. 127

(3) The territory proposed for annexation does not exceed 128  
five hundred acres. 129

(4) The territory proposed for annexation shares a contiguous 130  
boundary with the municipal corporation to which annexation is 131  
proposed for a continuous length of at least five per cent of the 132  
perimeter of the territory proposed for annexation. 133

(5) The annexation will not create an unincorporated area of 134  
the township that is completely surrounded by the territory 135  
proposed for annexation. 136

(6) The municipal corporation to which annexation is proposed 137  
has agreed to provide to the territory proposed for annexation the 138  
services specified in the relevant ordinance or resolution adopted 139  
under division (C) of this section. 140

(7) If a street or highway will be divided or segmented by 141  
the boundary line between the township and the municipal 142  
corporation as to create a road maintenance problem, the municipal 143  
corporation to which annexation is proposed has agreed as a 144

condition of the annexation to assume the maintenance of that 145  
street or highway or to otherwise correct the problem. As used in 146  
this section, "street" or "highway" has the same meaning as in 147  
section 4511.01 of the Revised Code. 148

(F) Not less than thirty or more than forty-five days after 149  
the date that the petition is filed, if the petition is not 150  
granted under division (D) of this section, the board of county 151  
commissioners, if it finds that each of the conditions specified 152  
in division (E) of this section has been met, shall enter upon its 153  
journal a resolution granting the annexation. If the board of 154  
county commissioners finds that one or more of the conditions 155  
specified in division (E) of this section have not been met, it 156  
shall enter upon its journal a resolution that states which of 157  
those conditions the board finds have not been met and that denies 158  
the petition. 159

(G) If a petition is granted under division (D) or (F) of 160  
this section, the clerk of the board of county commissioners shall 161  
proceed as provided in division (C)(1) of section 709.033 of the 162  
Revised Code, except that no recording or hearing exhibits would 163  
be involved. There is no appeal in law or equity from the board's 164  
entry of any resolution under this section, but any party may seek 165  
a writ of mandamus to compel the board of county commissioners to 166  
perform its duties under this section. 167

(H) Notwithstanding anything to the contrary in section 168  
503.07 of the Revised Code, unless otherwise provided in an 169  
annexation agreement entered into pursuant to section 709.192 of 170  
the Revised Code or in a cooperative economic development 171  
agreement entered into pursuant to section 701.07 of the Revised 172  
Code, territory annexed into a municipal corporation pursuant to 173  
this section shall not at any time be excluded from the township 174  
under section 503.07 of the Revised Code and, thus, remains 175  
subject to the township's real property taxes. 176

(I) Any owner of land that remains within a township and that is adjacent to territory annexed pursuant to this section who is directly affected by the failure of the annexing municipal corporation to enforce compliance with any zoning ordinance it adopts under division (C) of this section requiring the owner of the annexed territory to provide a buffer zone, may commence in the court of common pleas a civil action against that owner to enforce compliance with that buffer requirement whenever the required buffer is not in place before any development of the annexed territory begins.

(J) Division (H)(12) of section 718.01 of the Revised Code applies to the compensation paid to persons performing personal services for a political subdivision on property owned by the political subdivision after that property is annexed to a municipal corporation under this section.

**Sec. 718.01.** (A) As used in this chapter:

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five per cent of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation

of federal taxable income if the losses directly relate to the	207
sale, exchange, or other disposition of an asset described in	208
section 1221 or 1231 of the Internal Revenue Code;	209
(d)(i) Except as provided in division (A)(1)(d)(ii) of this	210
section, deduct income and gain included in federal taxable income	211
to the extent the income and gain directly relate to the sale,	212
exchange, or other disposition of an asset described in section	213
1221 or 1231 of the Internal Revenue Code;	214
(ii) Division (A)(1)(d)(i) of this section does not apply to	215
the extent the income or gain is income or gain described in	216
section 1245 or 1250 of the Internal Revenue Code.	217
(e) Add taxes on or measured by net income allowed as a	218
deduction in the computation of federal taxable income;	219
(f) In the case of a real estate investment trust and	220
regulated investment company, add all amounts with respect to	221
dividends to, distributions to, or amounts set aside for or	222
credited to the benefit of investors and allowed as a deduction in	223
the computation of federal taxable income;	224
(g) Deduct, to the extent not otherwise deducted or excluded	225
in computing federal taxable income, any income derived from	226
providing public services under a contract through a project owned	227
by the state, as described in section 126.604 of the Revised Code	228
or derived from a transfer agreement or from the enterprise	229
transferred under that agreement under section 4313.02 of the	230
Revised Code.	231
If the taxpayer is not a C corporation and is not an	232
individual, the taxpayer shall compute adjusted federal taxable	233
income as if the taxpayer were a C corporation, except guaranteed	234
payments and other similar amounts paid or accrued to a partner,	235
former partner, member, or former member shall not be allowed as a	236
deductible expense; amounts paid or accrued to a qualified	237

self-employed retirement plan with respect to an owner or 238  
owner-employee of the taxpayer, amounts paid or accrued to or for 239  
health insurance for an owner or owner-employee, and amounts paid 240  
or accrued to or for life insurance for an owner or owner-employee 241  
shall not be allowed as a deduction. 242

