

As Pending in the House Ways and Means Committee(L# 2448-1)

129th General Assembly

Regular Session

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Sub. H. B. No. 510

Representative Amstutz

—

A BILL

To amend sections 122.17, 122.171, 122.85, 145.114, 1
145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 2
742.114, 742.116, 3307.152, 3307.154, 3309.157, 3
3309.159, 5505.068, 5505.0610, 5703.052, 5703.053, 4
5703.70, 5707.03, 5709.76, 5711.22, 5725.02, 5
5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 6
5733.02, 5733.021, 5733.06, 5747.01, 5747.98, 7
5751.01, 5751.011, 5751.012, and 5751.98 and to 8
enact sections 5701.12, 5726.01 to 5726.08, 9
5726.10, 5726.20, 5726.21, 5726.30 to 5726.33, 10
5726.36, 5726.40 to 5726.43, 5726.50 to 5726.57, 11
5726.98, 5726.99, 5747.65, and 5751.54 of the 12
Revised Code to impose a new tax on financial 13
institutions, effective January 1, 2014, to 14
provide that such institutions and dealers in 15
intangibles are no longer subject to the 16
corporation franchise tax or dealers in 17
intangibles tax after 2013, and to require dealers 18
in intangibles to pay the commercial activity tax 19
after 2013. 20

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

Section 1. That sections 122.17, 122.171, 122.85, 145.114, 21
145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 742.114, 22

742.116, 3307.152, 3307.154, 3309.157, 3309.159, 5505.068, 23
5505.0610, 5703.052, 5703.053, 5703.70, 5707.03, 5709.76, 5711.22, 24
5725.02, 5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 5733.02, 25
5733.021, 5733.06, 5747.01, 5747.98, 5751.01, 5751.011, 5751.012, 26
and 5751.98 be amended and sections 5701.12, 5726.01, 5726.02, 27
5726.03, 5726.04, 5726.05, 5726.06, 5726.07, 5726.08, 5726.10, 28
5726.20, 5726.21, 5726.30, 5726.31, 5726.32, 5726.33, 5726.36, 29
5726.40, 5726.41, 5726.42, 5726.43, 5726.50, 5726.51, 5726.52, 30
5726.53, 5726.54, 5726.55, 5726.56, 5726.57, 5726.98, 5726.99, 31
5747.65, and 5751.54 of the Revised Code be enacted to read as 32
follows: 33

Sec. 122.17. (A) As used in this section: 34

(1) "Income tax revenue" means the total amount withheld 35
under section 5747.06 of the Revised Code by the taxpayer during 36
the taxable year, or during the calendar year that includes the 37
tax period, from the compensation of each employee employed in the 38
project to the extent the employee's withholdings are not used to 39
determine the credit under section 122.171 of the Revised Code. 40
"Income tax revenue" excludes amounts withheld before the day the 41
taxpayer becomes eligible for the credit. 42

(2) "Baseline income tax revenue" means income tax revenue 43
except that the applicable withholding period is the twelve months 44
immediately preceding the date the tax credit authority approves 45
the taxpayer's application multiplied by the sum of one plus an 46
annual pay increase factor to be determined by the tax credit 47
authority. If the taxpayer becomes eligible for the credit after 48
the first day of the taxpayer's taxable year or after the first 49
day of the calendar year that includes the tax period, the 50
taxpayer's baseline income tax revenue for the first such taxable 51
or calendar year of credit eligibility shall be reduced in 52
proportion to the number of days during the taxable or calendar 53

year for which the taxpayer was not eligible for the credit. For 54
subsequent taxable or calendar years, "baseline income tax 55
revenue" equals the unreduced baseline income tax revenue for the 56
preceding taxable or calendar year multiplied by the sum of one 57
plus the pay increase factor. 58

(3) "Excess income tax revenue" means income tax revenue 59
minus baseline income tax revenue. 60

(B) The tax credit authority may make grants under this 61
section to foster job creation in this state. Such a grant shall 62
take the form of a refundable credit allowed against the tax 63
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 64
or levied under Chapter 5751. of the Revised Code. The credit 65
shall be claimed for the taxable years or tax periods specified in 66
the taxpayer's agreement with the tax credit authority under 67
division (D) of this section. With respect to taxes imposed under 68
section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the 69
Revised Code, the credit shall be claimed in the order required 70
under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised 71
Code. The amount of the credit available for a taxable year or for 72
a calendar year that includes a tax period equals the excess 73
income tax revenue for that year multiplied by the percentage 74
specified in the agreement with the tax credit authority. Any 75
credit granted under this section against the tax imposed by 76
section 5733.06 or 5747.02 of the Revised Code, to the extent not 77
fully utilized against such tax for taxable years ending prior to 78
2008, shall automatically be converted without any action taken by 79
the tax credit authority to a credit against the tax levied under 80
Chapter 5751. of the Revised Code for tax periods beginning on or 81
after July 1, 2008, provided that the person to whom the credit 82
was granted is subject to such tax. The converted credit shall 83
apply to those calendar years in which the remaining taxable years 84
specified in the agreement end. 85

(C) A taxpayer or potential taxpayer who proposes a project 86
to create new jobs in this state may apply to the tax credit 87
authority to enter into an agreement for a tax credit under this 88
section. The director of development services shall prescribe the 89
form of the application. After receipt of an application, the 90
authority may enter into an agreement with the taxpayer for a 91
credit under this section if it determines all of the following: 92

(1) The taxpayer's project will increase payroll and income 93
tax revenue; 94

(2) The taxpayer's project is economically sound and will 95
benefit the people of this state by increasing opportunities for 96
employment and strengthening the economy of this state; 97

(3) Receiving the tax credit is a major factor in the 98
taxpayer's decision to go forward with the project. 99

(D) An agreement under this section shall include all of the 100
following: 101

(1) A detailed description of the project that is the subject 102
of the agreement; 103

(2) The term of the tax credit, which shall not exceed 104
fifteen years, and the first taxable year, or first calendar year 105
that includes a tax period, for which the credit may be claimed; 106

(3) A requirement that the taxpayer shall maintain operations 107
at the project location for at least the greater of seven years or 108
the term of the credit plus three years; 109

(4) The percentage, as determined by the tax credit 110
authority, of excess income tax revenue that will be allowed as 111
the amount of the credit for each taxable year or for each 112
calendar year that includes a tax period; 113

(5) The pay increase factor to be applied to the taxpayer's 114
baseline income tax revenue; 115

(6) A requirement that the taxpayer annually shall report to the director of development services employment, tax withholding, investment, and other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development services annually review the information reported under division (D)(6) of this section and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year;

(8) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project location unless the director of development services determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment position in the first political subdivision is replaced.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase

retail facilities and nonretail facilities, only the portion of 147
the project consisting of the nonretail facilities is eligible for 148
a tax credit and only the excess income tax revenue from the 149
nonretail facilities shall be considered when computing the amount 150
of the tax credit. If a warehouse facility is part of a 151
point-of-final-purchase retail facility and supplies only that 152
facility, the warehouse facility is not eligible for a tax credit. 153
Catalog distribution centers are not considered 154
point-of-final-purchase retail facilities for the purposes of this 155
division, and are eligible for tax credits under this section. 156

(G) Financial statements and other information submitted to 157
the department of development services or the tax credit authority 158
by an applicant or recipient of a tax credit under this section, 159
and any information taken for any purpose from such statements or 160
information, are not public records subject to section 149.43 of 161
the Revised Code. However, the chairperson of the authority may 162
make use of the statements and other information for purposes of 163
issuing public reports or in connection with court proceedings 164
concerning tax credit agreements under this section. Upon the 165
request of the tax commissioner or, if the applicant or recipient 166
is an insurance company, upon the request of the superintendent of 167
insurance, the chairperson of the authority shall provide to the 168
commissioner or superintendent any statement or information 169
submitted by an applicant or recipient of a tax credit in 170
connection with the credit. The commissioner or superintendent 171
shall preserve the confidentiality of the statement or 172
information. 173

(H) A taxpayer claiming a credit under this section shall 174
submit to the tax commissioner or, if the taxpayer is an insurance 175
company, to the superintendent of insurance, a copy of the 176
director of ~~development's~~ development services' certificate of 177
verification under division (D)(7) of this section with the 178

taxpayer's tax report or return for the taxable year or for the 179
calendar year that includes the tax period. Failure to submit a 180
copy of the certificate with the report or return does not 181
invalidate a claim for a credit if the taxpayer submits a copy of 182
the certificate to the commissioner or superintendent within sixty 183
days after the commissioner or superintendent requests it. 184

(I) The director of development services, after consultation 185
with the tax commissioner and the superintendent of insurance and 186
in accordance with Chapter 119. of the Revised Code, shall adopt 187
rules necessary to implement this section. The rules may provide 188
for recipients of tax credits under this section to be charged 189
fees to cover administrative costs of the tax credit program. The 190
fees collected shall be credited to the tax incentive programs 191
operating fund created in section 122.174 of the Revised Code. At 192
the time the director gives public notice under division (A) of 193
section 119.03 of the Revised Code of the adoption of the rules, 194
the director shall submit copies of the proposed rules to the 195
chairpersons of the standing committees on economic development in 196
the senate and the house of representatives. 197

(J) For the purposes of this section, a taxpayer may include 198
a partnership, a corporation that has made an election under 199
subchapter S of chapter one of subtitle A of the Internal Revenue 200
Code, or any other business entity through which income flows as a 201
distributive share to its owners. A partnership, S-corporation, or 202
other such business entity may elect to pass the credit received 203
under this section through to the persons to whom the income or 204
profit of the partnership, S-corporation, or other entity is 205
distributed. The election shall be made on the annual report 206
required under division (D)(6) of this section. The election 207
applies to and is irrevocable for the credit for which the report 208
is submitted. If the election is made, the credit shall be 209
apportioned among those persons in the same proportions as those 210

in which the income or profit is distributed. 211

(K) If the director of development services determines that a 212
taxpayer who has received a credit under this section is not 213
complying with the requirement under division (D)(3) of this 214
section, the director shall notify the tax credit authority of the 215
noncompliance. After receiving such a notice, and after giving the 216
taxpayer an opportunity to explain the noncompliance, the tax 217
credit authority may require the taxpayer to refund to this state 218
a portion of the credit in accordance with the following: 219

(1) If the taxpayer maintained operations at the project 220
location for a period less than or equal to the term of the 221
credit, an amount not exceeding one hundred per cent of the sum of 222
any credits allowed and received under this section; 223

(2) If the taxpayer maintained operations at the project 224
location for a period longer than the term of the credit, but less 225
than the greater of seven years or the term of the credit plus 226
three years, an amount not exceeding seventy-five per cent of the 227
sum of any credits allowed and received under this section. 228

In determining the portion of the tax credit to be refunded 229
to this state, the tax credit authority shall consider the effect 230
of market conditions on the taxpayer's project and whether the 231
taxpayer continues to maintain other operations in this state. 232
After making the determination, the authority shall certify the 233
amount to be refunded to the tax commissioner or superintendent of 234
insurance, as appropriate. If the amount is certified to the 235
commissioner, the commissioner shall make an assessment for that 236
amount against the taxpayer under Chapter 5726., 5733., 5747., or 237
5751. of the Revised Code. If the amount is certified to the 238
superintendent, the superintendent shall make an assessment for 239
that amount against the taxpayer under Chapter 5725. or 5729. of 240
the Revised Code. The time limitations on assessments under those 241
chapters do not apply to an assessment under this division, but 242

the commissioner or superintendent, as appropriate, shall make the 243
assessment within one year after the date the authority certifies 244
to the commissioner or superintendent the amount to be refunded. 245

(L) On or before the first day of August each year, the 246
director of development services shall submit a report to the 247
governor, the president of the senate, and the speaker of the 248
house of representatives on the tax credit program under this 249
section. The report shall include information on the number of 250
agreements that were entered into under this section during the 251
preceding calendar year, a description of the project that is the 252
subject of each such agreement, and an update on the status of 253
projects under agreements entered into before the preceding 254
calendar year. 255

(M) There is hereby created the tax credit authority, which 256
consists of the director of development services and four other 257
members appointed as follows: the governor, the president of the 258
senate, and the speaker of the house of representatives each shall 259
appoint one member who shall be a specialist in economic 260
development; the governor also shall appoint a member who is a 261
specialist in taxation. Of the initial appointees, the members 262
appointed by the governor shall serve a term of two years; the 263
members appointed by the president of the senate and the speaker 264
of the house of representatives shall serve a term of four years. 265
Thereafter, terms of office shall be for four years. Initial 266
appointments to the authority shall be made within thirty days 267
after January 13, 1993. Each member shall serve on the authority 268
until the end of the term for which the member was appointed. 269
Vacancies shall be filled in the same manner provided for original 270
appointments. Any member appointed to fill a vacancy occurring 271
prior to the expiration of the term for which the member's 272
predecessor was appointed shall hold office for the remainder of 273
that term. Members may be reappointed to the authority. Members of 274

the authority shall receive their necessary and actual expenses 275
while engaged in the business of the authority. The director of 276
development services shall serve as chairperson of the authority, 277
and the members annually shall elect a vice-chairperson from among 278
themselves. Three members of the authority constitute a quorum to 279
transact and vote on the business of the authority. The majority 280
vote of the membership of the authority is necessary to approve 281
any such business, including the election of the vice-chairperson. 282

The director of development services may appoint a 283
professional employee of the department of development services to 284
serve as the director's substitute at a meeting of the authority. 285
The director shall make the appointment in writing. In the absence 286
of the director from a meeting of the authority, the appointed 287
substitute shall serve as chairperson. In the absence of both the 288
director and the director's substitute from a meeting, the 289
vice-chairperson shall serve as chairperson. 290

(N) For purposes of the credits granted by this section 291
against the taxes imposed under sections 5725.18 and 5729.03 of 292
the Revised Code, "taxable year" means the period covered by the 293
taxpayer's annual statement to the superintendent of insurance. 294

Sec. 122.171. (A) As used in this section: 295

(1) "Capital investment project" means a plan of investment 296
at a project site for the acquisition, construction, renovation, 297
or repair of buildings, machinery, or equipment, or for 298
capitalized costs of basic research and new product development 299
determined in accordance with generally accepted accounting 300
principles, but does not include any of the following: 301

(a) Payments made for the acquisition of personal property 302
through operating leases; 303

(b) Project costs paid before January 1, 2002; 304

(c) Payments made to a related member as defined in section 305
5733.042 of the Revised Code or to a consolidated elected taxpayer 306
or a combined taxpayer as defined in section 5751.01 of the 307
Revised Code. 308

(2) "Eligible business" means a taxpayer and its related 309
members with Ohio operations satisfying all of the following: 310

(a) The taxpayer employs at least five hundred full-time 311
equivalent employees or has an annual payroll of at least 312
thirty-five million dollars at the time the tax credit authority 313
grants the tax credit under this section; 314

(b) The taxpayer makes or causes to be made payments for the 315
capital investment project of one of the following: 316

(i) If the taxpayer is engaged at the project site primarily 317
as a manufacturer, at least fifty million dollars in the aggregate 318
at the project site during a period of three consecutive calendar 319
years, including the calendar year that includes a day of the 320
taxpayer's taxable year or tax period with respect to which the 321
credit is granted; 322

(ii) If the taxpayer is engaged at the project site primarily 323
in significant corporate administrative functions, as defined by 324
the director of development services by rule, at least twenty 325
million dollars in the aggregate at the project site during a 326
period of three consecutive calendar years including the calendar 327
year that includes a day of the taxpayer's taxable year or tax 328
period with respect to which the credit is granted; 329

(iii) If the taxpayer is applying to enter into an agreement 330
for a tax credit authorized under division (B)(3) of this section, 331
at least five million dollars in the aggregate at the project site 332
during a period of three consecutive calendar years, including the 333
calendar year that includes a day of the taxpayer's taxable year 334
or tax period with respect to which the credit is granted. 335

(c) The taxpayer had a capital investment project reviewed 336
and approved by the tax credit authority as provided in divisions 337
(C), (D), and (E) of this section. 338

(3) "Full-time equivalent employees" means the quotient 339
obtained by dividing the total number of hours for which employees 340
were compensated for employment in the project by two thousand 341
eighty. "Full-time equivalent employees" shall exclude hours that 342
are counted for a credit under section 122.17 of the Revised Code. 343

(4) "Income tax revenue" means the total amount withheld 344
under section 5747.06 of the Revised Code by the taxpayer during 345
the taxable year, or during the calendar year that includes the 346
tax period, from the compensation of all employees employed in the 347
project whose hours of compensation are included in calculating 348
the number of full-time equivalent employees. 349

(5) "Manufacturer" has the same meaning as in section 350
5739.011 of the Revised Code. 351

(6) "Project site" means an integrated complex of facilities 352
in this state, as specified by the tax credit authority under this 353
section, within a fifteen-mile radius where a taxpayer is 354
primarily operating as an eligible business. 355

(7) "Related member" has the same meaning as in section 356
5733.042 of the Revised Code as that section existed on the 357
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 358
general assembly, September 29, 1997. 359

(8) "Taxable year" includes, in the case of a domestic or 360
foreign insurance company, the calendar year ending on the 361
thirty-first day of December preceding the day the superintendent 362
of insurance is required to certify to the treasurer of state 363
under section 5725.20 or 5729.05 of the Revised Code the amount of 364
taxes due from insurance companies. 365

(B) The tax credit authority created under section 122.17 of 366

the Revised Code may grant tax credits under this section for the 367
purpose of fostering job retention in this state. Upon application 368
by an eligible business and upon consideration of the 369
recommendation of the director of budget and management, tax 370
commissioner, the superintendent of insurance in the case of an 371
insurance company, and director of development services under 372
division (C) of this section, the tax credit authority may grant 373
the following credits against the tax imposed by section 5725.18, 374
5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised 375
Code: 376

(1) A nonrefundable credit to an eligible business; 377

(2) A refundable credit to an eligible business meeting the 378
following conditions, provided that the director of budget and 379
management, tax commissioner, superintendent of insurance in the 380
case of an insurance company, and director of development services 381
have recommended the granting of the credit to the tax credit 382
authority before July 1, 2011: 383

(a) The business retains at least one thousand full-time 384
equivalent employees at the project site. 385

(b) The business makes or causes to be made payments for a 386
capital investment project of at least twenty-five million dollars 387
in the aggregate at the project site during a period of three 388
consecutive calendar years, including the calendar year that 389
includes a day of the business' taxable year or tax period with 390
respect to which the credit is granted. 391

(c) In 2010, the business received a written offer of 392
financial incentives from another state of the United States that 393
the director determines to be sufficient inducement for the 394
business to relocate the business' operations from this state to 395
that state. 396

(3) A refundable credit to an eligible business with a total 397

annual payroll of at least twenty million dollars, provided that 398
the tax credit authority grants the tax credit on or after July 1, 399
2011, and before January 1, 2014. 400

The credits authorized in divisions (B)(1), (2), and (3) of 401
this section may be granted for a period up to fifteen taxable 402
years or, in the case of the tax levied by section 5751.02 of the 403
Revised Code, for a period of up to fifteen calendar years. The 404
credit amount for a taxable year or a calendar year that includes 405
the tax period for which a credit may be claimed equals the income 406
tax revenue for that year multiplied by the percentage specified 407
in the agreement with the tax credit authority. The percentage may 408
not exceed seventy-five per cent. The credit shall be claimed in 409
the order required under section 5725.98, 5726.98, 5729.98, 410
5733.98, 5747.98, or 5751.98 of the Revised Code. In determining 411
the percentage and term of the credit, the tax credit authority 412
shall consider both the number of full-time equivalent employees 413
and the value of the capital investment project. The credit amount 414
may not be based on the income tax revenue for a calendar year 415
before the calendar year in which the tax credit authority 416
specifies the tax credit is to begin, and the credit shall be 417
claimed only for the taxable years or tax periods specified in the 418
eligible business' agreement with the tax credit authority. In no 419
event shall the credit be claimed for a taxable year or tax period 420
terminating before the date specified in the agreement. Any credit 421
granted under this section against the tax imposed by section 422
5733.06 or 5747.02 of the Revised Code, to the extent not fully 423
utilized against such tax for taxable years ending prior to 2008, 424
shall automatically be converted without any action taken by the 425
tax credit authority to a credit against the tax levied under 426
Chapter 5751. of the Revised Code for tax periods beginning on or 427
after July 1, 2008, provided that the person to whom the credit 428
was granted is subject to such tax. The converted credit shall 429
apply to those calendar years in which the remaining taxable years 430

specified in the agreement end. 431

If a nonrefundable credit allowed under division (B)(1) of 432
this section for a taxable year or tax period exceeds the 433
taxpayer's tax liability for that year or period, the excess may 434
be carried forward for the three succeeding taxable or calendar 435
years, but the amount of any excess credit allowed in any taxable 436
year or tax period shall be deducted from the balance carried 437
forward to the succeeding year or period. 438

(C) A taxpayer that proposes a capital investment project to 439
retain jobs in this state may apply to the tax credit authority to 440
enter into an agreement for a tax credit under this section. The 441
director of development services shall prescribe the form of the 442
application. After receipt of an application, the authority shall 443
forward copies of the application to the director of budget and 444
management, the tax commissioner, the superintendent of insurance 445
in the case of an insurance company, and the director of 446
development services, each of whom shall review the application to 447
determine the economic impact the proposed project would have on 448
the state and the affected political subdivisions and shall submit 449
a summary of their determinations and recommendations to the 450
authority. 451

(D) Upon review and consideration of the determinations and 452
recommendations described in division (C) of this section, the tax 453
credit authority may enter into an agreement with the taxpayer for 454
a credit under this section if the authority determines all of the 455
following: 456