Nothing in division (A)(1) of this section shall be construed 243  
as allowing the taxpayer to add or deduct any amount more than 244  
once or shall be construed as allowing any taxpayer to deduct any 245  
amount paid to or accrued for purposes of federal self-employment 246  
tax. 247

Nothing in this chapter shall be construed as limiting or 248  
removing the ability of any municipal corporation to administer, 249  
audit, and enforce the provisions of its municipal income tax. 250

(2) "Internal Revenue Code" means the Internal Revenue Code 251  
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 252

(3) "Schedule C" means internal revenue service schedule C 253  
filed by a taxpayer pursuant to the Internal Revenue Code. 254

(4) "Form 2106" means internal revenue service form 2106 255  
filed by a taxpayer pursuant to the Internal Revenue Code. 256

(5) "Intangible income" means income of any of the following 257  
types: income yield, interest, capital gains, dividends, or other 258  
income arising from the ownership, sale, exchange, or other 259  
disposition of intangible property including, but not limited to, 260  
investments, deposits, money, or credits as those terms are 261  
defined in Chapter 5701. of the Revised Code, and patents, 262  
copyrights, trademarks, tradenames, investments in real estate 263  
investment trusts, investments in regulated investment companies, 264  
and appreciation on deferred compensation. "Intangible income" 265  
does not include prizes, awards, or other income associated with 266  
any lottery winnings or other similar games of chance. 267

(6) "S corporation" means a corporation that has made an 268

election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on schedule C, schedule E, or schedule F, other than any amount allowed as a deduction under division (E)(2) or (3) of this section or amounts described in division (H) of this section.

(8) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. Except as provided in division (L) of this section, "taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(9) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:

(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;

(b) A municipal corporation acting as the agent of another municipal corporation; and

(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or

in part on a contingency basis. 300

(11) "Person" includes individuals, firms, companies, 301  
business trusts, estates, trusts, partnerships, limited liability 302  
companies, associations, corporations, governmental entities, and 303  
any other entity. 304

(12) "Schedule E" means internal revenue service schedule E 305  
filed by a taxpayer pursuant to the Internal Revenue Code. 306

(13) "Schedule F" means internal revenue service schedule F 307  
filed by a taxpayer pursuant to the Internal Revenue Code. 308

(B) No municipal corporation shall tax income at other than a 309  
uniform rate. 310

(C) No municipal corporation shall levy a tax on income at a 311  
rate in excess of one per cent without having obtained the 312  
approval of the excess by a majority of the electors of the 313  
municipality voting on the question at a general, primary, or 314  
special election. The legislative authority of the municipal 315  
corporation shall file with the board of elections at least ninety 316  
days before the day of the election a copy of the ordinance 317  
together with a resolution specifying the date the election is to 318  
be held and directing the board of elections to conduct the 319  
election. The ballot shall be in the following form: "Shall the 320  
Ordinance providing for a ... per cent levy on income for (Brief 321  
description of the purpose of the proposed levy) be passed? 322

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

In the event of an affirmative vote, the proceeds of the levy 323  
may be used only for the specified purpose. 324  
325  
326

(D)(1) Except as otherwise provided in this section, no 327  
328  
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municipal corporation shall exempt from a tax on income 330  
compensation for personal services of individuals over eighteen 331  
years of age or the net profit from a business or profession. 332

(2)(a) For taxable years beginning on or after January 1, 333  
2004, no municipal corporation shall tax the net profit from a 334  
business or profession using any base other than the taxpayer's 335  
adjusted federal taxable income. 336

(b) Division (D)(2)(a) of this section does not apply to any 337  
taxpayer required to file a return under section 5745.03 of the 338  
Revised Code or to the net profit from a sole proprietorship. 339

(E)(1) The legislative authority of a municipal corporation 340  
may, by ordinance or resolution, exempt from withholding and from 341  
a tax on income the following: 342

(a) Compensation arising from the sale, exchange, or other 343  
disposition of a stock option, the exercise of a stock option, or 344  
the sale, exchange, or other disposition of stock purchased under 345  
a stock option; or 346

(b) Compensation attributable to a nonqualified deferred 347  
compensation plan or program described in section 3121(v)(2)(C) of 348  
the Internal Revenue Code. 349