(1) The taxpayer's capital investment project will result in 457
the retention of employment in this state. 458

(2) The taxpayer is economically sound and has the ability to 459
complete the proposed capital investment project. 460

(3) The taxpayer intends to and has the ability to maintain 461

operations at the project site for at least the greater of (a) the 462
term of the credit plus three years, or (b) seven years. 463

(4) Receiving the credit is a major factor in the taxpayer's 464
decision to begin, continue with, or complete the project. 465

(5) If the taxpayer is applying to enter into an agreement 466
for a tax credit authorized under division (B)(3) of this section, 467
the taxpayer's capital investment project will be located in the 468
political subdivision in which the taxpayer maintains its 469
principal place of business. 470

(E) An agreement under this section shall include all of the 471
following: 472

(1) A detailed description of the project that is the subject 473
of the agreement, including the amount of the investment, the 474
period over which the investment has been or is being made, the 475
number of full-time equivalent employees at the project site, and 476
the anticipated income tax revenue to be generated. 477

(2) The term of the credit, the percentage of the tax credit, 478
the maximum annual value of tax credits that may be allowed each 479
year, and the first year for which the credit may be claimed. 480

(3) A requirement that the taxpayer maintain operations at 481
the project site for at least the greater of (a) the term of the 482
credit plus three years, or (b) seven years. 483

(4)(a) In the case of a credit granted under division (B)(1) 484
of this section, a requirement that the taxpayer retain at least 485
five hundred full-time equivalent employees at the project site 486
and within this state for the entire term of the credit, or a 487
requirement that the taxpayer maintain an annual payroll of at 488
least thirty-five million dollars for the entire term of the 489
credit; 490

(b) In the case of a credit granted under division (B)(2) of 491

this section, a requirement that the taxpayer retain at least one 492
thousand full-time equivalent employees at the project site and 493
within this state for the entire term of the credit; 494

(c) In the case of a credit granted under division (B)(3) of 495
this section, either of the following: 496

(i) A requirement that the taxpayer retain at least five 497
hundred full-time equivalent employees at the project site and 498
within this state for the entire term of the credit and a 499
requirement that the taxpayer maintain an annual payroll of at 500
least twenty million dollars for the entire term of the credit; 501

(ii) A requirement that the taxpayer maintain an annual 502
payroll of at least thirty-five million dollars for the entire 503
term of the credit. 504

(5) A requirement that the taxpayer annually report to the 505
director of development services employment, tax withholding, 506
capital investment, and other information the director needs to 507
perform the director's duties under this section. 508

(6) A requirement that the director of development services 509
annually review the annual reports of the taxpayer to verify the 510
information reported under division (E)(5) of this section and 511
compliance with the agreement. Upon verification, the director 512
shall issue a certificate to the taxpayer stating that the 513
information has been verified and identifying the amount of the 514
credit for the taxable year or calendar year that includes the tax 515
period. In determining the number of full-time equivalent 516
employees, no position shall be counted that is filled by an 517
employee who is included in the calculation of a tax credit under 518
section 122.17 of the Revised Code. 519

(7) A provision providing that the taxpayer may not relocate 520
a substantial number of employment positions from elsewhere in 521
this state to the project site unless the director of development 522

services determines that the taxpayer notified the legislative 523
authority of the county, township, or municipal corporation from 524
which the employment positions would be relocated. 525

For purposes of this section, the movement of an employment 526
position from one political subdivision to another political 527
subdivision shall be considered a relocation of an employment 528
position unless the movement is confined to the project site. The 529
transfer of an employment position from one political subdivision 530
to another political subdivision shall not be considered a 531
relocation of an employment position if the employment position in 532
the first political subdivision is replaced by another employment 533
position. 534

(8) A waiver by the taxpayer of any limitations periods 535
relating to assessments or adjustments resulting from the 536
taxpayer's failure to comply with the agreement. 537

(F) If a taxpayer fails to meet or comply with any condition 538
or requirement set forth in a tax credit agreement, the tax credit 539
authority may amend the agreement to reduce the percentage or term 540
of the credit. The reduction of the percentage or term may take 541
effect in the current taxable or calendar year. 542

(G) Financial statements and other information submitted to 543
the department of development services or the tax credit authority 544
by an applicant for or recipient of a tax credit under this 545
section, and any information taken for any purpose from such 546
statements or information, are not public records subject to 547
section 149.43 of the Revised Code. However, the chairperson of 548
the authority may make use of the statements and other information 549
for purposes of issuing public reports or in connection with court 550
proceedings concerning tax credit agreements under this section. 551
Upon the request of the tax commissioner, or the superintendent of 552
insurance in the case of an insurance company, the chairperson of 553
the authority shall provide to the commissioner or superintendent 554

any statement or other information submitted by an applicant for 555
or recipient of a tax credit in connection with the credit. The 556
commissioner or superintendent shall preserve the confidentiality 557
of the statement or other information. 558

(H) A taxpayer claiming a tax credit under this section shall 559
submit to the tax commissioner or, in the case of an insurance 560
company, to the superintendent of insurance, a copy of the 561
director of ~~development~~'s development services' certificate of 562
verification under division (E)(6) of this section with the 563
taxpayer's tax report or return for the taxable year or for the 564
calendar year that includes the tax period. Failure to submit a 565
copy of the certificate with the report or return does not 566
invalidate a claim for a credit if the taxpayer submits a copy of 567
the certificate to the commissioner or superintendent within sixty 568
days after the commissioner or superintendent requests it. 569

(I) For the purposes of this section, a taxpayer may include 570
a partnership, a corporation that has made an election under 571
subchapter S of chapter one of subtitle A of the Internal Revenue 572
Code, or any other business entity through which income flows as a 573
distributive share to its owners. A partnership, S-corporation, or 574
other such business entity may elect to pass the credit received 575
under this section through to the persons to whom the income or 576
profit of the partnership, S-corporation, or other entity is 577
distributed. The election shall be made on the annual report 578
required under division (E)(5) of this section. The election 579
applies to and is irrevocable for the credit for which the report 580
is submitted. If the election is made, the credit shall be 581
apportioned among those persons in the same proportions as those 582
in which the income or profit is distributed. 583

(J) If the director of development services determines that a 584
taxpayer that received a tax credit under this section is not 585
complying with the requirement under division (E)(3) of this 586

section, the director shall notify the tax credit authority of the 587
noncompliance. After receiving such a notice, and after giving the 588
taxpayer an opportunity to explain the noncompliance, the 589
authority may terminate the agreement and require the taxpayer to 590
refund to the state all or a portion of the credit claimed in 591
previous years, as follows: 592

(1) If the taxpayer maintained operations at the project site 593
for less than or equal to the term of the credit, an amount not to 594
exceed one hundred per cent of the sum of any tax credits allowed 595
and received under this section. 596

(2) If the taxpayer maintained operations at the project site 597
longer than the term of the credit, but less than the greater of 598
(a) the term of the credit plus three years, or (b) seven years, 599
the amount required to be refunded shall not exceed seventy-five 600
per cent of the sum of any tax credits allowed and received under 601
this section. 602

In determining the portion of the credit to be refunded to 603
this state, the authority shall consider the effect of market 604
conditions on the taxpayer's project and whether the taxpayer 605
continues to maintain other operations in this state. After making 606
the determination, the authority shall certify the amount to be 607
refunded to the tax commissioner or the superintendent of 608
insurance. If the taxpayer is not an insurance company, the 609
commissioner shall make an assessment for that amount against the 610
taxpayer under Chapter 5726., 5733., 5747., or 5751. of the 611
Revised Code. If the taxpayer is an insurance company, the 612
superintendent of insurance shall make an assessment under section 613
5725.222 or 5729.102 of the Revised Code. The time limitations on 614
assessments under those chapters and sections do not apply to an 615
assessment under this division, but the commissioner or 616
superintendent shall make the assessment within one year after the 617
date the authority certifies to the commissioner or superintendent 618

the amount to be refunded. 619

(K) The director of development services, after consultation 620
with the tax commissioner and the superintendent of insurance and 621
in accordance with Chapter 119. of the Revised Code, shall adopt 622
rules necessary to implement this section. The rules may provide 623
for recipients of tax credits under this section to be charged 624
fees to cover administrative costs of the tax credit program. The 625
fees collected shall be credited to the tax incentive programs 626
operating fund created in section 122.174 of the Revised Code. At 627
the time the director gives public notice under division (A) of 628
section 119.03 of the Revised Code of the adoption of the rules, 629
the director shall submit copies of the proposed rules to the 630
chairpersons of the standing committees on economic development in 631
the senate and the house of representatives. 632

(L) On or before the first day of August of each year, the 633
director of development services shall submit a report to the 634
governor, the president of the senate, and the speaker of the 635
house of representatives on the tax credit program under this 636
section. The report shall include information on the number of 637
agreements that were entered into under this section during the 638
preceding calendar year, a description of the project that is the 639
subject of each such agreement, and an update on the status of 640
projects under agreements entered into before the preceding 641
calendar year. 642

(M)(1) The aggregate amount of tax credits issued under 643
division (B)(1) of this section during any calendar year for 644
capital investment projects reviewed and approved by the tax 645
credit authority may not exceed the following amounts: 646

(a) For 2010, thirteen million dollars; 647

(b) For 2011 through 2023, the amount of the limit for the 648
preceding calendar year plus thirteen million dollars; 649

(c) For 2024 and each year thereafter, one hundred 650
ninety-five million dollars. 651

(2) The aggregate amount of tax credits authorized under 652
divisions (B)(2) and (3) of this section and allowed to be claimed 653
by taxpayers in any calendar year for capital improvement projects 654
reviewed and approved by the tax credit authority in 2011, 2012, 655
and 2013 combined shall not exceed twenty-five million dollars. An 656
amount equal to the aggregate amount of credits first authorized 657
in calendar year 2011, 2012, and 2013 may be claimed over the 658
ensuing period up to fifteen years, subject to the terms of 659
individual tax credit agreements. 660

The limitations in division (M) of this section do not apply 661
to credits for capital investment projects approved by the tax 662
credit authority before July 1, 2009. 663

(N) Notwithstanding any contrary provision of the agreement 664
between the eligible business and the tax credit authority, any 665
credit granted under this section against the tax imposed by 666
section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the 667
Revised Code to an eligible business, at the election of the 668
eligible business and without any action by the tax credit 669
authority, may be shared by the taxpayer or any related member or 670
members that comprise the eligible business, which taxpayer or 671
related members may claim the credit against the taxes imposed by 672
section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of 673
the Revised Code. The credits may be allocated among the taxpayer 674
and related members in such manner as the eligible business 675
elects. This division applies to credits granted before, on, or 676
after the effective date of H.B. 510 of the 129th general 677
assembly. Credits granted before that effective date that are 678
shared and allocated under this division may be claimed in those 679
calendar years in which the remaining taxable years specified in 680
the agreement end. 681

Sec. 122.85. (A) As used in this section and in sections 682
5726.55, 5733.59 ~~and~~, 5747.66, and 5751.54 of the Revised Code: 683

(1) "Tax credit-eligible production" means a motion picture 684
production certified by the director of development services under 685
division (B) of this section as qualifying the motion picture 686
company for a tax credit under section 5726.55, 5733.59 ~~or~~, 687
5747.66, or 5751.54 of the Revised Code. 688

(2) "Certificate owner" means a motion picture company to 689
which a tax credit certificate is issued. 690

(3) "Motion picture company" means an individual, 691
corporation, partnership, limited liability company, or other form 692
of business association producing a motion picture. 693

(4) "Eligible production expenditures" means expenditures 694
made after June 30, 2009, for goods or services purchased and 695
consumed in this state by a motion picture company directly for 696
the production of a tax credit-eligible production. 697

"Eligible production expenditures" includes, but is not 698
limited to, expenditures for resident and nonresident cast and 699
crew wages, accommodations, costs of set construction and 700
operations, editing and related services, photography, sound 701
synchronization, lighting, wardrobe, makeup and accessories, film 702
processing, transfer, sound mixing, special and visual effects, 703
music, location fees, and the purchase or rental of facilities and 704
equipment. 705

(5) "Motion picture" means entertainment content created in 706
whole or in part within this state for distribution or exhibition 707
to the general public, including, but not limited to, 708
feature-length films; documentaries; long-form, specials, 709
miniseries, series, and interstitial television programming; 710
interactive web sites; sound recordings; videos; music videos; 711

interactive television; interactive games; ~~videogames~~ video games; 712
commercials; any format of digital media; and any trailer, pilot, 713
video teaser, or demo created primarily to stimulate the sale, 714
marketing, promotion, or exploitation of future investment in 715
either a product or a motion picture by any means and media in any 716
digital media format, film, or videotape, provided the motion 717
picture qualifies as a motion picture. "Motion picture" does not 718
include any television program created primarily as news, weather, 719
or financial market reports, a production featuring current events 720
or sporting events, an awards show or other gala event, a 721
production whose sole purpose is fundraising, a long-form 722
production that primarily markets a product or service or in-house 723
corporate advertising or other similar productions, a production 724
for purposes of political advocacy, or any production for which 725
records are required to be maintained under 18 U.S.C. 2257 with 726
respect to sexually explicit content. 727

(B) For the purpose of encouraging and developing a strong 728
film industry in this state, the director of development services 729
may certify a motion picture produced by a motion picture company 730
as a tax credit-eligible production. In the case of a television 731
series, the director may certify the production of each episode of 732
the series as a separate tax credit-eligible production. A motion 733
picture company shall apply for certification of a motion picture 734
as a tax credit-eligible production on a form and in the manner 735
prescribed by the director. Each application shall include the 736
following information: 737

(1) The name and telephone number of the motion picture 738
production company; 739

(2) The name and telephone number of the company's contact 740
person; 741

(3) A list of the first preproduction date through the last 742
production date in Ohio; 743

(4) The Ohio production office address and telephone number;	744
(5) The total production budget of the motion picture;	745
(6) The total budgeted eligible production expenditures and the percentage that amount is of the total production budget of the motion picture;	746 747 748
(7) The total percentage of the motion picture being shot in Ohio;	749 750
(8) The level of employment of cast and crew who reside in Ohio;	751 752
(9) A synopsis of the script;	753
(10) The shooting script;	754
(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;	755 756
(12) Documentation of financial ability to undertake and complete the motion picture;	757 758
(13) Estimated value of the tax credit based upon total budgeted eligible production expenditures;	759 760
(14) Any other information considered necessary by the director.	761 762
Within ninety days after certification of a motion picture as a tax credit-eligible production, and any time thereafter upon the director's <u>director of development services'</u> request, the motion picture company shall present to the director of development sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director of development may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for	763 764 765 766 767 768 769 770 771 772 773

certification. 774

(C)(1) A motion picture company whose motion picture has been 775
certified as a tax credit-eligible production may apply to the 776
director of development services on or after July 1, 2009, for a 777
refundable credit against the tax imposed by section 5726.02, 778
5733.06 ~~or,~~ 5747.02, or 5751.02 of the Revised Code. The director 779
in consultation with the tax commissioner shall prescribe the form 780
and manner of the application and the information or documentation 781
required to be submitted with the application. 782

The credit is determined as follows: 783

(a) If the total budgeted eligible production expenditures 784
stated in the application submitted under division (B) of this 785
section or the actual eligible production expenditures as finally 786
determined under division (D) of this section, whichever is least, 787
is less than or equal to three hundred thousand dollars, no credit 788
is allowed; 789

(b) If the total budgeted eligible production expenditures 790
stated in the application submitted under division (B) of this 791
section or the actual eligible production expenditures as finally 792
determined under division (D) of this section, whichever is least, 793
is greater than three hundred thousand dollars, the credit equals 794
the sum of the following, subject to the limitation in division 795
(C)(4) of this section: 796

(i) Twenty-five per cent of the least of such budgeted or 797
actual eligible expenditure amounts excluding budgeted or actual 798
eligible expenditures for resident cast and crew wages; 799

(ii) Thirty-five per cent of budgeted or actual eligible 800
expenditures for resident cast and crew wages. 801

(2) Except as provided in division (C)(4) of this section, if 802
the director of development services approves a motion picture 803
company's application for a credit, the director shall issue a tax 804

credit certificate to the company. The director in consultation 805
with the tax commissioner shall prescribe the form and manner of 806
issuing certificates. The director shall assign a unique 807
identifying number to each tax credit certificate and shall record 808
the certificate in a register devised and maintained by the 809
director for that purpose. The certificate shall state the amount 810
of the eligible production expenditures on which the credit is 811
based and the amount of the credit. Upon the issuance of a 812
certificate, the director shall certify to the tax commissioner 813
the name of the applicant, the amount of eligible production 814
expenditures shown on the certificate, and any other information 815
required by the rules adopted to administer this section. 816

(3) The amount of eligible production expenditures for which 817
a tax credit may be claimed is subject to inspection and 818
examination by the tax commissioner or employees of the 819
commissioner under section 5703.19 of the Revised Code and any 820
other applicable law. Once the eligible production expenditures 821
are finally determined under section 5703.19 of the Revised Code 822
and division (D) of this section, the credit amount is not subject 823
to adjustment unless the director determines an error was 824
committed in the computation of the credit amount. 825

(4) No tax credit certificate may be issued before the 826
completion of the tax credit-eligible production. For the fiscal 827
biennium beginning July 1, 2009, and ending June 30, 2011, not 828
more than thirty million dollars of tax credit may be allowed, of 829
which not more than ten million dollars of tax credit may be 830
allowed in the first year of the biennium. In succeeding fiscal 831
biennia, not more than twenty million dollars of tax credit may be 832
allowed per fiscal biennium, and not more than ten million dollars 833
may be allowed in the first year of the biennium. At any time, not 834
more than five million dollars of tax credit may be allowed per 835
tax credit-eligible production. 836

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

(E) No credit shall be allowed under section 5726.55, 5733.59 ~~or~~, 5747.66, or 5751.54 of the Revised Code unless the director has reviewed the report and made the determination prescribed by division (D) of this section.

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

(G)(1) The director of development services in consultation with the tax commissioner shall adopt rules for the administration of this section, including rules setting forth and governing the criteria for determining whether a motion picture production is a tax credit-eligible production; activities that constitute the

production of a motion picture; reporting sufficient evidence of 869
reviewable progress; expenditures that qualify as eligible 870
production expenditures; a competitive process for approving 871
credits; and consideration of geographic distribution of credits. 872
The rules shall be adopted under Chapter 119. of the Revised Code. 873

(2) The director may require a reasonable application fee to 874
cover administrative costs of the tax credit program. The fees 875
collected shall be credited to the motion picture tax credit 876
program operating fund, which is hereby created in the state 877
treasury. The motion picture tax credit program operating fund 878
shall consist of all grants, gifts, fees, and contributions made 879
to the director ~~of development~~ for marketing and promotion of the 880
motion picture industry within this state. The director ~~of~~ 881
~~development~~ shall use money in the fund to pay expenses related to 882
the administration of the Ohio film office and the credit 883
authorized by this section and sections 5726.55., 5733.59 ~~and~~, 884
5747.66, and 5751.54 of the Revised Code. 885

Sec. 145.114. (A) As used in this section and in section 886
145.116 of the Revised Code: 887

(1) "Agent" means a dealer, as defined in section 1707.01 of 888
the Revised Code, who is licensed under sections 1707.01 to 889
1707.45 of the Revised Code or under comparable laws of another 890
state or of the United States. 891

(2) "Minority business enterprise" has the same meaning as in 892
section 122.71 of the Revised Code. 893

(3) "Ohio-qualified agent" means an agent designated as such 894
by the public employees retirement board. 895

(4) "Ohio-qualified investment manager" means an investment 896
manager designated as such by the public employees retirement 897
board. 898

(5) "Principal place of business" means an office in which 899
the agent regularly provides securities or investment advisory 900
services and solicits, meets with, or otherwise communicates with 901
clients. 902

(B) The public employees retirement board shall, for the 903
purposes of this section, designate an agent as an Ohio-qualified 904
agent if the agent meets all of the following requirements: 905

(1) The agent is subject to taxation under Chapter 5725., 906
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code; 907

(2) The agent is authorized to conduct business in this 908
state; 909

(3) The agent maintains a principal place of business in this 910
state and employs at least five residents of this state. 911

(C) The public employees retirement board shall adopt and 912
implement a written policy to establish criteria and procedures 913
used to select agents to execute securities transactions on behalf 914
of the retirement system. The policy shall address each of the 915
following: 916

(1) Commissions charged by the agent, both in the aggregate 917
and on a per share basis; 918

(2) The execution speed and trade settlement capabilities of 919
the agent; 920

(3) The responsiveness, reliability, and integrity of the 921
agent; 922

(4) The nature and value of research provided by the agent; 923

(5) Any special capabilities of the agent. 924

(D)(1) The board shall, at least annually, establish a policy 925
with the goal to increase utilization by the board of 926
Ohio-qualified agents for the execution of domestic equity and 927
fixed income trades on behalf of the retirement system, when an 928

Ohio-qualified agent offers quality, services, and safety 929
comparable to other agents otherwise available to the board and 930
meets the criteria established under division (C) of this section. 931

(2) The board shall review, at least annually, the 932
performance of the agents that execute securities transactions on 933
behalf of the board. 934

(3) The board shall determine whether an agent is an 935
Ohio-qualified agent, meets the criteria established by the board 936
pursuant to division (C) of this section, and offers quality, 937
services, and safety comparable to other agents otherwise 938
available to the board. The board's determination shall be final. 939

(E) The board shall, at least annually, submit to the Ohio 940
retirement study council a report containing the following 941
information: 942

(1) The name of each agent designated as an Ohio-qualified 943
agent under this section; 944

(2) The name of each agent that executes securities 945
transactions on behalf of the board; 946

(3) The amount of equity and fixed-income trades that are 947
executed by Ohio-qualified agents, expressed as a percentage of 948
all equity and fixed-income trades that are executed by agents on 949
behalf of the board; 950

(4) The compensation paid to Ohio-qualified agents, expressed 951
as a percentage of total compensation paid to all agents that 952
execute securities transactions on behalf of the board; 953

(5) The amount of equity and fixed-income trades that are 954
executed by agents that are minority business enterprises, 955
expressed as a percentage of all equity and fixed-income trades 956
that are executed by agents on behalf of the board; 957

(6) Any other information requested by the Ohio retirement 958

study council regarding the board's use of agents. 959

Sec. 145.116. (A) The public employees retirement board 960
shall, for the purposes of this section, designate an investment 961
manager as an Ohio-qualified investment manager if the investment 962
manager meets all of the following requirements: 963

(1) The investment manager is subject to taxation under 964
Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised 965
Code; 966

(2) The investment manager meets one of the following 967
requirements: 968

(a) Has its corporate headquarters or principal place of 969
business in this state; 970

(b) Employs at least five hundred individuals in this state; 971

(c) Has a principal place of business in this state and 972
employs at least 20 residents of this state. 973

(B)(1) The board shall, at least annually, establish a policy 974
with the goal to increase utilization by the board of 975
Ohio-qualified investment managers, when an Ohio-qualified 976
investment manager offers quality, services, and safety comparable 977
to other investment managers otherwise available to the board. The 978
policy shall also provide for the following: 979

(a) A process whereby the board can develop a list of 980
Ohio-qualified investment managers and their investment products; 981

(b) A process whereby the board can give public notice to 982
Ohio-qualified investment managers of the board's search for an 983
investment manager that includes the board's search criteria. 984

(2) The board shall determine whether an investment manager 985
is an Ohio-qualified investment manager and whether the investment 986
manager offers quality, services, and safety comparable to other 987

investment managers otherwise available to the board. The board's 988
determination shall be final. 989

(C) The board shall, at least annually, submit to the Ohio 990
retirement study council a report containing the following 991
information: 992

(1) The name of each investment manager designated as an 993
Ohio-qualified investment manager under this section; 994

(2) The name of each investment manager with which the board 995
contracts; 996

(3) The amount of assets managed by Ohio-qualified investment 997
managers, expressed as a percentage of the total assets held by 998
the retirement system and as a percentage of assets managed by 999
investment managers with which the board has contracted; 1000

(4) The compensation paid to Ohio-qualified investment 1001
managers, expressed as a percentage of total compensation paid to 1002
all investment managers with which the board has contracted; 1003

(5) Any other information requested by the Ohio retirement 1004
study council regarding the board's use of investment managers. 1005

Sec. 149.311. (A) As used in this section: 1006

(1) "Historic building" means a building, including its 1007
structural components, that is located in this state and that is 1008
either individually listed on the national register of historic 1009
places under 16 U.S.C. 470a, located in a registered historic 1010
district, and certified by the state historic preservation officer 1011
as being of historic significance to the district, or is 1012
individually listed as a an historic landmark designated by a 1013
local government certified under 16 U.S.C. 470a(c). 1014

(2) "Qualified rehabilitation expenditures" means 1015
expenditures paid or incurred during the rehabilitation period, 1016
and before and after that period as determined under 26 U.S.C. 47, 1017

by an owner of a an historic building to rehabilitate the 1018
building. "Qualified rehabilitation expenditures" includes 1019
architectural or engineering fees paid or incurred in connection 1020
with the rehabilitation, and expenses incurred in the preparation 1021
of nomination forms for listing on the national register of 1022
historic places. "Qualified rehabilitation expenditures" does not 1023
include any of the following: 1024

(a) The cost of acquiring, expanding, or enlarging a an 1025
historic building; 1026

(b) Expenditures attributable to work done to facilities 1027
related to the building, such as parking lots, sidewalks, and 1028
landscaping; 1029

(c) New building construction costs. 1030

(3) "Owner" of a an historic building means a person holding 1031
the fee simple interest in the building. "Owner" does not include 1032
the state or a state agency, or any political subdivision as 1033
defined in section 9.23 of the Revised Code. 1034

(4) "Certificate owner" means the owner of a an historic 1035
building to which a rehabilitation tax credit certificate was 1036
issued under this section. 1037

(5) "Registered historic district" means a an historic 1038
district listed in the national register of historic places under 1039
16 U.S.C. 470a, a an historic district designated by a local 1040
government certified under 16 U.S.C. 470a(c), or a local historic 1041
district certified under 36 C.F.R. 67.8 and 67.9. 1042

(6) "Rehabilitation" means the process of repairing or 1043
altering a an historic building or buildings, making possible an 1044
efficient use while preserving those portions and features of the 1045
building and its site and environment that are significant to its 1046
historic, architectural, and cultural values. 1047

(7) "Rehabilitation period" means one of the following: 1048

(a) If the rehabilitation initially was not planned to be 1049
completed in stages, a period chosen by the owner not to exceed 1050
twenty-four months during which rehabilitation occurs; 1051

(b) If the rehabilitation initially was planned to be 1052
completed in stages, a period chosen by the owner not to exceed 1053
sixty months during which rehabilitation occurs. Each stage shall 1054
be reviewed as a phase of a rehabilitation as determined under 26 1055
C.F.R. 1.48-12 or a successor to that section. 1056

(8) "State historic preservation officer" or "officer" means 1057
the state historic preservation officer appointed by the governor 1058
under 16 U.S.C. 470a. 1059

(B) The owner of a an historic building may apply to the 1060
director of development services for a rehabilitation tax credit 1061
certificate for qualified rehabilitation expenditures paid or 1062
incurred after April 4, 2007, for rehabilitation of a an historic 1063
building. The form and manner of filing such applications shall be 1064
prescribed by rule of the director ~~of development~~. Each 1065
application shall state the amount of qualified rehabilitation 1066
expenditures the applicant estimates will be paid or incurred. The 1067
director may require applicants to furnish documentation of such 1068
estimates. 1069

The director, after consultation with the tax commissioner 1070
and in accordance with Chapter 119. of the Revised Code, shall 1071
adopt rules that establish all of the following: 1072

(1) Forms and procedures by which applicants may apply for 1073
rehabilitation tax credit certificates; 1074

(2) Criteria for reviewing, evaluating, and approving 1075
applications for certificates within the limitations under 1076
division (D) of this section, criteria for assuring that the 1077
certificates issued encompass a mixture of high and low qualified 1078

rehabilitation expenditures, and criteria for issuing certificates	1079
under division (C)(3)(b) of this section;	1080
(3) Eligibility requirements for obtaining a certificate	1081
under this section;	1082
(4) The form of rehabilitation tax credit certificates;	1083
(5) Reporting requirements and monitoring procedures;	1084
(6) Procedures and criteria for conducting cost-benefit	1085
analyses of historic buildings that are the subjects of	1086
applications filed under this section. The purpose of a	1087
cost-benefit analysis shall be to determine whether rehabilitation	1088
of the historic building will result in a net revenue gain in	1089
state and local taxes once the building is used.	1090
(7) Any other rules necessary to implement and administer	1091
this section.	1092
(C) The director of development <u>services</u> shall review the	1093
applications with the assistance of the state historic	1094
preservation officer and determine whether all of the following	1095
criteria are met:	1096
(1) That the building that is the subject of the application	1097
is a <u>an</u> historic building and the applicant is the owner of the	1098
building;	1099
(2) That the rehabilitation will satisfy standards prescribed	1100
by the United States secretary of the interior under 16 U.S.C.	1101
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to	1102
that section;	1103
(3) That receiving a rehabilitation tax credit certificate	1104
under this section is a major factor in:	1105
(a) The applicant's decision to rehabilitate the historic	1106
building; or	1107
(b) To increase the level of investment in such	1108

rehabilitation. 1109

An applicant shall demonstrate to the satisfaction of the 1110
state historic preservation officer and director of development 1111
services that the rehabilitation will satisfy the standards 1112
described in division (C)(2) of this section before the applicant 1113
begins the physical rehabilitation of the historic building. 1114

(D)(1) If the director of development services determines 1115
that an application meets the criteria in divisions (C)(1), (2), 1116
and (3) of this section, the director shall conduct a cost-benefit 1117
analysis for the historic building that is the subject of the 1118
application to determine whether rehabilitation of the historic 1119
building will result in a net revenue gain in state and local 1120
taxes once the building is used. The director shall consider the 1121
results of the cost-benefit analysis in determining whether to 1122
approve the application. The director shall also consider the 1123
potential economic impact and the regional distributive balance of 1124
the credits throughout the state. The director may approve an 1125
application only after completion of the cost-benefit analysis. 1126

(2) A rehabilitation tax credit certificate shall not be 1127
issued for an amount greater than the estimated amount furnished 1128
by the applicant on the application for such certificate and 1129
approved by the director. The director shall not approve more than 1130
a total of sixty million dollars of rehabilitation tax credits per 1131
fiscal year but the director may reallocate unused tax credits 1132
from a prior fiscal year for new applicants and such reallocated 1133
credits shall not apply toward the dollar limit of this division. 1134

(3) For rehabilitations with a rehabilitation period not 1135
exceeding twenty-four months as provided in division (A)(7)(a) of 1136
this section, a rehabilitation tax credit certificate shall not be 1137
issued before the rehabilitation of the historic building is 1138
completed. 1139

(4) For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A)(7)(b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner.

(5) The director of development services shall require the applicant to provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of the historic building when qualified rehabilitation expenditures exceed two hundred thousand dollars.

If an applicant whose application is approved for receipt of a rehabilitation tax credit certificate fails to provide to the director ~~of development~~ sufficient evidence of reviewable progress, including a viable financial plan, copies of final construction drawings, and evidence that the applicant has obtained all historic approvals within twelve months after the date the applicant received notification of approval, and if the applicant fails to provide evidence to the director ~~of development~~ that the applicant has secured and closed on financing for the rehabilitation within eighteen months after receiving notification of approval, the director may rescind the approval of the application. The director shall notify the applicant if the approval has been rescinded. Credits that would have been available to an applicant whose approval was rescinded shall be available for other qualified applicants. Nothing in this division prohibits an applicant whose approval has been rescinded from

submitting a new application for a rehabilitation tax credit 1172
certificate. 1173

(E) Issuance of a certificate represents a finding by the 1174
director of development services of the matters described in 1175
divisions (C)(1), (2), and (3) of this section only; issuance of a 1176
certificate does not represent a verification or certification by 1177
the director of the amount of qualified rehabilitation 1178
expenditures for which a tax credit may be claimed under section 1179
5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the 1180
Revised Code. The amount of qualified rehabilitation expenditures 1181
for which a tax credit may be claimed is subject to inspection and 1182
examination by the tax commissioner or employees of the 1183
commissioner under section 5703.19 of the Revised Code and any 1184
other applicable law. Upon the issuance of a certificate, the 1185
director shall certify to the tax commissioner, in the form and 1186
manner requested by the tax commissioner, the name of the 1187
applicant, the amount of qualified rehabilitation expenditures 1188
shown on the certificate, and any other information required by 1189
the rules adopted under this section. 1190

(F)(1) On or before the first day of April each year, the 1191
director of development services and tax commissioner jointly 1192
shall submit to the president of the senate and the speaker of the 1193
house of representatives a report on the tax credit program 1194
established under this section and sections 5725.151, 5725.34, 1195
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The 1196
report shall present an overview of the program and shall include 1197
information on the number of rehabilitation tax credit 1198
certificates issued under this section during the preceding fiscal 1199
year, an update on the status of each historic building for which 1200
an application was approved under this section, the dollar amount 1201
of the tax credits granted under sections 5725.151, 5725.34, 1202
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and 1203

any other information the director and commissioner consider 1204
relevant to the topics addressed in the report. 1205

(2) On or before December 1, 2015, the director of 1206
development services and tax commissioner jointly shall submit to 1207
the president of the senate and the speaker of the house of 1208
representatives a comprehensive report that includes the 1209
information required by division (F)(1) of this section and a 1210
detailed analysis of the effectiveness of issuing tax credits for 1211
rehabilitating historic buildings. The report shall be prepared 1212
with the assistance of an economic research organization jointly 1213
chosen by the director and commissioner. 1214

(G) There is hereby created in the state treasury the 1215
historic rehabilitation tax credit operating fund. The director of 1216
development services is authorized to charge reasonable 1217
application and other fees in connection with the administration 1218
of tax credits authorized by this section and sections 5725.151, 1219
5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the Revised 1220
Code. Any such fees collected shall be credited to the fund and 1221
used to pay reasonable costs incurred by the department of 1222
development services in administering this section and sections 1223
5725.151, 5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the 1224
Revised Code. 1225

The Ohio historic preservation office is authorized to charge 1226
reasonable fees in connection with its review and approval of 1227
applications under this section. Any such fees collected shall be 1228
credited to the fund and used to pay administrative costs incurred 1229
by the Ohio historic preservation office pursuant to this section. 1230

Sec. 150.01. (A) As used in this chapter: 1231

(1) "Authority" means the Ohio venture capital authority 1232
created under section 150.02 of the Revised Code. 1233

(2) "Issuer" means a port authority organized and existing 1234
under applicable provisions of Chapter 4582. of the Revised Code 1235
that, pursuant to an agreement entered into under division (E) of 1236
section 150.02 of the Revised Code, issues or issued obligations 1237
to fund one or more loans to the program fund. 1238

(3) "Lender" means any person that lends money to the program 1239
fund as provided in this chapter and includes any issuer and any 1240
trustee. 1241

(4) "Loss" means a loss incurred with respect to a lender's 1242
loan to the program fund. Such a loss is incurred only if and to 1243
the extent a program administrator fails to satisfy its 1244
obligations to the lender to make timely payments of principal or 1245
interest as provided in the loan agreement between the lender and 1246
the program administrator. "Loss" does not include either of the 1247
following: 1248

(a) Any loss incurred by the program fund, including a loss 1249
attributable to any investment made by a program administrator; 1250

(b) Any loss of the capital required to be provided by a 1251
program administrator, or income accruing to that capital, under 1252
the agreement entered into under division (B) of section 150.05 of 1253
the Revised Code. 1254

(5) "Ohio-based business enterprise" means a person that is 1255
engaged in business, that employs at least one individual on a 1256
full-time or part-time basis at a place of business in this state, 1257
including a person engaged in business if that person is a 1258
self-employed individual, and that is in the seed or early stage 1259
of business development requiring initial or early stage funding 1260
or is an established business enterprise developing new methods or 1261
technologies. 1262

(6) "Ohio-based venture capital fund" means a venture capital 1263
fund having its principal office in this state, where the majority 1264

of the fund's staff are employed and where at least one investment professional is employed who has at least five years of experience in venture capital investment.

(7) "Program fund" means the fund created under section 150.03 of the Revised Code.

(8) "Research and development purposes" has the same meaning as used in Section 2p of Article VIII, Ohio Constitution, and includes the development of sites and facilities in this state for and in support of those research and development purposes.

(9) "Trustee" means a trust company or a bank with corporate trust powers, in either case having a place of business in this state, being a taxpayer under Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 5747 of the Revised Code at the time it may claim and receive a tax credit under division (E) of section 150.07 of the Revised Code, and acting in its capacity as a trustee pursuant to a trust agreement under which an issuer issues obligations to fund loans to the program fund.

(B) The general assembly declares that its purpose in enacting Chapter 150. of the Revised Code is to increase the amount of private investment capital available in this state for Ohio-based business enterprises in the seed or early stages of business development and requiring initial or early stage funding, as well as established Ohio-based business enterprises developing new methods or technologies, including the promotion of research and development purposes, thereby increasing employment, creating additional wealth, and otherwise benefiting the economic welfare of the people of this state. Accordingly, it is the intention of the general assembly that the program fund make investments in support of Ohio-based business enterprises in accordance with the investment policy authorized and required under section 150.03 of the Revised Code, and that the Ohio venture capital authority focus its investment policy principally on venture capital funds

investing in such Ohio-based business enterprises. The general 1297
assembly finds and determines that this chapter and the investment 1298
policy, and actions taken under and consistent therewith, will 1299
promote and implement the public purposes of Section 2p of Article 1300
VIII, Ohio Constitution. 1301

Sec. 150.07. (A) For the purpose stated in section 150.01 of 1302
the Revised Code, the authority may authorize a lender to claim 1303
one of the refundable tax credits allowed under section 5707.031, 1304
5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 of the 1305
Revised Code. The credits shall be authorized by a written 1306
contract with the lender. The contract shall specify the terms 1307
under which the lender may claim the credit, including the amount 1308
of loss, if any, the lender must incur before the lender may claim 1309
the credit; specify that the credit shall not exceed the amount of 1310
the loss; and specify that the lender may claim the credit only 1311
for a loss certified by a program administrator to the authority 1312
under the procedures prescribed under division (B)(6) of section 1313
150.05 of the Revised Code. The program administrator shall 1314
provide to the authority an estimate of the amount of tax credits, 1315
if any, that are likely, in the administrator's reasonable 1316
judgment, to be claimed by a lender during the current and next 1317
succeeding state fiscal years. The estimate shall be provided at 1318
the same time each year that the administrator is required to 1319
report the annual audit to the authority under section 150.05 of 1320
the Revised Code. 1321

(B) Tax credits may be authorized at any time after the 1322
authority establishes the investment policy under section 150.03 1323
of the Revised Code, but a tax credit so authorized may not be 1324
claimed before July 1, 2007, or after June 30, 2026, except, with 1325
respect to loans made from the proceeds of obligations issued 1326
under section 4582.71 of the Revised Code, a tax credit may not be 1327
claimed before July 1, 2012, or after June 30, 2036. 1328

(C)(1) Upon receiving certification of a lender's loss from a program administrator pursuant to the procedures in the investment policy, the authority shall issue a tax credit certificate to the lender, except as otherwise provided in division (D) of this section.

(2) If the lender is a pass-through entity, as defined in section 5733.04 of the Revised Code, then each equity investor in the lender pass-through entity shall be entitled to claim one of the tax credits allowed under division (A) of this section for that equity investor's taxable year in which or with which ends the taxable year of the lender pass-through entity in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority. If all equity investors of the lender pass-through entity are not eligible to claim a credit against the same tax set forth in division (A) of this section, then each equity investor may elect to claim a credit against the tax to which the equity investor is subject to in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority.

(3) The certificate shall state the amount of the credit and the calendar year under section 5707.031, 5725.19, 5727.241, or 5729.08, the tax year under section 5726.53 or 5733.49, or the taxable year under section 5747.80 of the Revised Code for which the credit may be claimed. The authority, in conjunction with the tax commissioner, shall develop a system for issuing tax credit certificates for the purpose of verifying that any credit claimed is a credit issued under this section and is properly taken in the year specified in the certificate and in compliance with division (B) of this section.