(2) The legislative authority of a municipal corporation may 350  
adopt an ordinance or resolution that allows a taxpayer who is an 351  
individual to deduct, in computing the taxpayer's municipal income 352  
tax liability, an amount equal to the aggregate amount the 353  
taxpayer paid in cash during the taxable year to a health savings 354  
account of the taxpayer, to the extent the taxpayer is entitled to 355  
deduct that amount on internal revenue service form 1040. 356

(3) The legislative authority of a municipal corporation may 357  
adopt an ordinance or resolution that allows a taxpayer who has a 358  
net profit from a business or profession that is operated as a 359  
sole proprietorship to deduct from that net profit the amount that 360

the taxpayer paid during the taxable year for medical care 361  
insurance premiums for the taxpayer, the taxpayer's spouse, and 362  
dependents as defined in section 5747.01 of the Revised Code. The 363  
deduction shall be allowed to the same extent the taxpayer is 364  
entitled to deduct the premiums on internal revenue service form 365  
1040. The deduction allowed under this division shall be net of 366  
any related premium refunds, related premium reimbursements, or 367  
related insurance premium dividends received by the taxpayer 368  
during the taxable year. 369

(F) If an individual's taxable income includes income against 370  
which the taxpayer has taken a deduction for federal income tax 371  
purposes as reportable on the taxpayer's form 2106, and against 372  
which a like deduction has not been allowed by the municipal 373  
corporation, the municipal corporation shall deduct from the 374  
taxpayer's taxable income an amount equal to the deduction shown 375  
on such form allowable against such income, to the extent not 376  
otherwise so allowed as a deduction by the municipal corporation. 377

(G)(1) In the case of a taxpayer who has a net profit from a 378  
business or profession that is operated as a sole proprietorship, 379  
no municipal corporation may tax or use as the base for 380  
determining the amount of the net profit that shall be considered 381  
as having a taxable situs in the municipal corporation, an amount 382  
other than the net profit required to be reported by the taxpayer 383  
on schedule C or F from such sole proprietorship for the taxable 384  
year. 385

(2) In the case of a taxpayer who has a net profit from 386  
rental activity required to be reported on schedule E, no 387  
municipal corporation may tax or use as the base for determining 388  
the amount of the net profit that shall be considered as having a 389  
taxable situs in the municipal corporation, an amount other than 390  
the net profit from rental activities required to be reported by 391  
the taxpayer on schedule E for the taxable year. 392

(H) A municipal corporation shall not tax any of the	393
following:	394
(1) The military pay or allowances of members of the armed	395
forces of the United States and of members of their reserve	396
components, including the Ohio national guard;	397
(2) The income of religious, fraternal, charitable,	398
scientific, literary, or educational institutions to the extent	399
that such income is derived from tax-exempt real estate,	400
tax-exempt tangible or intangible property, or tax-exempt	401
activities;	402
(3) Except as otherwise provided in division (I) of this	403
section, intangible income;	404
(4) Compensation paid under section 3501.28 or 3501.36 of the	405
Revised Code to a person serving as a precinct election official,	406
to the extent that such compensation does not exceed one thousand	407
dollars annually. Such compensation in excess of one thousand	408
dollars may be subjected to taxation by a municipal corporation. A	409
municipal corporation shall not require the payer of such	410
compensation to withhold any tax from that compensation.	411
(5) Compensation paid to an employee of a transit authority,	412
regional transit authority, or regional transit commission created	413
under Chapter 306. of the Revised Code for operating a transit bus	414
or other motor vehicle for the authority or commission in or	415
through the municipal corporation, unless the bus or vehicle is	416
operated on a regularly scheduled route, the operator is subject	417
to such a tax by reason of residence or domicile in the municipal	418
corporation, or the headquarters of the authority or commission is	419
located within the municipal corporation;	420
(6) The income of a public utility, when that public utility	421
is subject to the tax levied under section 5727.24 or 5727.30 of	422
the Revised Code, except a municipal corporation may tax the	423

following, subject to Chapter 5745. of the Revised Code:	424
(a) Beginning January 1, 2002, the income of an electric company or combined company;	425 426
(b) Beginning January 1, 2004, the income of a telephone company.	427 428
As used in division (H)(6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.	429 430 431
(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;	432 433
(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;	434 435 436
(9)(a) Except as provided in division (H)(9)(b) and (c) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.	437 438 439 440 441 442 443
(b) If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before March 11, 2004, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.	444 445 446 447 448 449 450
(c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S	451 452 453

corporation to the extent the distributive share would be 454  
allocated or apportioned to this state under divisions (B)(1) and 455  
(2) of section 5733.05 of the Revised Code if the S corporation 456  
were a corporation subject to taxes imposed under Chapter 5733. of 457  
the Revised Code, the municipal corporation may continue to impose 458  
the tax on such distributive shares to the extent such shares 459  
would be so allocated or apportioned to this state only until 460  
December 31, 2004, unless a majority of the electors of the 461  
municipal corporation voting on the question of continuing to tax 462  
such shares after that date vote in favor of that question at an 463  
election held November 2, 2004. If a majority of those electors 464  
vote in favor of the question, the municipal corporation may 465  
continue after December 31, 2004, to impose the tax on such 466  
distributive shares only to the extent such shares would be so 467  
allocated or apportioned to this state. 468