(D) The authority shall not, in any fiscal year, issue tax credit certificates under this section in a total amount exceeding

twenty million dollars. The authority shall not issue tax credit 1361
certificates under this section in a total amount exceeding three 1362
hundred eighty million dollars. 1363

(E) Notwithstanding any other section of this chapter or any 1364
provision of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1365
5747. of the Revised Code, if provided by the terms of an 1366
agreement entered into by the issuer and the authority under 1367
division (E) of section 150.02 of the Revised Code, and subject to 1368
the limitations of divisions (B) and (D) of this section, a 1369
trustee shall have the right, for the benefit of the issuer, to 1370
receive and claim the credits authorized under division (A) of 1371
this section solely for the purpose provided for in section 150.04 1372
of the Revised Code, and the trustee shall be entitled to file a 1373
tax return, an amended tax return, or an estimated tax return at 1374
such times as are permitted or required under the applicable 1375
provisions of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1376
5747. of the Revised Code for the purpose of claiming credits 1377
issued to the trustee. The trustee shall receive the proceeds of 1378
such a tax credit for the benefit of the issuer, and shall apply 1379
the proceeds solely to satisfy a loss or restore a reserve as 1380
provided in section 150.04 of the Revised Code. Nothing in this 1381
section shall require a trustee to file a tax return under any 1382
chapter for any purpose other than claiming such credits if the 1383
trustee is not otherwise required to make such a filing. 1384

The general assembly may from time to time modify or repeal 1385
any of the taxes against which the credits authorized under 1386
division (A) of this section may be claimed, and may authorize 1387
those credits to be claimed for the purposes provided for in 1388
section 150.04 of the Revised Code with respect to any other tax 1389
imposed by this state; provided, that if any obligations issued 1390
under section 4582.71 of the Revised Code are then outstanding and 1391
such modification or repeal would have the effect of impairing any 1392

covenant made in or pursuant to an agreement under division (E) of 1393
section 150.02 of the Revised Code regarding the maintenance or 1394
restoration of reserves established and maintained with a trustee 1395
consistent with division (B)(2) of section 150.04 of the Revised 1396
Code and such agreement, the state shall provide other security to 1397
the extent necessary to avoid or offset the impairment of such 1398
covenant. 1399

Sec. 150.10. (A) On the first day of January of the second 1400
year after the date of entering into an agreement under section 1401
150.05 of the Revised Code and of each ensuing year, the authority 1402
shall file with the clerk of the house of representatives, the 1403
clerk of the senate, and the chairpersons of the house and senate 1404
standing committees predominantly concerned with economic 1405
development a written report on the Ohio venture capital program. 1406
The report shall include all the following: 1407

(1) A description of the details of the investment policy 1408
established or modified in accordance with sections 150.03 and 1409
150.04 of the Revised Code; 1410

(2) The authority's assessment of the program's achievement 1411
of its purpose stated in section 150.01 of the Revised Code; 1412

(3) The value of tax credit certificates issued by the 1413
authority under section 150.07 of the Revised Code in each fiscal 1414
year ending on or before the preceding thirtieth day of June; 1415

(4) The amount of tax credits claimed pursuant to section 1416
5707.031, 5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 1417
of the Revised Code, as to the respective taxes involved; 1418

(5) The financial status of the Ohio venture capital fund; 1419

(6) The names of venture capital funds in which money from 1420
the program fund has been invested and the locations of their 1421
principal offices, and the names of the enterprises in which each 1422

of those venture capital funds has invested such money and the 1423
locations of those enterprises' principal offices; 1424

(7) Any recommendations for modifying the program to better 1425
achieve the purpose stated in section 150.01 of the Revised Code. 1426

(B) During each year that a report is issued under division 1427
(A) of this section, the chairperson of the authority, or another 1428
member of the authority designated by the chairperson as the 1429
authority's representative, shall be required to appear in person 1430
before the standing committees of the house and senate 1431
predominantly concerned with economic development to give 1432
testimony concerning the status of the Ohio venture capital 1433
program. 1434

Sec. 715.013. (A) Except as otherwise expressly authorized by 1435
the Revised Code, no municipal corporation shall levy a tax that 1436
is the same as or similar to a tax levied under Chapter 322., 1437
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 1438
5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 5737., 1439
5739., 5741., 5743., or 5749. of the Revised Code. 1440

(B) This section does not prohibit a municipal corporation 1441
from levying a tax on any of the following: 1442

(1) Amounts received for admission to any place; 1443

(2) The income of an electric company or combined company, as 1444
defined in section 5727.01 of the Revised Code; 1445

(3) On and after January 1, 2004, the income of a telephone 1446
company, as defined in section 5727.01 of the Revised Code. 1447

Sec. 742.114. (A) As used in this section and in section 1448
742.116 of the Revised Code: 1449

(1) "Agent" means a dealer, as defined in section 1707.01 of 1450
the Revised Code, who is licensed under sections 1707.01 to 1451

1707.45 of the Revised Code or under comparable laws of another 1452
state or of the United States. 1453

(2) "Minority business enterprise" has the same meaning as in 1454
section 122.71 of the Revised Code. 1455

(3) "Ohio-qualified agent" means an agent designated as such 1456
by the board of trustees of the fund. 1457

(4) "Ohio-qualified investment manager" means an investment 1458
manager designated as such by the board of trustees of the fund. 1459

(5) "Principal place of business" means an office in which 1460
the agent regularly provides securities or investment advisory 1461
services and solicits, meets with, or otherwise communicates with 1462
clients. 1463

(B) The board of trustees of the fund shall, for the purposes 1464
of this section, designate an agent as an Ohio-qualified agent if 1465
the agent meets all of the following requirements: 1466

(1) The agent is subject to taxation under Chapter 5725., 1467
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code; 1468

(2) The agent is authorized to conduct business in this 1469
state; 1470

(3) The agent maintains a principal place of business in this 1471
state and employs at least five residents of this state. 1472

(C) The board shall adopt and implement a written policy to 1473
establish criteria and procedures used to select agents to execute 1474
securities transactions on behalf of the retirement system. The 1475
policy shall address each of the following: 1476

(1) Commissions charged by the agent, both in the aggregate 1477
and on a per share basis; 1478

(2) The execution speed and trade settlement capabilities of 1479
the agent; 1480

(3) The responsiveness, reliability, and integrity of the agent;	1481 1482
(4) The nature and value of research provided by the agent;	1483
(5) Any special capabilities of the agent.	1484
(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed-income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.	1485 1486 1487 1488 1489 1490 1491
(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.	1492 1493 1494
(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.	1495 1496 1497 1498 1499
(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:	1500 1501 1502
(1) The name of each agent designated as an Ohio-qualified agent under this section;	1503 1504
(2) The name of each agent that executes securities transactions on behalf of the board;	1505 1506
(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1507 1508 1509 1510

(4) The compensation paid to Ohio-qualified agents, expressed 1511
as a percentage of total compensation paid to all agents that 1512
execute securities transactions on behalf of the board; 1513

(5) The amount of equity and fixed-income trades that are 1514
executed by agents that are minority business enterprises, 1515
expressed as a percentage of all equity and fixed-income trades 1516
that are executed by agents on behalf of the board; 1517

(6) Any other information requested by the Ohio retirement 1518
study council regarding the board's use of agents. 1519

Sec. 742.116. (A) The board of trustees of the pension fund 1520
shall, for the purposes of this section, designate an investment 1521
manager as an Ohio-qualified investment manager if the investment 1522
manager meets all of the following requirements: 1523

(1) The investment manager is subject to taxation under 1524
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 1525
Code; 1526

(2) The investment manager meets one of the following 1527
requirements: 1528

(a) Has its corporate headquarters or principal place of 1529
business in this state; 1530

(b) Employs at least five hundred individuals in this state; 1531

(c) Has a principal place of business in this state and 1532
employs at least 20 residents of this state. 1533

(B)(1) The board shall, at least annually, establish a policy 1534
with the goal to increase utilization by the board of 1535
Ohio-qualified investment managers, when an Ohio-qualified 1536
investment manager offers quality, services, and safety comparable 1537
to other investment managers otherwise available to the board. The 1538
policy shall also provide for the following: 1539

(a) A process whereby the board can develop a list of 1540
Ohio-qualified investment managers and their investment products; 1541

(b) A process whereby the board can give public notice to 1542
Ohio-qualified investment managers of the board's search for an 1543
investment manager that includes the board's search criteria. 1544

(2) The board shall determine whether an investment manager 1545
is an Ohio-qualified investment manager and whether the investment 1546
manager offers quality, services, and safety comparable to other 1547
investment managers otherwise available to the board. The board's 1548
determination shall be final. 1549

(C) The board shall, at least annually, submit to the Ohio 1550
retirement study council a report containing the following 1551
information: 1552

(1) The name of each investment manager designated as an 1553
Ohio-qualified investment manager under this section; 1554

(2) The name of each investment manager with which the board 1555
contracts; 1556

(3) The amount of assets managed by Ohio-qualified investment 1557
managers, expressed as a percentage of the total assets held by 1558
the retirement system and as a percentage of assets managed by 1559
investment managers with which the board has contracted; 1560

(4) The compensation paid to Ohio-qualified investment 1561
managers, expressed as a percentage of total compensation paid to 1562
all investment managers with which the board has contracted; 1563

(5) Any other information requested by the Ohio retirement 1564
study council regarding the board's use of investment managers. 1565

Sec. 3307.152. (A) As used in this section and in section 1566
3307.154 of the Revised Code: 1567

(1) "Agent" means a dealer, as defined in section 1707.01 of 1568

the Revised Code, who is licensed under sections 1707.01 to 1569
1707.45 of the Revised Code or under comparable laws of another 1570
state or of the United States. 1571

(2) "Minority business enterprise" has the same meaning as in 1572
section 122.71 of the Revised Code. 1573

(3) "Ohio-qualified agent" means an agent designated as such 1574
by the state teachers retirement board. 1575

(4) "Ohio-qualified investment manager" means an investment 1576
manager designated as such by the state teachers retirement board. 1577

(5) "Principal place of business" means an office in which 1578
the agent regularly provides securities or investment advisory 1579
services and solicits, meets with, or otherwise communicates with 1580
clients. 1581

(B) The state teachers retirement board shall, for the 1582
purposes of this section, designate an agent as an Ohio-qualified 1583
agent if the agent meets all of the following requirements: 1584

(1) The agent is subject to taxation under Chapter 5725., 1585
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code. 1586

(2) The agent is authorized to conduct business in this 1587
state. 1588

(3) The agent maintains a principal place of business in this 1589
state and employs at least five residents of this state. 1590

(C) The state teachers retirement board shall adopt and 1591
implement a written policy to establish criteria and procedures 1592
used to select agents to execute securities transactions on behalf 1593
of the retirement system. The policy shall address each of the 1594
following: 1595

~~(a)~~(1) Commissions charged by the agent, both in the 1596
aggregate and on a per share basis; 1597

~~(b)~~(2) The execution speed and trade settlement capabilities 1598

of the agent; 1599

~~(e)~~(3) The responsiveness, reliability, and integrity of the 1600
agent; 1601

~~(d)~~(4) The nature and value of research provided by the 1602
agent; 1603

~~(e)~~(5) Any special capabilities of the agent. 1604

(D)(1) The board shall, at least annually, establish a policy 1605
with the goal to increase utilization by the board of 1606
Ohio-qualified agents for the execution of domestic equity and 1607
fixed income trades on behalf of the retirement system, when an 1608
Ohio-qualified agent offers quality, services, and safety 1609
comparable to other agents otherwise available to the board and 1610
meets the criteria established under division (C) of this section. 1611

(2) The board shall review, at least annually, the 1612
performance of the agents that execute securities transactions on 1613
behalf of the board. 1614

(3) The board shall determine whether an agent is an 1615
Ohio-qualified agent, meets the criteria established by the board 1616
pursuant to division (C) of this section, and offers quality, 1617
services, and safety comparable to other agents otherwise 1618
available to the board. The board's determination shall be final. 1619

(E) The board shall, at least annually, submit to the Ohio 1620
retirement study council a report containing the following 1621
information: 1622

(1) The name of each agent designated as an Ohio-qualified 1623
agent under this section; 1624

(2) The name of each agent that executes securities 1625
transactions on behalf of the board; 1626

(3) The amount of equity and fixed-income trades that are 1627
executed by Ohio-qualified agents, expressed as a percentage of 1628

all equity and fixed-income trades that are executed by agents on 1629
behalf of the board; 1630

(4) The compensation paid to Ohio-qualified agents, expressed 1631
as a percentage of total compensation paid to all agents that 1632
execute securities transactions on behalf of the board; 1633

(5) The amount of equity and fixed-income trades that are 1634
executed by agents that are minority business enterprises, 1635
expressed as a percentage of all equity and fixed-income trades 1636
that are executed by agents on behalf of the board; 1637

(6) Any other information requested by the Ohio retirement 1638
study council regarding the board's use of agents. 1639

Sec. 3307.154. (A) The state teachers retirement board shall, 1640
for the purposes of this section, designate an investment manager 1641
as an Ohio-qualified investment manager if the investment manager 1642
meets all of the following requirements: 1643

(1) The investment manager is subject to taxation under 1644
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 1645
Code. 1646

(2) The investment manager meets one of the following 1647
requirements: 1648

(a) Has its corporate headquarters or principal place of 1649
business in this state; 1650

(b) Employs at least five hundred individuals in this state; 1651

(c) Has a principal place of business in this state and 1652
employs at least twenty residents of this state. 1653

(B)(1) The board shall, at least annually, establish a policy 1654
with the goal to increase utilization by the board of 1655
Ohio-qualified investment managers, when an Ohio-qualified 1656
investment manager offers quality, services, and safety comparable 1657

to other investment managers otherwise available to the board. The 1658
policy shall also provide for the following: 1659

(a) A process whereby the board can develop a list of 1660
Ohio-qualified investment managers and their investment products; 1661

(b) A process whereby the board can give public notice to 1662
Ohio-qualified investment managers of the board's search for an 1663
investment manager that includes the board's search criteria. 1664

(2) The board shall determine whether an investment manager 1665
is an Ohio-qualified investment manager and whether the investment 1666
manager offers quality, services, and safety comparable to other 1667
investment managers otherwise available to the board. The board's 1668
determination shall be final. 1669

(C) The board shall, at least annually, submit to the Ohio 1670
retirement study council a report containing the following 1671
information: 1672

(1) The name of each investment manager designated as an 1673
Ohio-qualified investment manager under this section; 1674

(2) The name of each investment manager with which the board 1675
contracts; 1676

(3) The amount of assets managed by Ohio-qualified investment 1677
managers, expressed as a percentage of the total assets held by 1678
the retirement system and as a percentage of assets managed by 1679
investment managers with which the board has contracted; 1680

(4) The compensation paid to Ohio-qualified investment 1681
managers, expressed as a percentage of total compensation paid to 1682
all investment managers with which the board has contracted; 1683

(5) Any other information requested by the Ohio retirement 1684
study council regarding the board's use of investment managers. 1685

Sec. 3309.157. (A) As used in this section and in section 1686

3309.159 of the Revised Code: 1687

(1) "Agent" means a dealer, as defined in section 1707.01 of 1688
the Revised Code, who is licensed under sections 1707.01 to 1689
1707.45 of the Revised Code or under comparable laws of another 1690
state or of the United States. 1691

(2) "Minority business enterprise" has the same meaning as in 1692
section 122.71 of the Revised Code. 1693

(3) "Ohio-qualified agent" means an agent designated as such 1694
by the school employees retirement board. 1695

(4) "Ohio-qualified investment manager" means an investment 1696
manager designated as such by the school employees retirement 1697
board. 1698

(5) "Principal place of business" means an office in which 1699
the agent regularly provides securities or investment advisory 1700
services and solicits, meets with, or otherwise communicates with 1701
clients. 1702

(B) The school employees retirement board shall, for the 1703
purposes of this section, designate an agent as an Ohio-qualified 1704
agent if the agent meets all of the following requirements: 1705

(1) The agent is subject to taxation under Chapter 5725., 1706
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code. 1707

(2) The agent is authorized to conduct business in this 1708
state. 1709

(3) The agent maintains a principal place of business in this 1710
state and ~~employees~~ employs at least five residents of this state. 1711

(C) The school employees retirement board shall adopt and 1712
implement a written policy to establish criteria and procedures 1713
used to select agents to execute securities transactions on behalf 1714
of the retirement system. The policy shall address each of the 1715

following: 1716

~~(a)~~(1) Commissions charged by the agent, both in the 1717
aggregate and on a per share basis; 1718

~~(b)~~(2) The execution speed and trade settlement capabilities 1719
of the agent; 1720

~~(c)~~(3) The responsiveness, reliability, and integrity of the 1721
agent; 1722

~~(d)~~(4) The nature and value of research provided by the 1723
agent; 1724

~~(e)~~(5) Any special capabilities of the agent. 1725

(D)(1) The board shall, at least annually, establish a policy 1726
with the goal to increase utilization by the board of 1727
Ohio-qualified agents for the execution of domestic equity and 1728
fixed income trades on behalf of the retirement system, when an 1729
Ohio-qualified agent offers quality, services, and safety 1730
comparable to other agents otherwise available to the board and 1731
meets the criteria established under division (C) of this section. 1732

(2) The board shall review, at least annually, the 1733
performance of the agents that execute securities transactions on 1734
behalf of the board. 1735

(3) The board shall determine whether an agent is an 1736
Ohio-qualified agent, meets the criteria established by the board 1737
pursuant to division (C) of this section, and offers quality, 1738
services, and safety comparable to other agents otherwise 1739
available to the board. The board's determination shall be final. 1740

(E) The board shall, at least annually, submit to the Ohio 1741
retirement study council a report containing the following 1742
information: 1743

(1) The name of each agent designated as an Ohio-qualified 1744
agent under this section; 1745

(2) The name of each agent that executes securities transactions on behalf of the board;	1746 1747
(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1748 1749 1750 1751
(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;	1752 1753 1754
(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1755 1756 1757 1758
(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.	1759 1760
Sec. 3309.159. (A) The school employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:	1761 1762 1763 1764
(1) The investment manager is subject to taxation under Chapter 5725., <u>5726.</u> , 5733., or <u>5747.</u> , <u>or 5751.</u> of the Revised Code.	1765 1766 1767
(2) The investment manager meets one of the following requirements:	1768 1769
(a) Has its corporate headquarters or principal place of business in this state;	1770 1771
(b) Employs at least five hundred individuals in this state;	1772
(c) Has a principal place of business in this state and employs at least 20 <u>twenty</u> residents of this state.	1773 1774

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers. 1805
1806

Sec. 5505.068. (A) As used in this section and in section 5505.0610 of the Revised Code: 1807
1808

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States. 1809
1810
1811
1812

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code. 1813
1814

(3) "Ohio-qualified agent" means an agent designated as such by the state highway patrol retirement board. 1815
1816

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state highway patrol retirement board. 1817
1818
1819

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients. 1820
1821
1822
1823

(B) The state highway patrol retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements: 1824
1825
1826

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., ~~5747.~~, or 5751. of the Revised Code. 1827
1828

(2) The agent is authorized to conduct business in this state; 1829
1830

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state. 1831
1832

(C) The state highway patrol retirement board shall adopt and 1833

implement a written policy to establish criteria and procedures 1834
used to select agents to execute securities transactions on behalf 1835
of the retirement system. The policy shall address each of the 1836
following: 1837

(1) Commissions charged by the agent, both in the aggregate 1838
and on a per share basis; 1839

(2) The execution speed and trade settlement capabilities of 1840
the agent; 1841

(3) The responsiveness, reliability, and integrity of the 1842
agent; 1843

(4) The nature and value of research provided by the agent; 1844

(5) Any special capabilities of the agent. 1845

(D)(1) The board shall, at least annually, establish a policy 1846
with the goal to increase utilization by the board of 1847
Ohio-qualified agents for the execution of domestic equity and 1848
fixed income trades on behalf of the retirement system, when an 1849
Ohio-qualified agent offers quality, services, and safety 1850
comparable to other agents otherwise available to the board and 1851
meets the criteria established under division (C) of this section. 1852

(2) The board shall review, at least annually, the 1853
performance of the agents that execute securities transactions on 1854
behalf of the board. 1855

(3) The board shall determine whether an agent is an 1856
Ohio-qualified agent, meets the criteria established by the board 1857
pursuant to division (C) of this section, and offers quality, 1858
services, and safety comparable to other agents otherwise 1859
available to the board. The board's determination shall be final. 1860

(E) The board shall, at least annually, submit to the Ohio 1861
retirement study council a report containing the following 1862
information: 1863

(1) The name of each agent designated as an Ohio-qualified agent under this section;	1864 1865
(2) The name of each agent that executes securities transactions on behalf of the board;	1866 1867
(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1868 1869 1870 1871
(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;	1872 1873 1874
(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1875 1876 1877 1878
(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.	1879 1880
Sec. 5505.0610. (A) The state highway patrol retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:	1881 1882 1883 1884
(1) The investment manager is subject to taxation under Chapter 5725., <u>5726.</u> , 5733., or 5747. , <u>or 5751.</u> of the Revised Code.	1885 1886 1887
(2) The investment manager meets one of the following requirements:	1888 1889
(a) Has its corporate headquarters or principal place of business in this state;	1890 1891
(b) Employs at least five hundred individuals in this state;	1892

(c) Has a principal place of business in this state and 1893
employs at least ~~20~~ twenty residents of this state. 1894

(B)(1) The board shall, at least annually, establish a policy 1895
with the goal to increase utilization by the board of 1896
Ohio-qualified investment managers, when an Ohio-qualified 1897
investment manager offers quality, services, and safety comparable 1898
to other investment managers otherwise available to the board. The 1899
policy shall also provide for the following: 1900

(a) A process whereby the board can develop a list of 1901
Ohio-qualified investment managers and their investment products; 1902

(b) A process whereby the board can give public notice to 1903
Ohio-qualified investment managers of the board's search for an 1904
investment manager that includes the board's search criteria. 1905

(2) The board shall determine whether an investment manager 1906
is an Ohio-qualified investment manager and whether the investment 1907
manager offers quality, services, and safety comparable to other 1908
investment managers otherwise available to the board. The board's 1909
determination shall be final. 1910

(C) The board shall, at least annually, submit to the Ohio 1911
retirement study council a report containing the following 1912
information: 1913

(1) The name of each investment manager designated as an 1914
Ohio-qualified investment manager under this section; 1915

(2) The name of each investment manager with which the board 1916
contracts; 1917

(3) The amount of assets managed by Ohio-qualified investment 1918
managers, expressed as a percentage of the total assets held by 1919
the retirement system and as a percentage of assets managed by 1920
investment managers with which the board has contracted; 1921

(4) The compensation paid to Ohio-qualified investment 1922

managers, expressed as a percentage of total compensation paid to 1923
all investment managers with which the board has contracted; 1924

(5) Any other information requested by the Ohio retirement 1925
study council regarding the board's use of investment managers. 1926

Sec. 5701.12. (A) The effective date to which this section 1927
refers is the effective date of this section as enacted by H.B. 1928
510 of the 129th general assembly. 1929

(B) Any reference in Title LVII to "consolidated reports of 1930
condition and income" or "call report" means the consolidated 1931
reports of condition and income as those reports existed on the 1932
effective date. 1933

(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means 1934
the FR Y-9 financial statements as those financial statements 1935
existed on the effective date. 1936

(D) This section does not apply to any reference in Title 1937
LVII of the Revised Code to "consolidated reports of condition and 1938
income," "call report," "FR Y-9," or "Y-9" as of a date certain 1939
specifying the day, month, and year. 1940

Sec. 5703.052. (A) There is hereby created in the state 1941
treasury the tax refund fund, from which refunds shall be paid for 1942
taxes illegally or erroneously assessed or collected, or for any 1943
other reason overpaid, that are levied by Chapter 4301., 4305., 1944
5726., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 1945
5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 1946
3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 1947
5727.811 of the Revised Code. Refunds for fees illegally or 1948
erroneously assessed or collected, or for any other reason 1949
overpaid, that are levied by sections 3734.90 to 3734.9014 of the 1950
Revised Code also shall be paid from the fund. Refunds for amounts 1951
illegally or erroneously assessed or collected by the tax 1952

commissioner, or for any other reason overpaid, that are due under 1953
section 1509.50 of the Revised Code shall be paid from the fund. 1954
However, refunds for taxes levied under section 5739.101 of the 1955
Revised Code shall not be paid from the tax refund fund, but shall 1956
be paid as provided in section 5739.104 of the Revised Code. 1957

(B)(1) Upon certification by the tax commissioner to the 1958
treasurer of state of a tax refund, a fee refund, or an other 1959
amount refunded, or by the superintendent of insurance of a 1960
domestic or foreign insurance tax refund, the treasurer of state 1961
shall place the amount certified to the credit of the fund. The 1962
certified amount transferred shall be derived from current 1963
receipts of the same tax, fee, or other amount from which the 1964
refund arose. If current receipts from the tax, fee, or other 1965
amount from which the refund arose are inadequate to make the 1966
transfer of the amount so certified, the treasurer of state shall 1967
transfer such certified amount from current receipts of the sales 1968
tax levied by section 5739.02 of the Revised Code. 1969

(2) When the treasurer of state provides for the payment of a 1970
refund of a tax, fee, or other amount from the current receipts of 1971
the sales tax, and the refund is for a tax, fee, or other amount 1972
that is not levied by the state, the tax commissioner shall 1973
recover the amount of that refund from the next distribution of 1974
that tax, fee, or other amount that otherwise would be made to the 1975
taxing jurisdiction. If the amount to be recovered would exceed 1976
twenty-five per cent of the next distribution of that tax, fee, or 1977
other amount, the commissioner may spread the recovery over more 1978
than one future distribution, taking into account the amount to be 1979
recovered and the amount of the anticipated future distributions. 1980
In no event may the commissioner spread the recovery over a period 1981
to exceed twenty-four months. 1982

Sec. 5703.053. As used in this section, "postal service" 1983

means the United States postal service. 1984

An application to the tax commissioner for a tax refund under 1985
section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 1986
5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 1987
5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the Revised Code 1988
or division (B) of section 5703.05 of the Revised Code, or a fee 1989
refunded under section 3734.905 of the Revised Code, that is 1990
received after the last day for filing under such section shall be 1991
considered to have been filed in a timely manner if: 1992

(A) The application is delivered by the postal service and 1993
the earliest postal service postmark on the cover in which the 1994
application is enclosed is not later than the last day for filing 1995
the application; 1996

(B) The application is delivered by the postal service, the 1997
only postmark on the cover in which the application is enclosed 1998
was affixed by a private postal meter, the date of that postmark 1999
is not later than the last day for filing the application, and the 2000
application is received within seven days of such last day; or 2001

(C) The application is delivered by the postal service, no 2002
postmark date was affixed to the cover in which the application is 2003
enclosed or the date of the postmark so affixed is not legible, 2004
and the application is received within seven days of the last day 2005
for making the application. 2006

Sec. 5703.70. (A) On the filing of an application for refund 2007
under section 3734.905, 4307.05, 4307.07, 5726.30, 5727.28, 2008
5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 2009
5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 2010
5743.53, 5749.08, 5751.08, or 5753.06 of the Revised Code, or an 2011
application for compensation under section 5739.061 of the Revised 2012
Code, if the tax commissioner determines that the amount of the 2013
refund or compensation to which the applicant is entitled is less 2014

than the amount claimed in the application, the commissioner shall 2015
give the applicant written notice by ordinary mail of the amount. 2016
The notice shall be sent to the address shown on the application 2017
unless the applicant notifies the commissioner of a different 2018
address. The applicant shall have sixty days from the date the 2019
commissioner mails the notice to provide additional information to 2020
the commissioner or request a hearing, or both. 2021

(B) If the applicant neither requests a hearing nor provides 2022
additional information to the tax commissioner within the time 2023
prescribed by division (A) of this section, the commissioner shall 2024
take no further action, and the refund or compensation amount 2025
denied becomes final. 2026

(C)(1) If the applicant requests a hearing within the time 2027
prescribed by division (A) of this section, the tax commissioner 2028
shall assign a time and place for the hearing and notify the 2029
applicant of such time and place, but the commissioner may 2030
continue the hearing from time to time as necessary. After the 2031
hearing, the commissioner may make such adjustments to the refund 2032
or compensation as the commissioner finds proper, and shall issue 2033
a final determination thereon. 2034

(2) If the applicant does not request a hearing, but provides 2035
additional information, within the time prescribed by division (A) 2036
of this section, the commissioner shall review the information, 2037
make such adjustments to the refund or compensation as the 2038
commissioner finds proper, and issue a final determination 2039
thereon. 2040

(3) The commissioner shall serve a copy of the final 2041
determination made under division (C)(1) or (2) of this section on 2042
the applicant in the manner provided in section 5703.37 of the 2043
Revised Code, and the decision is final, subject to appeal under 2044
section 5717.02 of the Revised Code. 2045

(D) The tax commissioner shall certify to the director of 2046
budget and management and treasurer of state for payment from the 2047
tax refund fund created by section 5703.052 of the Revised Code, 2048
the amount of the refund to be refunded under division (B) or (C) 2049
of this section. The commissioner also shall certify to the 2050
director and treasurer of state for payment from the general 2051
revenue fund the amount of compensation to be paid under division 2052
(B) or (C) of this section. 2053

Sec. 5707.03. Annual taxes are hereby levied on the kinds of 2054
intangible property, enumerated in this section, on the intangible 2055
property tax list in the office of the treasurer of state at the 2056
following rates: 2057

(A) On investments, five per cent of income yield or of 2058
income as provided by section 5711.10 of the Revised Code for the 2059
1983, 1984, and 1985 return years and no tax for subsequent return 2060
years; 2061

(B) On unproductive investments, two mills on the dollar for 2062
the 1983, 1984, and 1985 return years and no tax for subsequent 2063
return years; 2064

(C) On deposits, one and three-eighths mills on the dollar 2065
for the 1982 and 1983 return years and no tax for subsequent 2066
return years; 2067

(D) On shares of, and capital employed by, dealers in 2068
intangibles, eight mills on the dollar for return years prior to 2069
2014 and no tax under this section for subsequent return years; 2070

(E) On money, credits, and all other taxable intangibles, 2071
three mills on the dollar for the 1983, 1984, and 1985 return 2072
years and no tax for subsequent return years. 2073

The object and distribution of such taxes shall be as 2074
provided in section 5725.24 of the Revised Code. 2075

Sec. 5709.76. (A) All of the following are exempt from taxes	2076
levied by the state and its subdivisions:	2077
(1) Public obligations;	2078
(2) Interest or interest equivalent on public obligations and	2079
on purchase obligations;	2080
(3) The transfer, and any profit made on the sale, exchange,	2081
or other disposition, of public obligations.	2082
(B) The exemptions granted by division (A) of this section	2083
apply to public obligations and purchase obligations issued,	2084
incurred, or entered into before, on, or after the effective date	2085
of this section <u>March 29, 1988</u> , but only for taxable years ending	2086
on or after the later of July 1, 1988, or the effective date of	2087
this section <u>March 29, 1988</u> .	2088
(C) This section supplements, and does not restrict, limit,	2089
or impair, any exemption from taxation otherwise provided for in	2090
the Ohio Constitution, the Revised Code, or other laws.	2091
(D) As used in this section:	2092
(1) "Fractionalized interests in purchase obligations" means	2093
participations, shares, or other instruments or agreements,	2094
separate from the purchase obligations themselves, evidencing	2095
ownership of interests in purchase obligations or of rights to	2096
receive payments of, or on account of, principal or interest or	2097
their equivalents payable by or on behalf of the state or a	2098
subdivision pursuant to purchase obligations, and does not include	2099
interests or shares in qualified investment trusts.	2100
(2) "Interest or interest equivalent" means those payments or	2101
portions of payments, however denominated, that constitute or	2102
represent consideration for forbearing the collection of money, or	2103
for deferring the receipt of payment of money to a future time, as	2104
determined for federal income tax purposes, and includes those	2105

portions of a qualified investment trust's distributions to its 2106
shareholders or beneficial owners, whether distributed or deemed 2107
distributed in cash or in trust shares or interests, that are 2108
attributable to the trust's receipt of interest or interest 2109
equivalent. 2110

(3) "Internal Revenue Code" has the same meaning as in 2111
division (H) of section 5747.01 of the Revised Code. 2112

(4) "Qualified investment trust" or "trust" means a unit 2113
investment trust, grantor trust, or regulated investment company, 2114
if at all times at least fifty per cent of the value of the total 2115
assets of the trust or company consists of public securities or 2116
purchase obligations, or similar obligations of other states or 2117
their subdivisions. 2118

(5) "Public obligations" means public securities, 2119
fractionalized interests in purchase obligations, and any 2120
obligation or evidence of obligation to pay interest or interest 2121
equivalent on public securities or on fractionalized interests in 2122
purchase obligations, and does not include purchase obligations. 2123

(6) "Public securities" means bonds, notes, certificates of 2124
indebtedness, commercial paper, and other instruments in writing 2125
issued by the state or a subdivision, or by any nonprofit 2126
corporation authorized to issue public securities for or on behalf 2127
of the state or a subdivision, to evidence the obligation of the 2128
state, subdivision, or nonprofit corporation to repay money 2129
borrowed by, or to pay at any future time other money obligations 2130
of, the state, subdivision, or nonprofit corporation, and does not 2131
include purchase obligations. Public securities may be in the form 2132
of either certificated securities or uncertificated securities, as 2133
those terms are defined in section 1308.01 of the Revised Code. 2134

(7) "Purchase obligations" means interest-bearing obligations 2135
of the state or a subdivision to make payments under installment 2136

sale, lease, lease purchase, or similar types of agreements.	2137
(8) "Regulated investment company" means a regulated	2138
investment company as defined in section 851 of the Internal	2139
Revenue Code.	2140
(9) "State" means the state, state officers, and state	2141
agencies, including commissions, institutions, boards, agencies,	2142
authorities, or other instrumentalities.	2143
(10) "Subdivision" means any local taxing authority,	2144
political or governmental subdivision, body corporate and politic,	2145
or other local public or governmental entity in the state, any	2146
combination or consortium of two or more of those subdivisions,	2147
and any public division, district, commission, authority,	2148
department, board, officer, or institution of any one or more of	2149
those subdivisions.	2150
(11) "Taxes" means any direct or indirect taxes, including	2151
income, ad valorem, transfer, and excise taxes, and including the	2152
tax on the net income measure of the issued and outstanding shares	2153
of a corporation under Chapter 5733. of the Revised Code. "Taxes"	2154
does not mean any of the following:	2155
(a) The tax on the net worth measure of the issued and	2156
outstanding shares of corporations and financial institutions	2157
under Chapter 5733. of the Revised Code;	2158
(b) The tax on the value of the gross estate under Chapter	2159
5731. of the Revised Code;	2160
(c) The tax on the value of the capital and surplus of a	2161
domestic insurance company under Chapter 5725. of the Revised	2162
Code;	2163
(d) The tax on the shares of and capital employed by dealers	2164
in intangibles under Chapter 5725. and section 5707.03 of the	2165
Revised Code;	2166

(e) The tax levied on the basis of the total equity capital 2167
of financial institutions under Chapter 5726. of the Revised Code. 2168

Sec. 5711.22. (A) Deposits not taxed at the source shall be 2169
listed and assessed at their amount in dollars on the day they are 2170
required to be listed. Moneys shall be listed and assessed at the 2171
amount thereof in dollars on hand on the day that they are 2172
required to be listed. In listing investments, the amount of the 2173
income yield of each for the calendar year next preceding the date 2174
of listing shall, except as otherwise provided in this chapter, be 2175
stated in dollars and cents and the assessment thereof shall be at 2176
the amount of such income yield; but any property defined as 2177
investments in either division (A) or (B) of section 5701.06 of 2178
the Revised Code that has not been outstanding for the full 2179
calendar year next preceding the date of listing, except shares of 2180
stock of like kind as other shares of the same corporation 2181
outstanding for the full calendar year next preceding the date of 2182
listing, or which has yielded no income during such calendar year 2183
shall be listed and assessed as unproductive investments, at their 2184
true value in money on the day that such investments are required 2185
to be listed. 2186

Credits and other taxable intangibles shall be listed and 2187
assessed at their true value in money on the day as of which the 2188
same are required to be listed. 2189

Shares of stock of a bank holding company, as defined in 2190
Title 12 U.S.C.A., section 1841, that are required to be listed 2191
for taxation under this division and upon which dividends were 2192
paid during the year of their issuance, which dividends are 2193
subject to taxation under the provisions of Chapter 5747. of the 2194
Revised Code, shall be exempt from the intangibles tax for the 2195
year immediately succeeding their issuance. If such shares bear 2196
dividends the first calendar year after their issuance, which 2197

dividends are subject to taxation under the provisions of Chapter 2198
5747. of the Revised Code, it shall be deemed that the 2199
nondelinquent intangible property tax pursuant to division (A) of 2200
section 5707.04 of the Revised Code was paid on those dividends 2201
paid that first calendar year after the issuance of the shares. 2202

(B) For tax years before tax year 2009, boilers, machinery, 2203
equipment, and personal property the true value of which is 2204
determined under division (B) of section 5711.21 of the Revised 2205
Code shall be listed and assessed at an amount equal to the sum of 2206
the products determined under divisions (B)(1), (2), and (3) of 2207
this section: 2208

(1) Multiply the portion of the true value determined under 2209
division (B)(1) of section 5711.21 of the Revised Code by the 2210
assessment rate for the tax year in division (G) of this section; 2211

(2) Multiply the portion of the true value determined under 2212
division (B)(2) of section 5711.21 of the Revised Code by the 2213
assessment rate in section 5727.111 of the Revised Code that is 2214
applicable to the production equipment of an electric company; 2215

(3) Multiply the portion of the true value determined under 2216
division (B)(3) of section 5711.21 of the Revised Code by the 2217
assessment rate in section 5727.111 of the Revised Code that is 2218
applicable to the property of an electric company that is not 2219
production equipment. 2220

(C) For tax years before tax year 2009, personal property 2221
leased to a public utility or interexchange telecommunications 2222
company as defined in section 5727.01 of the Revised Code and used 2223
directly in the rendition of a public utility service as defined 2224
in division (P) of section 5739.01 of the Revised Code shall be 2225
listed and assessed at the same percentage of true value in money 2226
that such property is required to be assessed by section 5727.111 2227
of the Revised Code if owned by the public utility or 2228

interexchange telecommunications company. 2229

(D)(1) Merchandise or an agricultural product shipped from 2230
outside this state and held in this state in a warehouse or a 2231
place of storage without further manufacturing or processing and 2232
for storage only and for shipment outside this state, but that 2233
does not qualify as "not used in business in this state" under 2234
division (B)(1) or (2) of section 5701.08 of the Revised Code, is 2235
nevertheless not used in business in this state for property tax 2236
purposes. 2237

(2) Merchandise or an agricultural product owned by a 2238
qualified out-of-state person shipped from outside this state and 2239
held in this state in a public warehouse without further 2240
manufacturing or processing and for temporary storage only and for 2241
shipment inside this state, but that does not qualify as "not used 2242
in business in this state" under division (B)(1) or (2) of section 2243
5701.08 of the Revised Code, is nevertheless not used in business 2244
in this state for property tax purposes. 2245

(3) As used in division (D)(2) of this section: 2246

(a) "Qualified out-of-state person" means a person that does 2247
not own, lease, or use property, other than merchandise or an 2248
agricultural product described in this division, in this state, 2249
and does not have employees, agents, or representatives in this 2250
state; 2251

(b) "Public warehouse" means a warehouse in this state that 2252
is not subject to the control of or under the supervision of the 2253
owner of the merchandise or agricultural product stored in it, or 2254
staffed by the owner's employees, and from which the property is 2255
to be shipped inside this state. 2256

(E) Personal property valued pursuant to section 5711.15 of 2257
the Revised Code and personal property required to be listed on 2258
the average basis by division (B) of section 5711.16 of the 2259

Revised Code, except property described in division (D) of this 2260
section, business fixtures, and furniture not held for sale in the 2261
course of business, shall be listed and assessed at twenty-three 2262
per cent of its true value in money for tax year 2005 and at the 2263
percentage of such true value specified in division (G) of this 2264
section for tax year 2006 and each tax year thereafter. 2265

(F) All manufacturing equipment as defined in section 5711.16 2266
of the Revised Code shall be listed and assessed at the following 2267
percentage of its true value in money: 2268

(1) For all such property not previously used in business in 2269
this state by the owner thereof, or by related member or 2270
predecessor of the owner, other than as inventory, before January 2271
1, 2005, zero per cent of true value; 2272

(2) For all other such property, at the percentage of true 2273
value specified in division (G) of this section for tax year 2005 2274
and each tax year thereafter. 2275

(G) Unless otherwise provided by law, all other personal 2276
property used in business that has not been legally regarded as an 2277
improvement on land and considered in arriving at the value of the 2278
real property assessed for taxation shall be listed and assessed 2279
at the following percentages of true value in money: 2280

(1) For tax year 2005, twenty-five per cent of true value; 2281

(2) For tax year 2006, eighteen and three-fourths per cent of 2282
true value; 2283

(3) For tax year 2007, twelve and one-half per cent of true 2284
value; 2285

(4) For tax year 2008, six and one-fourth per cent of true 2286
value; 2287

(5) For tax year 2009 and each tax year thereafter, zero per 2288
cent of true value. 2289

(H)(1) For tax year 2007 and thereafter, all personal 2290
property used by a telephone company, telegraph company, or 2291
interexchange telecommunications company shall be listed as 2292
provided in this chapter and assessed at the following percentages 2293
of true value in money: 2294

(a) For tax year 2007, twenty per cent of true value; 2295

(b) For tax year 2008, fifteen per cent of true value; 2296

(c) For tax year 2009, ten per cent of true value; 2297

(d) For tax year 2010, five per cent of true value; 2298

(e) For tax year 2011 and each tax year thereafter, zero per 2299
cent of true value. 2300

(2) The property owned by a telephone, telegraph, or 2301
telecommunications company shall be apportioned to each 2302
appropriate taxing district as provided in section 5727.15 of the 2303
Revised Code. 2304

(I) During and after the tax year in which the assessment 2305
rate equals zero per cent, the property described in division (E), 2306
(F), (G), or (H) of this section shall not be listed for taxation. 2307

(J) Divisions (E), (F), (G), and (H) of this section apply to 2308
the property of a person described in divisions (E)(3) ~~to (10)~~, 2309
(4), and (5) of section 5751.01 of the Revised Code. Division (J) 2310
of this section does not prevent the application of the exemption 2311
of property from taxation under section 5725.25 or 5725.26 of the 2312
Revised Code. 2313

Sec. 5725.02. ~~The~~ For report years prior to 2014, the cashier 2314
or other principal accounting officer of each bank, the secretary 2315
or other principal accounting officer of each other incorporated 2316
financial institution, and the manager or owner of each 2317
unincorporated financial institution shall return to the 2318
department of taxation between the first and second Mondays of 2319

March, annually, a report exhibiting in detail, and under 2320
appropriate heads, the resources and liabilities of such 2321
institution at the close of business on the thirty-first day of 2322
December next preceding. 2323

The report of each financial institution shall also show the 2324
aggregate balances of the taxable deposits of its depositors in 2325
each county in which the institution maintained an office for the 2326
receipt of deposits, at the end of business on the day fixed by 2327
the tax commissioner pursuant to section 5725.05 of the Revised 2328
Code. The report shall show also the names and addresses of all 2329
depositors whose deposits were wholly withdrawn from such 2330
institution between the day so fixed and the date on which notice 2331
of the fixing was received by such institution, or if no such 2332
notice was received, then between the day fixed and the first day 2333
of January next following, and the amount of taxable deposits of 2334
each such ~~depositer~~ depositor on the day fixed. 2335

Sec. 5725.14. (A) As used in this section and section 5725.15 2336
of the Revised Code: 2337

(1) "Billing address" of a customer means one of the 2338
following: 2339

(a) The customer's address as set forth in any notice, 2340
statement, bill, or similar acknowledgment shall be presumed to be 2341
the address where the customer is located with respect to the 2342
transaction for which the dealer issued the notice, statement, 2343
bill, or acknowledgment. 2344

(b) If the dealer issues any notice, statement, bill, or 2345
similar acknowledgment electronically to an address other than a 2346
street address or post office box address or if the dealer does 2347
not issue such a notice, statement, bill, or acknowledgment, the 2348
customer's street address as set forth in the records of the 2349
dealer at the time of the transaction shall be presumed to be the 2350

address where the customer is located. 2351

(2) "Commissions" includes but is not limited to brokerage 2352
commissions, asset management fees, and similar fees charged in 2353
the regular course of business to a customer for the maintenance 2354
and management of the customer's account. 2355

(3) "Gross receipts" means one of the following: 2356

(a) In the case of a dealer in intangibles principally 2357
engaged in the business of lending money or discounting loans, the 2358
aggregate amount of loans effected or discounted; 2359

(b) In the case of a dealer in intangibles principally 2360
engaged in the business of selling or buying stocks, bonds, or 2361
other similar securities either on the dealer's own account or as 2362
agent for another, the aggregate amount of all commissions 2363
charged. 2364