(d) For the purposes of division (D) of section 718.14 of the 469  
Revised Code, a municipal corporation shall be deemed to have 470  
elected to tax S corporation shareholders' distributive shares of 471  
net profits of the S corporation in the hands of the shareholders 472  
if a majority of the electors of a municipal corporation vote in 473  
favor of a question at an election held under division (H)(9)(b) 474  
or (c) of this section. The municipal corporation shall specify by 475  
ordinance or rule that the tax applies to the distributive share 476  
of a shareholder of an S corporation in the hands of the 477  
shareholder of the S corporation. 478

(10) Employee compensation that is not "qualifying wages" as 479  
defined in section 718.03 of the Revised Code; 480

(11) Beginning August 1, 2007, compensation paid to a person 481  
employed within the boundaries of a United States air force base 482  
under the jurisdiction of the United States air force that is used 483  
for the housing of members of the United States air force and is a 484  
center for air force operations, unless the person is subject to 485

taxation because of residence or domicile. If the compensation is 486  
subject to taxation because of residence or domicile, municipal 487  
income tax shall be payable only to the municipal corporation of 488  
residence or domicile. 489

(12) Compensation paid to a person for personal services 490  
performed for a political subdivision on property owned by the 491  
political subdivision, regardless of whether the compensation is 492  
received by an employee of the subdivision or another person 493  
performing services for the subdivision under a contract with the 494  
subdivision, if the property on which services are performed is 495  
annexed to a municipal corporation pursuant to section 709.023 of 496  
the Revised Code on or after the effective date of the amendment 497  
of this section, unless the person is subject to such taxation 498  
because of residence or domicile. If the compensation is subject 499  
to taxation because of residence or domicile, municipal income tax 500  
shall be payable only to the municipal corporation of residence or 501  
domicile. 502

(I) Any municipal corporation that taxes any type of 503  
intangible income on March 29, 1988, pursuant to Section 3 of 504  
Amended Substitute Senate Bill No. 238 of the 116th general 505  
assembly, may continue to tax that type of income after 1988 if a 506  
majority of the electors of the municipal corporation voting on 507  
the question of whether to permit the taxation of that type of 508  
intangible income after 1988 vote in favor thereof at an election 509  
held on November 8, 1988. 510

(J) Nothing in this section or section 718.02 of the Revised 511  
Code shall authorize the levy of any tax on income that a 512  
municipal corporation is not authorized to levy under existing 513  
laws or shall require a municipal corporation to allow a deduction 514  
from taxable income for losses incurred from a sole proprietorship 515  
or partnership. 516

(K)(1) Nothing in this chapter prohibits a municipal 517

corporation from allowing, by resolution or ordinance, a net 518  
operating loss carryforward. 519

(2) Nothing in this chapter requires a municipal corporation 520  
to allow a net operating loss carryforward. 521

(L)(1) A single member limited liability company that is a 522  
disregarded entity for federal tax purposes may elect to be a 523  
separate taxpayer from its single member in all Ohio municipal 524  
corporations in which it either filed as a separate taxpayer or 525  
did not file for its taxable year ending in 2003, if all of the 526  
following conditions are met: 527

(a) The limited liability company's single member is also a 528  
limited liability company; 529

(b) The limited liability company and its single member were 530  
formed and doing business in one or more Ohio municipal 531  
corporations for at least five years before January 1, 2004; 532

(c) Not later than December 31, 2004, the limited liability 533  
company and its single member each make an election to be treated 534  
as a separate taxpayer under division (L) of this section; 535

(d) The limited liability company was not formed for the 536  
purpose of evading or reducing Ohio municipal corporation income 537  
tax liability of the limited liability company or its single 538  
member; 539

(e) The Ohio municipal corporation that is the primary place 540  
of business of the sole member of the limited liability company 541  
consents to the election. 542

(2) For purposes of division (L)(1)(e) of this section, a 543  
municipal corporation is the primary place of business of a 544  
limited liability company if, for the limited liability company's 545  
taxable year ending in 2003, its income tax liability is greater 546  
in that municipal corporation than in any other municipal 547

corporation in Ohio, and that tax liability to that municipal 548  
corporation for its taxable year ending in 2003 is at least four 549  
hundred thousand dollars. 550

**Section 2.** That existing sections 709.023 and 718.01 of the 551  
Revised Code are hereby repealed. 552