(B) Each dealer in intangibles shall return to the tax 2365
commissioner between the first and second Mondays of March, 2366
annually for return years prior to 2014, a report exhibiting in 2367
detail, and under appropriate heads, the dealer's resources and 2368
liabilities at the close of business on the thirty-first day of 2369
December next preceding. In the case of an unincorporated dealer 2370
in intangibles, such report shall also exhibit the amount or value 2371
as of the date of conversion of all property within the year 2372
preceding the date of listing, and on or after the first day of 2373
November converted into bonds or other securities not taxed to the 2374
extent such nontaxable bonds or securities may be shown in the 2375
dealer's resources on such date, without deduction for 2376
indebtedness created in the purchase of such nontaxable bonds or 2377
securities. 2378

If a dealer in intangibles maintains separate business 2379
offices, whether within this state only or within and without this 2380
state, the report shall also show the gross receipts from business 2381

done at each such office during the year ending on the 2382
thirty-first day of December next preceding. 2383

For the purposes of this section and section 5725.15 of the 2384
Revised Code, business is considered done at an office when it 2385
originates at such office, but the receipts from business 2386
originating at one office and consummated at another office shall 2387
be divided equitably between such offices. 2388

(C) For the purposes of this section and section 5725.15 of 2389
the Revised Code, in the case of a dealer in intangibles 2390
principally engaged in the business of selling or buying stocks, 2391
bonds, or other similar securities either on the dealer's own 2392
account or as agent for another, the dealer's capital, surplus, 2393
and undivided profits employed in this state shall bear the same 2394
ratio to the dealer's total capital, surplus, and undivided 2395
profits employed everywhere as the amount described in division 2396
(C)(1) of this section bears to the amount described in division 2397
(C)(2) of this section: 2398

(1) The sum of the commissions earned during the year covered 2399
by the report from transactions with respect to brokerage accounts 2400
owned by customers having billing addresses in this state; 2401

(2) The sum of the commissions earned during that year from 2402
transactions with respect to brokerage accounts owned by all of 2403
the dealer's customers. 2404

(D) An incorporated dealer in intangibles which owns or 2405
controls fifty-one per cent or more of the common stock of another 2406
incorporated dealer in intangibles may, under uniform regulations 2407
prescribed by the tax commissioner, make a consolidated return for 2408
the purpose of sections 5725.01 to 5725.26, inclusive, of the 2409
Revised Code. In such case the parent corporation making such 2410
return is not required to include in its resources any of the 2411
stocks, securities, or other obligations of its subsidiary 2412

dealers, nor permitted to include in its liabilities any of its 2413
own securities or other obligations belonging to its subsidiaries. 2414

Sec. 5725.16. On or before the first Monday of May, annually 2415
for return years prior to 2014, the tax commissioner shall certify 2416
to the treasurer of state the assessment of the shares or property 2417
representing capital, or apportionment of either, of each dealer 2418
in intangibles doing business in the state, showing separately the 2419
amount representing capital employed in each county. 2420

The treasurer of state shall place the amounts certified on 2421
the intangible property tax list in ~~his~~ the treasurer of state's 2422
office in the names of the dealers represented by those 2423
certificates. 2424

Any certificate of abatement issued pursuant to section 2425
5703.05 of the Revised Code for the overpayment of the tax on 2426
shares or property representing capital of a dealer in intangibles 2427
may be tendered by the payee or transferee thereof to the 2428
treasurer of state as payment for any taxes allocable to the 2429
county in which the claim for overpayment arose. 2430

Sec. 5725.26. The real estate of a financial institution or 2431
dealer in intangibles shall be taxed in the place where it is 2432
located, the same as the real estate of persons is taxed, but the 2433
taxes provided for in Chapters 5725. ~~and~~, 5726., 5733., and 5751. 2434
of the Revised Code, shall be in lieu of all other taxes on the 2435
other property and assets of such institution or dealer, except 2436
personal property taxable under Chapter 5711. of the Revised Code 2437
and leased, or held for the purpose of leasing, to others if the 2438
owner or lessor of the property acquired it for the sole purpose 2439
of leasing it to others. 2440

For reports required to be filed under section 5725.14 of the 2441
Revised Code in 2003 and thereafter, nothing in this section shall 2442

be construed to exempt the property of any dealer in intangibles 2443
under section 5725.13 of the Revised Code from the tax imposed 2444
under section 5707.03 of the Revised Code. 2445

Sec. 5725.33. (A) Except as otherwise provided in this 2446
section, terms used in this section have the same meaning as 2447
section 45D of the Internal Revenue Code, any related proposed, 2448
temporary or final regulations promulgated under the Internal 2449
Revenue Code, any rules or guidance of the internal revenue 2450
service or the United States department of the treasury, and any 2451
related rules or guidance issued by the community development 2452
financial institutions fund of the United States department of the 2453
treasury, as such law, regulations, rules, and guidance exist on 2454
~~the effective date of the enactment of this section by H.B. 1 of~~ 2455
~~the 128th general assembly~~ October 16, 2009. 2456

As used in this section: 2457

(1) "Adjusted purchase price" means the amount paid for 2458
qualified equity investments multiplied by the qualified 2459
low-income community investments made by the issuer in projects 2460
located in this state as a percentage of the total amount of 2461
qualified low-income community investments made by the issuer in 2462
projects located in all states on the credit allowance date during 2463
the applicable tax year, subject to divisions (B)(1) and (2) of 2464
this section. 2465

(2) "Applicable percentage" means zero per cent for each of 2466
the first two credit allowance dates, seven per cent for the third 2467
credit allowance date, and eight per cent for the four following 2468
credit allowance dates. 2469

(3) "Credit allowance date" means the date, on or after 2470
January 1, 2010, a qualified equity investment is made and each of 2471
the six anniversary dates thereafter. For qualified equity 2472
investments made after ~~the effective date of this section~~ October 2473

16, 2009, but before January 1, 2010, the initial credit allowance 2474
date is January 1, 2010, and each of the six anniversary dates 2475
thereafter is on the first day of January of each year. 2476

(4) "Qualified active low-income community business" excludes 2477
any business that derives or projects to derive fifteen per cent 2478
or more of annual revenue from the rental or sale of real 2479
property, except any business that is a special purpose entity 2480
principally owned by a principal user of that property formed 2481
solely for the purpose of renting, either directly or indirectly, 2482
or selling real property back to such principal user if such 2483
principal user does not derive fifteen per cent or more of its 2484
gross annual revenue from the rental or sale of real property. 2485

(5) "Qualified community development entity" includes only 2486
entities: 2487

(a) That have entered into an allocation agreement with the 2488
community development financial institutions fund of the United 2489
States department of the treasury with respect to credits 2490
authorized by section 45D of the Internal Revenue Code; 2491

(b) Whose service area includes any portion of this state; 2492
and 2493

(c) That will designate an equity investment in such entities 2494
as a qualified equity investment for purposes of both section 45D 2495
of the Internal Revenue Code and this section. 2496

(6) "Qualified equity investment" is limited to an equity 2497
investment in a qualified community development entity that: 2498

(a) Is acquired after ~~the effective date of the enactment of~~ 2499
~~this section~~ October 16, 2009, at its original issuance solely in 2500
exchange for cash; 2501

(b) Has at least eighty-five per cent of its cash purchase 2502
price used by the qualified community development entity to make 2503

qualified low-income community investments, provided that in the 2504
seventh year after a qualified equity investment is made, only 2505
seventy-five per cent of such cash purchase price must be used by 2506
the qualified community development entity to make qualified 2507
low-income community investments; and 2508

(c) Is designated by the issuer as a qualified equity 2509
investment. 2510

"Qualified equity investment" includes any equity investment 2511
that would, but for division (A)(6)(a) of this section, be a 2512
qualified equity investment in the hands of the taxpayer if such 2513
investment was a qualified equity investment in the hands of a 2514
prior holder. 2515

(B) There is hereby allowed a nonrefundable credit against 2516
the tax imposed by section 5725.18 of the Revised Code for an 2517
insurance company holding a qualified equity investment on the 2518
credit allowance date occurring in the calendar year for which the 2519
tax is due. The credit shall equal the applicable percentage of 2520
the adjusted purchase price of qualified low-income community 2521
investments, subject to divisions (B)(1) and (2) of this section: 2522

(1) For the purpose of calculating the amount of qualified 2523
low-income community investments held by a qualified community 2524
development entity, an investment shall be considered held by a 2525
qualified community development entity even if the investment has 2526
been sold or repaid, provided that, at any time before the seventh 2527
anniversary of the issuance of the qualified equity investment, 2528
the qualified community development entity reinvests an amount 2529
equal to the capital returned to or received or recovered by the 2530
qualified community development entity from the original 2531
investment, exclusive of any profits realized and costs incurred 2532
in the sale or repayment, in another qualified low-income 2533
community investment within twelve months of the receipt of such 2534
capital. If the qualified low-income community investment is sold 2535

or repaid after the sixth anniversary of the issuance of the 2536
qualified equity investment, the qualified low-income community 2537
investment shall be considered held by the ~~qualified~~ qualified 2538
community development entity through the seventh anniversary of 2539
the qualified equity investment's issuance. 2540

(2) The qualified low-income community investment made in 2541
this state shall equal the sum of the qualified low-income 2542
community investments in each qualified active low-income 2543
community business in this state, not to exceed two million five 2544
hundred sixty-four thousand dollars, in which the qualified 2545
community development entity invests, including such investments 2546
in any such businesses in this state related to that qualified 2547
active low-income community business through majority ownership or 2548
control. 2549

The credit shall be claimed in the order prescribed by 2550
section 5725.98 of the Revised Code. If the amount of the credit 2551
exceeds the amount of tax otherwise due after deducting all other 2552
credits in that order, the excess may be carried forward and 2553
applied to the tax due for not more than four ensuing years. 2554

By claiming a tax credit under this section, an insurance 2555
company waives its rights under section 5725.222 of the Revised 2556
Code with respect to the timelimitation for the assessment of 2557
taxes as it relates to credits claimed that later become subject 2558
to recapture under division (E) of this section. 2559

(C) The amount of qualified equity investments on the basis 2560
of which credits may be claimed under this section and sections 2561
5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed 2562
the amount, estimated by the director of development, that would 2563
cause the total amount of credits allowed each fiscal year to 2564
exceed ten million dollars, computed without regard to the 2565
potential for taxpayers to carry tax credits forward to later 2566
years. 2567

(D) If any amount of the federal tax credit allowed for a 2568
qualified equity investment for which a credit was received under 2569
this section is recaptured under section 45D of the Internal 2570
Revenue Code, or if the director of development services 2571
determines that an investment for which a tax credit is claimed 2572
under this section is not a qualified equity investment or that 2573
the proceeds of an investment for which a tax credit is claimed 2574
under this section are used to make qualified low-income community 2575
investments other than in a qualified active low-income community 2576
business, all or a portion of the credit received on account of 2577
that investment shall be paid by the insurance company that 2578
received the credit to the superintendent of insurance. The amount 2579
to be recovered shall be determined by the director of development 2580
services pursuant to rules adopted under division (E) of this 2581
section. The director shall certify any amount due under this 2582
division to the superintendent of insurance, and the 2583
superintendent shall notify the treasurer of state of the amount 2584
due. Upon notification, the treasurer shall invoice the insurance 2585
company for the amount due. The amount due is payable not later 2586
than thirty days after the date the treasurer invoices the 2587
insurance company. The amount due shall be considered to be tax 2588
due under section 5725.18 of the Revised Code, and may be 2589
collected by assessment without regard to the time limitations 2590
imposed under section 5725.222 of the Revised Code for the 2591
assessment of taxes by the superintendent. All amounts collected 2592
under this division shall be credited as revenue from the tax 2593
levied under section 5725.18 of the Revised Code. 2594

(E) The tax credits authorized under this section and 2595
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 2596
be administered by the department of development services. The 2597
director of development services, in consultation with the tax 2598
commissioner and the superintendent of insurance, pursuant to 2599
Chapter 119. of the Revised Code, shall adopt rules for the 2600

administration of this section and sections 5726.54, 5729.16, and 2601
5733.58 of the Revised Code. The rules shall provide for 2602
determining the recovery of credits under division (D) of this 2603
section, ~~division (D) of section~~ and under sections 5726.54, 2604
5729.16, and ~~section~~ 5733.58 of the Revised Code, including 2605
prorating the amount of the credit to be recovered on any 2606
reasonable basis, the manner in which credits may be allocated 2607
among claimants, and the amount of any application or other fees 2608
to be charged in connection with a recovery. 2609

(F) There is hereby created in the state treasury the new 2610
markets tax credit operating fund. The director of development 2611
services is authorized to charge reasonable application and other 2612
fees in connection with the administration of tax credits 2613
authorized by this section and sections 5726.54, 5729.16, and 2614
5733.58 of the Revised Code. Any such fees collected shall be 2615
credited to the fund. The director of development services shall 2616
use money in the fund to pay expenses related to the 2617
administration of tax credits authorized under sections 5725.33, 2618
5726.54, 5729.16, and 5733.58 of the Revised Code. 2619

Sec. 5726.01. As used in this chapter: 2620

(A) "Bank organization" means any of the following: 2621

(1) A national bank organized and operating as a national 2622
bank association pursuant to the "National Bank Act," 13 Stat. 100 2623
(1864), 12 U.S.C. 21, et seq.; 2624

(2) A federal savings association or federal savings bank 2625
chartered under 12 U.S.C. 1464; 2626

(3) A bank, banking association, trust company, savings and 2627
loan association, savings bank, or other banking institution that 2628
is organized or incorporated under the laws of the United States, 2629
any state, or a foreign country; 2630

<u>(4) Any corporation organized and operating pursuant to 12</u>	2631
<u>U.S.C. 611, et seq.;</u>	2632
<u>(5) Any agency or branch of a foreign bank, as those terms</u>	2633
<u>are defined in 12 U.S.C. 3101;</u>	2634
<u>(6) An entity licensed as a small business investment company</u>	2635
<u>under the "Small Business Investment Act of 1958," 72 Stat. 689,</u>	2636
<u>15 U.S.C. 661, et seq.;</u>	2637
<u>(7) A company chartered under the "Farm Credit Act of 1933,"</u>	2638
<u>48 Stat. 257, or a successor of such a company.</u>	2639
<u>"Bank organization" does not include an institution organized</u>	2640
<u>under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a</u>	2641
<u>successor of such an institution, an insurance company, or a</u>	2642
<u>credit union.</u>	2643
<u>(B) "Call report" means the consolidated reports of condition</u>	2644
<u>and income prescribed by the federal financial institutions</u>	2645
<u>examination council that a person is required to file with a</u>	2646
<u>federal regulatory agency pursuant to 12 U.S.C. 161, 12 U.S.C.</u>	2647
<u>324, or 12 U.S.C. 1817.</u>	2648
<u>(C) "Credit union" means a nonprofit cooperative financial</u>	2649
<u>institution organized or chartered under the laws of this state,</u>	2650
<u>any other state, or the United States.</u>	2651
<u>(D) "Document of creation" means the articles of</u>	2652
<u>incorporation of a corporation, articles of organization of a</u>	2653
<u>limited liability company, registration of a foreign limited</u>	2654
<u>liability company, certificate of limited partnership,</u>	2655
<u>registration of a foreign limited partnership, registration of a</u>	2656
<u>domestic or foreign limited liability partnership, or registration</u>	2657
<u>of a trade name.</u>	2658
<u>(E) "Financial institution" means a bank organization or a</u>	2659
<u>holding company of a bank organization, except when one of the</u>	2660

following applies: 2661

(1) If two or more such entities are consolidated for the 2662
purposes of filing an FR Y-9, "financial institution" means a 2663
group consisting of all entities that are included in the FR Y-9. 2664

(2) If two or more such entities are consolidated for the 2665
purposes of filing a call report, "financial institution" means a 2666
group consisting of all entities that are included in the call 2667
report and that are not included in a group described in division 2668
(E)(1) of this section. 2669

"Financial institution" does not include a diversified 2670
savings and loan holding company as defined in 12 U.S.C. 1467a, as 2671
that section existed on January 1, 2012, or a grandfathered 2672
unitary savings and loan holding company as defined in 12 U.S.C. 2673
1467b. 2674

(F) "FR Y-9" means the consolidated or parent-only financial 2675
statements that a holding company is required to file with the 2676
federal reserve board pursuant to 12 U.S.C. 1844. In the case of a 2677
holding company required to file both consolidated and parent-only 2678
financial statements, "FR Y-9" means the consolidated financial 2679
statements that the holding company is required to file. 2680

(G) "Gross receipts" means all items of income, without 2681
deduction for expenses. If the reporting person for a taxpayer is 2682
a holding company, "gross receipts" includes all items of income 2683
reported on the FR Y-9 filed by the holding company. If the 2684
reporting person for a taxpayer is a bank organization, "gross 2685
receipts" includes all items of income reported on the call report 2686
filed by the bank organization. 2687

(H) "Insurance company" means every corporation, association, 2688
and society engaged in the business of insurance of any character, 2689
or engaged in the business of entering into contracts 2690
substantially amounting to insurance of any character, or of 2691

indemnifying or guaranteeing against loss or damage, or acting as 2692
surety on bonds or undertakings. "Insurance company" also includes 2693
any health insuring corporation as defined in section 1751.01 of 2694
the Revised Code. 2695

(I) "Reporting person" means one of the following: 2696

(1) In the case of a financial institution described in 2697
division (E)(1) of this section, the top-tier holding company 2698
required to file an FR Y-9 unless the top-tier holding company is 2699
a diversified savings and loan holding company, as defined in 12 2700
U.S.C. 1467a, as that section existed on January 1, 2012, or a 2701
grandfathered unitary savings and loan holding company as defined 2702
in 12 U.S.C. 1467b. If the top-tier holding company is such a 2703
holding company, then the reporting person shall be the bank 2704
organization. 2705

(2) In the case of a financial institution described in 2706
division (E)(2) of this section, the bank organization required to 2707
file the call report. 2708

(3) In the case of a bank organization that is not included 2709
in a group described in division (E)(1) or (2) of this section, 2710
the bank organization. 2711

(J) "Tax year" means the calendar year for which the tax 2712
levied under section 5726.02 of the Revised Code is required to be 2713
paid. 2714

(K) "Taxable year" means the calendar year preceding the year 2715
in which an annual report is required to be filed under section 2716
5726.03 of the Revised Code. 2717

(L) "Taxpayer" means a financial institution subject to the 2718
tax levied under section 5726.02 of the Revised Code. 2719

(M) "Total equity capital" means the sum of the common stock 2720
at par value, perpetual preferred stock and related surplus, other 2721

surplus not related to perpetual preferred stock, retained 2722
earnings, accumulated other comprehensive income, treasury stock, 2723
unearned employee stock ownership plan shares, and other equity 2724
components of a financial institution. "Total equity capital" 2725
shall include any noncontrolling (minority) interests in 2726
consolidated subsidiaries that are financial institutions, as 2727
reported on a financial institution's FR Y-9 or call report, but 2728
shall not include such interests in consolidated subsidiaries that 2729
are not financial institutions. 2730

(N) "Total Ohio equity capital" means the portion of the 2731
total equity capital of a financial institution apportioned to 2732
Ohio pursuant to section 5726.05 of the Revised Code. 2733

(O) "Holding company" does not include a diversified savings 2734
and loan holding company as defined in 12 U.S.C. 1467a, as that 2735
section existed on January 1, 2012, or a grandfathered unitary 2736
savings and loan holding company as defined in 12 U.S.C. 1467b. 2737

Sec. 5726.02. (A) For the purpose of funding the needs of 2738
this state and its local governments beginning with the tax year 2739
that commences on January 1, 2014, and continuing for every tax 2740
year thereafter, there is hereby levied a tax on each financial 2741
institution for the privilege of doing business in this state. A 2742
financial institution is subject to the tax imposed under this 2743
chapter for each calendar year that the financial institution 2744
conducts business as a financial institution in this state or 2745
otherwise has nexus in or with this state under the Constitution 2746
of the United States on the first day of January of that calendar 2747
year. 2748

(B) The amount of tax a financial institution is required to 2749
pay under this chapter shall equal the greater of the minimum tax 2750
required under division (A)(1) of section 5726.04 of the Revised 2751
Code or the amount by which the tax calculated under division 2752

(A)(2) of that section exceeds any credits allowed against the 2753
tax. 2754

Sec. 5726.03. (A)(1) Annually, on or before the thirty-first 2755
day of March, or on or before a later date as extended under 2756
division (B) of this section, the reporting person for each 2757
taxpayer shall make a report in writing to the tax commissioner, 2758
in such form as the commissioner prescribes, and shall remit to 2759
the commissioner the amount of tax shown to be due on the report. 2760
The remittance shall be made payable to the treasurer of state. 2761
The commissioner shall make available, on the official internet 2762
web site of the department of taxation, copies of the forms 2763
prescribed by the commissioner for the purpose of making the 2764
annual report. 2765

(2) An annual report shall be signed by the president, 2766
vice-president, secretary, treasurer, general manager, 2767
superintendent, or managing agent in this state of the reporting 2768
person. 2769

(3) An annual report shall contain the facts, figures, 2770
computations, and attachments that result in the determination of 2771
the amount of tax due from a taxpayer under this chapter. 2772

(B) The tax commissioner may extend the period of time for 2773
filing an annual report to the fifteenth day of the month 2774
following the due date, including extensions thereof, for the 2775
filing of the federal corporate income tax return for the taxable 2776
year. The extension of time to file an annual report shall not 2777
extend the time for payment of the tax. Any tax not paid on or 2778
before the due date for such payment shall be subject to penalty 2779
and interest as provided in this chapter. 2780

(C)(1) In the case of a financial institution described in 2781
division (E)(1) of section 5726.01 of the Revised Code, the annual 2782
report filed for a taxable year shall list, and include 2783

information related to, each person includable in an FR Y-9 filed 2784
by the reporting person for that taxable year. 2785

(2) In the case of a financial institution described in 2786
division (E)(2) of section 5726.01 of the Revised Code, the annual 2787
report for a taxable year shall list, and include information 2788
related to, each person includable in a call report filed by the 2789
reporting person for that taxable year. 2790

(D)(1) The reporting person for a taxpayer shall remit each 2791
tax payment and, if required by the commissioner, file each annual 2792
or estimated tax report electronically. The commissioner may 2793
require reporting persons to use the Ohio business gateway as 2794
defined in section 718.051 of the Revised Code to file reports and 2795
remit the tax, or may provide another means for reporting persons 2796
to file and remit the tax electronically. 2797

(2) The payment of taxes as provided in division (D) of this 2798
section shall not affect a taxpayer's obligation to file an annual 2799
report required under division (A) of this section. 2800

(3) The reporting person for a taxpayer that is required to 2801
remit tax payments electronically under this section may apply to 2802
the tax commissioner, in the manner prescribed by the 2803
commissioner, to be excused from that requirement. The 2804
commissioner may excuse the taxpayer from the requirements of 2805
division (D) of this section for good cause. 2806

(4) If the reporting person for a taxpayer that is required 2807
to remit tax payments or file reports electronically under this 2808
section fails to do so, the commissioner may impose a penalty not 2809
to exceed the following: 2810

(a) For either of the first two reports the person so fails, 2811
five per cent of the amount of the payment that was required to be 2812
remitted; 2813

(b) For the third and any subsequent reports the person so 2814

fails, ten per cent of the amount of the payment that was required 2815
to be remitted. 2816

The penalty imposed under this section is in addition to any 2817
other penalty or charge imposed under this chapter and shall be 2818
considered as revenue arising from the tax levied under this 2819
chapter. A penalty may be collected by assessment in the manner 2820
prescribed by section 5726.20 of the Revised Code. The tax 2821
commissioner may abate all or a portion of such a penalty and may 2822
adopt rules governing such abatements. 2823

Sec. 5726.04. (A) The tax levied on a financial institution 2824
under this chapter shall be the greater of the following: 2825

(1) A minimum tax equal to one thousand dollars; 2826

(2) The product of the total Ohio equity capital of the 2827
financial institution, as determined under this section, 2828
multiplied by eight mills for each dollar of the first five 2829
hundred million dollars of total Ohio equity capital and by two 2830
and one-half mills for each dollar of total Ohio equity capital in 2831
excess of five hundred million dollars. 2832

(B) The total equity capital of a financial institution shall 2833
equal the total equity capital shown on the reporting person's FR 2834
Y-9 or call report as of the end of the taxable year. 2835

(C) For the purposes of this section, "total Ohio equity 2836
capital" means the product of the total equity capital of a 2837
financial institution as of the end of a taxable year multiplied 2838
by the Ohio apportionment ratio calculated for the financial 2839
institution under section 5726.05 of the Revised Code. 2840

(D) All payments received from the tax levied under this 2841
chapter shall be credited to the general revenue fund. 2842

(E)(1) As used in this division: 2843

(a) "Target tax amount" means two hundred five million 2844

dollars. 2845

(b) "Amount of taxes collected" means the amount of taxes 2846
received by the tax commissioner from the tax levied under this 2847
chapter for a tax year, less any amounts refunded to taxpayers for 2848
the same tax year. 2849

(2) If, for the tax year beginning on January 1, 2014, the 2850
total amount of taxes collected from all taxpayers under this 2851
chapter is greater than one hundred ten per cent of the target tax 2852
amount, the tax commissioner shall decrease each tax rate provided 2853
in division (A)(2) of this section by a percentage equal to the 2854
difference of (a) the percentage by which the amount of taxes 2855
collected exceeded the target tax amount minus (b) ten per cent of 2856
the target tax amount. 2857

(3) If, for the tax year beginning on January 1, 2014, the 2858
total amount of taxes collected from all taxpayers under this 2859
chapter is less than ninety per cent of the target tax amount, the 2860
tax commissioner shall increase each tax rate provided in division 2861
(A)(2) of this section by a percentage equal to the difference of 2862
(a) the percentage by which the target tax amount exceeded the 2863
amount of taxes collected minus (b) ten per cent of the target tax 2864
amount. 2865

(4) Tax rates adjusted pursuant to division (E)(2) or (3) of 2866
this section shall be rounded to the nearest one-tenth of one mill 2867
per dollar. The tax commissioner shall publish the new tax rates 2868
by journal entry and provide notice of the new tax rates to 2869
taxpayers. The new tax rates shall apply to tax years beginning on 2870
or after January 1, 2015. 2871

Sec. 5726.05. (A) An apportionment factor shall be used to 2872
determine the total Ohio equity capital of a financial 2873
institution. The factor shall be based upon the gross receipts 2874
generated by the financial institution and reported in the same 2875

manner as provided for the determination of the financial 2876
institution's total equity capital for a tax year under division 2877
(B) of section 5726.04 of the Revised Code. 2878

(B) The apportionment factor is a fraction, the numerator of 2879
which is the total gross receipts of the financial institution in 2880
this state during the taxable year and the denominator of which is 2881
the total gross receipts of the financial institution everywhere 2882
during the taxable year. Gross receipts generated by a financial 2883
institution shall be sitused to this state in the proportion that 2884
the customers' benefit in this state with respect to the services 2885
received bears to the customers' benefit everywhere with respect 2886
to the services received. The physical location where the customer 2887
ultimately uses or receives the benefit of what was received shall 2888
be paramount in determining the proportion of the benefit in this 2889
state to the benefit everywhere. The method of calculating gross 2890
receipts for purposes of the denominator shall be the same as the 2891
method used in determining gross receipts for purposes of the 2892
numerator. 2893

(C) The following are examples of gross receipts to be 2894
included in the numerator of the apportionment factor: 2895

(1) Receipts from the lease, sublease, rental, or subrental 2896
of real property located in this state; 2897

(2) Receipts from the lease, sublease, rental, or subrental 2898
of tangible personal property to the extent such property is used 2899
in this state; 2900

(3) Interest, fees, penalties, or any other charge received 2901
from loans secured by real property located within this state; 2902

(4) Interest, fees, penalties, or any other charge received 2903
from loans not secured by real property if the borrower is located 2904
in this state; 2905

<u>(5) The amount of positive net gains from the sale of loans secured by real property located in this state;</u>	2906 2907
<u>(6) The amount of positive net gains from the sale of loans not secured by real property if the borrower is located in this state;</u>	2908 2909 2910
<u>(7) Interest, annual fees, penalties, or any other charges received from credit card receivables and from cardholders if the billing address of the cardholder is located in this state;</u>	2911 2912 2913
<u>(8) The amount of positive net gains from the sale of credit card receivables if the billing address of the cardholder is located in this state;</u>	2914 2915 2916
<u>(9) Reimbursement fees of a credit card issuer if the billing address of the cardholder is located in this state;</u>	2917 2918
<u>(10) Receipts from merchant discounts if the merchant is located in this state;</u>	2919 2920
<u>(11) Loan servicing fees derived from loans secured by real property located in this state;</u>	2921 2922
<u>(12) Loan servicing fees derived from loans not secured by real property if the borrower is located in this state;</u>	2923 2924
<u>(13) Loan servicing fees derived from servicing loans from other financial institutions if the borrower is located in this state;</u>	2925 2926 2927
<u>(14) Interest, dividends, positive net gains, and other income from investment assets and activities and from trading assets and activities proportionate to the taxpayer's customers located in this state;</u>	2928 2929 2930 2931
<u>(15) Receipts not otherwise listed herein if the payor of those receipts is located in this state.</u>	2932 2933
<u>(D) Receipts from investment assets and activities and trading assets and activities, including interest and dividends,</u>	2934 2935

are in this state to the extent the financial institution's 2936
customers are in this state. This shall be determined by applying 2937
the gross receipts factor calculated in division (B) of this 2938
section to the investment assets and activities and trading assets 2939
and activities. "Investment assets and activities and trading 2940
assets and activities" includes interest, dividends, and other 2941
income from assets and activities, including, but not limited to: 2942
investment securities; trading account assets; federal funds; 2943
securities purchased and sold under agreements to resell or 2944
repurchase; options; futures contracts; forward contracts; 2945
notional principal contracts such as swaps; equities; foreign 2946
currency transactions; amounts in the matched book and in the 2947
arbitrage book, but excluding amounts otherwise sourced in this 2948
section. 2949

(E) If the apportionment provisions of this section do not 2950
fairly represent the extent of the taxpayer's business activity in 2951
this state, the taxpayer may request, or the tax commissioner may 2952
require or permit, an alternative method. Such a request must be 2953
made within any applicable statute of limitations set forth in 2954
this chapter. 2955

(F) A financial institution's "gross receipts" for purposes 2956
of the calculation required by division (B) of this section shall 2957
be determined using the financial institution's method of 2958
accounting for income tax purposes. If a financial institution's 2959
method of accounting is changed for income tax purposes, its 2960
method of accounting for purposes of the calculation required by 2961
division (B) of this section shall be changed accordingly. 2962

(G) The tax commissioner shall adopt administrative rules to 2963
provide additional guidance for the application of this section. 2964

Sec. 5726.06. (A) The reporting person for a taxpayer shall 2965
file estimated tax reports and remit the amount of tax estimated 2966

to be due for a tax year to the tax commissioner as follows: 2967

(1) The minimum tax required under division (A)(1) of section 5726.04 of the Revised Code or one-third of the estimated tax, whichever is greater, on or before the thirty-first day of January of the tax year; 2968
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(2) One-half of the amount by which the estimated tax exceeds the amount paid under division (A)(1) of this section on or before the thirty-first day of March of the tax year; 2972
2973
2974

(3) One-half of the amount by which the estimated tax exceeds the amount paid under division (A)(1) of this section on or before the thirty-first day of May of the tax year. 2975
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(B)(1) The reporting person for a taxpayer shall remit the estimated tax electronically as provided in division (D) of section 5726.03 of the Revised Code. Remittance shall be made payable to the treasurer of state. 2978
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(2) The tax commissioner shall immediately forward to the treasurer of state all amounts received under this section, and the treasurer of state shall credit all payments of such estimated tax as provided in division (D) of section 5726.04 of the Revised Code. 2982
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(C)(1) If a taxpayer was not subject to the tax imposed by section 5726.02 of the Revised Code for the preceeding tax year, "estimated tax" for purposes of division (A)(1) of this section means ninety per cent of the qualifying net tax for the tax year. If a taxpayer was subject to the tax for the preceding tax year, "estimated tax" for purposes of division (A)(1) of this section means the lesser of one hundred per cent of the taxpayer's qualifying net tax for the preceding tax year or ninety per cent of the qualifying net tax for the tax year. 2987
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(2) If the taxpayer did not file a report under section 2996

5726.02 of the Revised Code for the tax year or failed to prepare 2997
and file the report in good faith for the tax year, "qualifying 2998
net tax" as used in division (C)(1) of this section for that tax 2999
year means the amount described in division (C)(2)(a) of this 3000
section. Otherwise, "qualifying net tax" as used in division 3001
(C)(1) of this section for that tax year means the lesser of the 3002
amount described in division (C)(2)(a) or (b) of this section. 3003

(a) The tax imposed by section 5726.02 of the Revised Code 3004
for that tax year reduced by the credits listed in section 5726.98 3005
of the Revised Code. If the credits exceed the total tax, the 3006
qualifying net tax is the minimum tax. 3007

(b) The lesser of the tax shown on the report, prepared and 3008
filed in good faith, reduced by the credits shown on that report, 3009
or the tax shown on an amended report, prepared and filed in good 3010
faith, reduced by the credits shown on that amended report. If the 3011
credits shown exceed the total tax shown, the qualifying net tax 3012
is the minimum tax. 3013

Sec. 5726.07. (A) In the case of an underpayment of estimated 3014
taxes required to be paid under section 5726.06 of the Revised 3015
Code, interest upon the amount of underpayment, calculated at the 3016
rate per annum prescribed by section 5703.47 of the Revised Code 3017
for the period of underpayment, shall be added to the tax due for 3018
the tax year for which the estimated tax is paid. 3019

(B) The amount of underpayment upon which such interest is 3020
computed equals the amount by which division (B)(1) of this 3021
section exceeds division (B)(2) of this section. 3022

(1) The amount of the estimated tax payment that would be 3023
required to be paid if the total estimated tax due were equal to 3024
the amount of tax shown to be due on the annual report filed for 3025
the tax year or, if no report was filed, the total amount of tax 3026
due for the tax year; 3027

(2) The amount, if any, of the estimated tax that has been 3028
paid on or before the last day prescribed for such payment. 3029

(C) The period of underpayment for which such interest is 3030
computed shall run from the date the estimated tax payment was 3031
required to be made to the date the payment is made. 3032

For purposes of this section, a payment of estimated tax on 3033
any payment date shall be considered a payment of any previous 3034
underpayment only to the extent that such payment exceeds the 3035
amount of payment currently due. 3036

Sec. 5726.08. Except as otherwise provided in this section, 3037
if any report, claim, statement, or other document required to be 3038
filed, or any payment required to be made, within a prescribed 3039
period or on or before a prescribed date under this chapter is, 3040
after such period or date, delivered by United States mail to the 3041
agency, officer, or office with which such report, claim, 3042
statement, or other document is required to be filed, or to which 3043
such payment is required to be made, the date of the postmark 3044
stamped on the cover in which such report, claim, statement, or 3045
other document, or payment is mailed shall be deemed the date of 3046
delivery or the date of payment. 3047

If a payment is made electronically, the payment is 3048
considered to be made when the payment is received by the 3049
treasurer of state or credited to an account designated by the 3050
treasurer of state for the receipt of tax payments. 3051

As used in this section, "the date of the postmark" means, in 3052
the event there is more than one date on the cover, the earliest 3053
date imprinted on the cover by the post office. 3054

Sec. 5726.10. The tax commissioner shall enforce and 3055
administer this chapter. In addition to any other powers conferred 3056
upon the commissioner by law, the commissioner may do any of the 3057

following: 3058

(A) Prescribe all forms required to be filed pursuant to this 3059
chapter; 3060

(B) Promulgate such rules and regulations as the commissioner 3061
finds necessary to carry out this chapter; 3062

(C) Appoint and employ such personnel as are necessary to 3063
carry out the duties imposed upon the commissioner by this 3064
chapter. 3065

Sec. 5726.20. (A) The tax commissioner may make an 3066
assessment, based on any information in the commissioner's 3067
possession, against any person that fails to file a return or 3068
report or pay any tax as required by this chapter. The reporting 3069
person for a taxpayer shall file the annual report required under 3070
section 5726.02 of the Revised Code and remit the tax imposed by 3071
this chapter. Each person included in the annual report of the 3072
taxpayer is jointly and severally liable for the tax imposed by 3073
this chapter and any penalties and interest thereon. If the 3074
reporting person fails, for any reason, to file and remit any tax, 3075
the amount due may be collected by assessment against the 3076
reporting person and against any or all other persons required to 3077
be included in the annual report of the taxpayer in the manner 3078
provided by this section. The commissioner shall give the person 3079
assessed written notice of the assessment as provided in section 3080
5703.37 of the Revised Code. With the notice, the commissioner 3081
shall provide instructions on the manner in which to petition for 3082
reassessment and request a hearing with respect to the petition. 3083

(B) No assessment shall be made or issued against a person 3084
under this section more than four years after the later of the 3085
final date the report subject to assessment was required to be 3086
filed or the date such report was filed. Such time limit may be 3087

extended if both the person and the commissioner consent in 3088
writing to the extension or if an agreement waiving or extending 3089
the time limit has been entered into pursuant to section 122.171 3090
of the Revised Code. Any such extension shall extend the four-year 3091
time limit prescribed in division (A) of section 5726.30 of the 3092
Revised Code for the same period of time. There shall be no bar or 3093
limit to an assessment against a person that fails to file a 3094
report subject to assessment as required by this chapter, or that 3095
files a fraudulent report. 3096

(C) Unless the person assessed, within sixty days after 3097
service of the notice of assessment, files with the tax 3098
commissioner, either in person or by certified mail, a written 3099
petition for reassessment signed by the person or the person's 3100
authorized agent having knowledge of the facts, the assessment 3101
shall become final, and the amount of the assessment is due and 3102
payable from the person assessed to the treasurer of state. A 3103
petition shall indicate the objections of the person assessed, but 3104
additional objections may be raised in writing if received by the 3105
commissioner prior to the date shown on the final determination. 3106
If a petition for reassessment has been properly filed, the 3107
commissioner shall proceed under section 5703.60 of the Revised 3108
Code. 3109

(D)(1) After an assessment becomes final, if any portion of 3110
the assessment, including any accrued interest, remains unpaid, a 3111
certified copy of the tax commissioner's entry making the 3112
assessment final may be filed in the office of the clerk of the 3113
court of common pleas in the county in which the person resides or 3114
has its principal place of business in this state, or in the 3115
office of the clerk of court of common pleas of Franklin county. 3116

(2) Immediately upon the filing of the entry, the clerk shall 3117
enter judgment for the state against the person assessed in the 3118
amount shown on the entry. The judgment may be filed by the clerk 3119

in a loose-leaf book entitled, "special judgments for the 3120
financial institution tax" and shall have the same effect as other 3121
judgments. Execution shall issue upon the judgment at the request 3122
of the tax commissioner, and all laws applicable to sales on 3123
execution shall apply to sales made under the judgment. 3124

(3) The portion of the assessment not paid within sixty days 3125
after the day the assessment was issued shall bear interest at the 3126
rate per annum prescribed by section 5703.47 of the Revised Code 3127
from the date the tax commissioner issues the assessment until the 3128
date the assessment is paid. Interest shall be paid in the same 3129
manner as the tax and may be collected by the issuance of an 3130
assessment under this section. 3131

(E) If the tax commissioner believes that collection of the 3132
tax imposed by this chapter will be jeopardized unless proceedings 3133
to collect or secure collection of the tax are instituted without 3134
delay, the commissioner may issue a jeopardy assessment against 3135
the person liable for the tax. Immediately upon the issuance of 3136
the jeopardy assessment, the commissioner shall file an entry with 3137
the clerk of the court of common pleas in the manner prescribed by 3138
division (D) of this section. Notice of the jeopardy assessment 3139
shall be served on the person assessed or the person's authorized 3140
agent in the manner provided in section 5703.37 of the Revised 3141
Code within five days of the filing of the entry with the clerk. 3142
The total amount assessed shall be immediately due and payable, 3143
unless the person assessed files a petition for reassessment in 3144
accordance with division (C) of this section and provides security 3145
in a form satisfactory to the commissioner and in an amount 3146
sufficient to satisfy the unpaid balance of the assessment. Full 3147
or partial payment of the assessment shall not prejudice the 3148
commissioner's consideration of the petition for reassessment. 3149

(F) The tax commissioner shall immediately forward to the 3150
treasurer of state all amounts the commissioner receives under 3151

this section. Such amounts shall be considered as revenue arising 3152
from the tax imposed by this chapter. 3153

(G) If the tax commissioner possesses information indicating 3154
that the amount of tax a taxpayer is required to pay under this 3155
chapter exceeds the amount the reporting person for the taxpayer 3156
paid, the tax commissioner may audit a sample of the taxpayer's 3157
gross receipts over a representative period of time to ascertain 3158
the amount of tax due, and may issue an assessment based on the 3159
audit. The tax commissioner shall make a good faith effort to 3160
reach agreement with the taxpayer in selecting a representative 3161
sample. The tax commissioner may apply a sampling method only if 3162
the commissioner has prescribed the method by rule. 3163

(H) If the whereabouts of a person subject to this chapter is 3164
not known to the tax commissioner, the secretary of state is 3165
hereby deemed to be that person's agent for purposes of service of 3166
process or notice of any assessment, action, or proceedings 3167
instituted in this state against the person under this chapter. 3168
Such process or notice shall be served on such person by the 3169
commissioner or by an agent of the commissioner by leaving a true 3170
and attested copy of the process or notice at the office of the 3171
secretary of state at least fifteen days before the return day of 3172
such process or notice, and by sending a copy of the process or 3173
notice to such person by ordinary mail, with an endorsement 3174
thereon of the service upon the secretary of state, addressed to 3175
such person at the person's last known address. 3176

Sec. 5726.21. (A) In addition to any other penalty imposed by 3177
this chapter or Chapter 5703. of the Revised Code, the following 3178
penalties shall apply: 3179

(1) If a taxpayer required to file any report under this 3180
chapter fails to make and file the report within the time 3181
prescribed, including any extensions of time granted by the tax 3182

commissioner, a penalty may be imposed not exceeding the greater 3183
of fifty dollars per month or fraction of a month, not to exceed 3184
five hundred dollars, or five per cent per month or fraction of a 3185
month, not to exceed fifty per cent of the tax required to be 3186
shown on the report, for each month or fraction of a month 3187
elapsing between the due date, including extensions of the due 3188
date, and the date on which the report is filed. 3189

(2) If a taxpayer fails to pay the amount of tax required to 3190
be paid under this chapter, except for estimated tax under section 3191
5726.06 of the Revised Code, by the dates prescribed in this 3192
chapter for payment, a penalty may be imposed not exceeding 3193
fifteen per cent of the delinquent payment. 3194

(3) If a taxpayer files what purports to be a report required 3195
by this chapter that does not contain information upon which the 3196
substantial correctness of the report may be judged or contains 3197
information that on its face indicates that the report is 3198
substantially incorrect, and the filing of the report in that 3199
manner is due to a position that is frivolous or a desire that is 3200
apparent from the report to delay or impede the administration of 3201
the tax levied under this chapter, a penalty of up to five hundred 3202
dollars may be imposed. 3203

(4) If a taxpayer makes a fraudulent attempt to evade the 3204
reporting or payment of the tax required to be shown on any report 3205
required under this chapter, a penalty may be imposed not 3206
exceeding the greater of one thousand dollars or one hundred per 3207
cent of the tax required to be shown on the report. 3208

(5) If a taxpayer makes a false or fraudulent claim for a 3209
refund under this chapter, a penalty may be imposed not exceeding 3210
the greater of one thousand dollars or one hundred per cent of the 3211
claim. 3212

(B) The tax commissioner may collect any penalty imposed by 3213

this section in the same manner as the tax levied under this 3214
chapter. Penalties so collected shall be considered as revenue 3215
arising from the tax levied under this chapter. 3216

(C) For purposes of this section, the tax required to be 3217
shown on the report shall be reduced by the amount of any part of 3218
the tax paid on or before the date, including extensions of the 3219
date, prescribed for filing the report. 3220

(D) The tax commissioner may abate all or a portion of any 3221
penalties imposed under this section and may adopt rules governing 3222
such abatements. 3223

Sec. 5726.30. (A) The tax commissioner shall refund the 3224
amount of taxes imposed under this chapter that a person overpaid, 3225
paid illegally or erroneously, or paid on an illegal or erroneous 3226
assessment. The person shall file an application for refund with 3227
the tax commissioner, on the form prescribed by the commissioner, 3228
within four years after the date of the illegal or erroneous 3229
payment of the tax, or within any additional period allowed under 3230
division (B) of section 5726.20 of the Revised Code. The applicant 3231
shall provide the amount of the requested refund along with the 3232
claimed reasons for, and documentation to support, the issuance of 3233
a refund. 3234

For purposes of this division, a payment that an applicant 3235
made before the due date or extended due date for filing the 3236
report to which the payment relates shall be deemed to have been 3237
made on the due date or extended due date of the report. 3238

(B) Upon the filing of a refund application, the tax 3239
commissioner shall determine the amount of refund to which the 3240
applicant is entitled. If the amount is not less than that 3241
claimed, the commissioner shall certify the amount to the director 3242
of budget and management and treasurer of state for payment from 3243
the tax refund fund created under section 5703.052 of the Revised 3244

Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code. 3245
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(C)(1) Except as provided in division (C)(2) of this section, interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or the date the tax payment was due until the refund is paid. 3248
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(2) No interest shall be allowed under this section on an amount refunded to a person to the extent that the refund results from the allowance of a refundable credit against the tax imposed by section 5726.02 of the Revised Code. 3253
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Sec. 5726.31. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payments in lieu of contributions due under section 4141.241 of the Revised Code, unpaid claims certified under section 131.02 or 131.021 of the Revised Code, unpaid fees payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code or any unpaid charge, penalty, or interest arising from any of the foregoing. 3257
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If a person entitled to a refund under section 5726.30 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the taxpayer has more than one such debt, any debt subject to section 5739.33 or 3268
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division (G) of section 5747.07 of the Revised Code shall be 3276
satisfied first. 3277

Except as provided in section 131.021 of the Revised Code, 3278
this section applies only to debts that have become final. For the 3279
purposes of this section, a debt becomes final when, under the 3280
applicable law, any time provided for petition for reassessment, 3281
request for reconsideration, or other appeal of the legality or 3282
validity of the amount giving rise to the debt expires without an 3283
appeal having been filed in the manner provided by law. 3284

The tax commissioner may charge each respective agency of the 3285
state for the commissioner's cost in applying refunds to debts due 3286
to the state and may charge the attorney general for the 3287
commissioner's cost in applying refunds to certified claims. The 3288
commissioner may promulgate rules to implement this section. 3289

The commissioner may, with the consent of the reporting 3290
person for a taxpayer, provide for the crediting of the amount of 3291
any refund due to the taxpayer under this chapter for a tax year 3292
against the tax due for any succeeding tax year. 3293

Sec. 5726.32. If any tax due under this chapter is not paid 3294
on or before the date prescribed for its payment, interest shall 3295
be assessed, collected, and paid, in the same manner as the tax, 3296
upon such unpaid amount at the rate per annum prescribed by 3297
section 5703.47 of the Revised Code from the date prescribed for 3298
the payment of the tax until the date the tax is paid or the date 3299
an assessment is issued under section 5726.20 of the Revised Code, 3300
whichever is earlier. Interest so collected shall be considered as 3301
revenue arising from the tax imposed by this chapter. 3302

Sec. 5726.33. (A) As used in this section, "qualifying refund 3303
overpayment" means an amount received by a taxpayer in excess of a 3304
refund claimed or a request for payment made by the reporting 3305

person for the taxpayer on a return, report, or other document 3306
filed with the tax commissioner. 3307

(B) A taxpayer is not liable for any interest or penalty with 3308
respect to the repayment of a qualifying refund overpayment if the 3309
reporting person for the taxpayer pays the entire amount of the 3310
qualifying refund overpayment to the commissioner not later than 3311
thirty days after the taxpayer receives an assessment for the 3312
amount. If the reporting person does not pay the entire amount of 3313
the overpayment to the commissioner within the time prescribed by 3314
this section, interest shall accrue on the amount of the 3315
deficiency pursuant to section 5726.32 of the Revised Code from 3316
the date the commissioner issues the assessment until the date the 3317
deficiency is paid. 3318

Sec. 5726.36. (A) A person shall notify the tax commissioner 3319
when the person is no longer subject to the tax imposed by this 3320
chapter. 3321

(B) If the ownership structure of a financial institution 3322
changes such that a person is no longer includable in the annual 3323
report of the financial institution, the reporting person for the 3324
financial institution shall notify the commissioner of the change 3325
when the reporting person files its next annual report or in 3326
writing prior to the due date of that report. 3327

Sec. 5726.40. If a person, wherever organized, doing business 3328
in this state or owning or issuing all or part of the entity's 3329
capital or property in this state, and required by law to file any 3330
report or return or to pay any tax or fee under Title LVII of the 3331
Revised Code, fails or neglects to make such report or return or 3332
to pay any such tax or fee for ninety days after the time 3333
prescribed by law for making such report or return or for paying 3334
such tax or fee, the tax commissioner shall certify such fact to 3335

the secretary of state. The secretary of state shall thereupon 3336
cancel the document of creation authorizing the person to do 3337
business in this state. Upon such cancellation, all of the powers, 3338
privileges, and franchises conferred upon that person by its 3339
document of creation shall cease, subject to section 1701.88 of 3340
the Revised Code. The secretary of state shall immediately notify 3341
the person of the action taken by the secretary, and shall also 3342
forward for filing a certificate of the action so taken to the 3343
county recorder of the county in which the principal place of 3344
business of the person in this state is located. No fee shall be 3345
charged for the filing. 3346

Sec. 5726.41. No person shall exercise, or attempt to 3347
exercise, any powers, privileges, or franchises under the person's 3348
document of creation after the document is canceled pursuant to 3349
section 5726.40 of the Revised Code. A penalty of one hundred 3350
dollars shall be imposed for each day a violation of this section 3351
occurs, up to a maximum penalty of five thousand dollars. 3352

Sec. 5726.42. (A)(1) A person whose document of creation has 3353
been canceled by the secretary of state pursuant to section 3354
5726.40 the Revised Code shall be reinstated and again entitled to 3355
exercise its rights, privileges, and franchises in this state upon 3356
compliance with all of the following: 3357

(a) Filing with the secretary of state a certificate from the 3358
tax commissioner that the person has complied with all the 3359
requirements of law as to tax reports and paid all taxes, fees, or 3360
penalties due thereon for every year of delinquency; 3361

(b) Payment to the secretary of state of any additional fees 3362
and penalties required to be paid to the secretary of state; 3363

(c) Payment to the secretary of state of an additional fee of 3364
ten dollars. 3365

Upon the person's compliance with this division, the 3366
secretary of state shall cancel the entry of cancellation filed 3367
under section 5726.40 of the Revised Code. 3368

(2) If a reinstatement is not made within one year from the 3369
date of cancellation of the document of creation, and if it 3370
appears that a document of creation has been issued to a person of 3371
the same or similar name as the applicant for reinstatement, the 3372
secretary of state shall require, as a condition prerequisite to 3373
such reinstatement, that the applicant amend its document of 3374
creation by changing the applicant's name. 3375

(B) Any officer, shareholder, creditor, or receiver of a 3376
person may at any time take all steps required by this section to 3377
effect a reinstatement. 3378

(C) The rights, privileges, and franchises of a person whose 3379
document of creation has been reinstated in accordance with this 3380
section are subject to section 1701.922 of the Revised Code. 3381

(D) Notwithstanding a violation of section 5726.41 of the 3382
Revised Code, upon reinstatement of a person's document of 3383
creation in accordance with this section, neither section 5726.40 3384
nor section 5726.41 of the Revised Code shall be applied to 3385
invalidate the exercise or attempt to exercise any right, 3386
privilege, or franchise on behalf of the person by an officer, 3387
agent, or employee of the person after cancellation and prior to 3388
the reinstatement of the document of creation, if the conditions 3389
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 3390
the Revised Code are met. 3391

Sec. 5726.43. If any financial institution fails to make and 3392
file any return or report required under this chapter, or to pay 3393
the penalties provided by law for failure to make and file such 3394
reports or returns, for a period of ninety days after the time 3395
prescribed by law, the attorney general, on the request of the tax 3396

commissioner, shall commence an action in quo warranto in the 3397
court of appeals of the county in which the reporting person for 3398
the financial institution has its principal place of business in 3399
this state to forfeit and annul the privileges and franchises of 3400
each person included in the annual report of the financial 3401
institution. If the court is satisfied that any such financial 3402
institution is in default, it shall render judgment ousting each 3403
person included in the annual report of the financial institution 3404
from the exercise of its privileges and franchises within this 3405
state, and shall otherwise proceed as provided in sections 2733.01 3406
to 2733.39 of the Revised Code. 3407

Sec. 5726.50. (A) A taxpayer may claim a refundable tax 3408
credit against the tax imposed under this chapter for each person 3409
included in the annual report of the taxpayer that is granted a 3410
credit by the tax credit authority under section 122.17 or 3411
division (B)(2) or (3) of section 122.171 of the Revised Code. 3412
Such a credit shall not be claimed for any tax year following the 3413
calendar year in which a relocation of employment positions occurs 3414
in violation of an agreement entered into under section 122.171 of 3415
the Revised Code. For the purpose of making tax payments under 3416
this chapter, taxes equal to the amount of the refundable credit 3417
shall be considered to be paid on the first day of the tax year. 3418

(B) A taxpayer may claim a nonrefundable tax credit against 3419
the tax imposed under this chapter for each person included in the 3420
annual report of the taxpayer that is granted a credit by the tax 3421
credit authority under division (B)(1) of section 122.171 of the 3422
Revised Code. A taxpayer may claim against the tax imposed by this 3423
chapter any unused portion of the credits authorized under 3424
division (B) of section 5733.0610 of the Revised Code. 3425

(C) The credits authorized in divisions (A) and (B) of this 3426
section shall be claimed in the order required under section 3427

5726.98 of the Revised Code. If the amount of a credit authorized 3428
in division (A) of this section exceeds the tax otherwise due 3429
under section 5726.02 of the Revised Code after deducting all 3430
other credits preceding the credit in the order prescribed in 3431
section 5726.98 of the Revised Code, the excess shall be refunded 3432
to the taxpayer. 3433

Sec. 5726.51. A taxpayer may claim a nonrefundable credit 3434
against the tax imposed under this chapter for each bank 3435
organization that is organized under Title XI of the Revised Code 3436
and included in the annual report of the taxpayer. The credit 3437
shall equal the sum of the annual assessments such bank 3438
organizations paid during the taxable year to the division of 3439
financial institutions pursuant to Title XI of the Revised Code 3440
and the schedule of fees published by the division. A taxpayer may 3441
claim against the tax imposed by this chapter any unused portion 3442
of the credits authorized under section 5733.063 of the Revised 3443
Code. 3444

The credit authorized by this section shall be claimed in the 3445
order required under section 5726.98 of the Revised Code. The 3446
credit shall not be allowed unless there is filed with the 3447
taxpayer's annual report a document certified by the division of 3448
financial institutions verifying the amount of state annual 3449
assessment fees and federal supervisory fees paid by the bank 3450
organizations during the taxable year. 3451

Sec. 5726.52. (A) As used in this section, "certificate 3452
owner" has the same meaning as in section 149.311 of the Revised 3453
Code. 3454

(B) A taxpayer may claim a refundable credit against the tax 3455
imposed by this chapter for each person included in the annual 3456
report of a taxpayer that is a certificate owner of a 3457

rehabilitation tax credit certificate issued under section 149.311 3458
of the Revised Code. The credit shall equal twenty-five per cent 3459
of the dollar amount indicated on each certificate, but shall not 3460
exceed five million dollars for each certificate. 3461

The credit shall be claimed for the calendar year specified 3462
in the certificate and in the order required under section 5726.98 3463
of the Revised Code. If the credit exceeds the amount of tax 3464
otherwise due in that year, the excess shall be refunded to the 3465
taxpayer, provided that, if any amount of the credit is refunded, 3466
the sum of the amount refunded and the amount applied to reduce 3467
the tax otherwise due in that year shall not exceed three million 3468
dollars. The taxpayer may carry forward any balance of the credit 3469
in excess of the amount claimed in that year for not more than 3470
five ensuing years, and shall deduct any amount claimed in any 3471
such year from the amount claimed in an ensuing year. A taxpayer 3472
may claim against the tax imposed by this chapter any unused 3473
portion of the credit authorized under section 5725.151 of the 3474
Revised Code, but only to the extent of the five-year carry 3475
forward period authorized by that section. 3476

(C) A taxpayer claiming a credit under this section shall 3477
retain the rehabilitation tax credit certificate for four years 3478
following the end of the year to which the credit was applied, and 3479
shall make the certificate available for inspection by the tax 3480
commissioner upon the request of the commissioner during that 3481
period. 3482

Sec. 5726.53. A taxpayer may claim a refundable credit 3483
against the tax imposed by this chapter for each person included 3484
in the annual report of the taxpayer that was issued a tax credit 3485
certificate by the Ohio venture capital authority under section 3486
150.07 of the Revised Code. The amount of the credit shall equal 3487
the amount specified in the tax credit certificate. The credit 3488

shall be claimed for the tax year specified in the tax credit 3489
certificate. The taxpayer shall claim the credit in the order 3490
required under section 5726.98 of the Revised Code. If the credit 3491
amount exceeds the tax otherwise due under section 5726.02 of the 3492
Revised Code after deducting all other credits preceding the 3493
credit in the order prescribed in section 5726.98 of the Revised 3494
Code, the excess shall be refunded to the taxpayer. 3495

Sec. 5726.54. (A) Any term used in this section has the same 3496
meaning as in section 5725.33 of the Revised Code. 3497

(B) A taxpayer may claim a nonrefundable credit against the 3498
tax imposed by this chapter for each person included in the annual 3499
report of the taxpayer that holds a qualified equity investment on 3500
a credit allowance date occurring in the calendar year immediately 3501
preceding the tax year for which the tax is due. The credit shall 3502
be computed in the same manner prescribed for the computation of 3503
credits allowed under section 5725.33 of the Revised Code. 3504

By claiming a tax credit under this section, a taxpayer 3505
waives its rights under section 5726.20 of the Revised Code with 3506
respect to the time limitation for the assessment of taxes as it 3507
relates to credits claimed under this section that later become 3508
subject to recapture under division (D) of this section. 3509

A taxpayer may claim against the tax imposed by this chapter 3510
any unused portion of the credits authorized under sections 3511
5725.33 and 5733.58 of the Revised Code, but only to the extent of 3512
the remaining carry forward period authorized by those sections. 3513

The credit shall be claimed in the order prescribed by 3514
section 5726.98 of the Revised Code. If the amount of the credit 3515
exceeds the amount of tax otherwise due after deducting all other 3516
credits preceding the credit in the order prescribed in section 3517
5726.98 of the Revised Code, the excess may be carried forward for 3518

not more than four ensuing tax years. 3519

(C) The total amount of qualified equity investments on the 3520
basis of which credits may be claimed under this section and 3521
sections 5725.33, 5729.16, and 5733.58 of the Revised Code is 3522
subject to the limitation of division (C) of section 5725.33 of 3523
the Revised Code. 3524

(D) If any amount of the federal tax credit allowed for a 3525
qualified equity investment for which a credit was received under 3526
this section is recaptured under section 45D of the Internal 3527
Revenue Code, or if the director of development services 3528
determines that an investment for which a tax credit is claimed 3529
under this section is not a qualified equity investment or that 3530
the proceeds of an investment for which a tax credit is claimed 3531
under this section are used to make qualified low-income community 3532
investments other than in a qualified active low-income community 3533
business, all or a portion of the credit received on account of 3534
that investment shall be paid by the taxpayer that received the 3535
credit to the tax commissioner. The amount to be recovered shall 3536
be determined by the director pursuant to rules adopted under 3537
section 5725.33 of the Revised Code. The director shall certify 3538
any amount due under this division to the tax commissioner, and 3539
the commissioner shall notify the taxpayer of the amount due. The 3540
amount due is payable not later than thirty days after the day the 3541
commissioner issues the notice. The amount due shall be considered 3542
to be tax due under section 5726.02 of the Revised Code, and may 3543
be collected by assessment without regard to the limitations 3544
imposed under section 5726.20 of the Revised Code for the 3545
assessment of taxes by the commissioner. All amounts collected 3546
under this division shall be credited as revenue from the tax 3547
levied under section 5726.02 of the Revised Code. 3548

Sec. 5726.55. (A) Any term used in this section has the same 3549

meaning as in section 122.85 of the Revised Code. 3550

(B) A taxpayer may claim a refundable credit against the tax 3551
imposed under this chapter for each person included in the annual 3552
report of the taxpayer that is a certificate owner of a tax credit 3553
certificate issued under section 122.85 of the Revised Code. The 3554
credit shall be claimed for the taxable year in which the 3555
certificate is issued by the director of development services. The 3556
credit amount equals the amount stated in the certificate. The 3557
credit shall be claimed in the order required under section 3558
5726.98 of the Revised Code. If the credit amount exceeds the tax 3559
otherwise due under section 5726.02 of the Revised Code after 3560
deducting all other credits preceding the credit in the order 3561
prescribed in section 5726.98 of the Revised Code, the excess 3562
shall be refunded to the taxpayer. 3563

(C) Nothing in this section shall allow a taxpayer to claim 3564
more than one credit per tax credit-eligible production. 3565

Sec. 5726.56. (A) As used in this section, "qualified 3566
research expenses" has the same meaning as in section 41 of the 3567
Internal Revenue Code. 3568

(B) A taxpayer may claim a nonrefundable credit against the 3569
tax imposed under this chapter equal to seven per cent of the 3570
excess of (1) the qualified research expenses incurred by the 3571
taxpayer in this state in a taxable year over (2) the average 3572
annual qualified research expenses incurred by the taxpayer in 3573
this state in the three previous taxable years. For the purposes 3574
of this division, "qualified research expenses incurred by the 3575
taxpayer" includes the qualified research expenses incurred by all 3576
persons included in the annual report of the taxpayer and by any 3577
insurance company subject to the tax levied under section 5725.18 3578
or Chapter 5729. of the Revised Code that has more than fifty per 3579

cent of its ownership interests directly or indirectly owned or 3580
controlled by a person included in the annual report of the 3581
taxpayer, even though such an insurance company is not subject to 3582
the tax imposed under this chapter. 3583

(C) A taxpayer shall claim the credit allowed under this 3584
section in the order prescribed by section 5726.98 of the Revised 3585
Code. If the amount of the credit exceeds the amount of tax 3586
otherwise due after deducting all other credits preceding the 3587
credit in the order prescribed in section 5726.98 of the Revised 3588
Code, the excess may be carried forward for not more than seven 3589
ensuing tax years. The amount of the excess credit claimed in any 3590
such year shall be deducted from the balance carried forward to 3591
the next tax year. 3592

(D) A taxpayer may claim against the tax imposed under this 3593
chapter any unused portion of a credit authorized under section 3594
5733.351 of the Revised Code but only to the extent of the 3595
remaining portion of the seven-year carry-forward period 3596
authorized by that section. 3597

Sec. 5726.57. (A) As used in this section, "qualifying dealer 3598
in intangibles" means a dealer in intangibles that is a member of 3599
a qualifying controlled group of which a financial institution is 3600
also a member on the first day of the financial institution's tax 3601
year. 3602

(B) For tax year 2014 there is hereby allowed to each 3603
financial institution a nonrefundable credit against the tax 3604
imposed by section 5726.02 of the Revised Code. The amount of the 3605
credit shall be computed in accordance with division (C) of this 3606
section. The credit shall be claimed in the order prescribed by 3607
section 5726.98 of the Revised Code. The credit shall not exceed 3608
the amount of tax otherwise due under section 5726.02 of the 3609
Revised Code after deducting any other credits that precede the 3610

credit claimed under this section in that order. 3611

(C) Subject to division (D) of this section, the amount of 3612
the credit equals the lesser of the amount described in division 3613
(C)(1) of this section or in division (C)(2) of this section. 3614

(1) The amount of tax that a qualifying dealer in intangibles 3615
paid under Chapter 5707. of the Revised Code during the calendar 3616
year immediately preceding the financial institution's tax year. 3617
Such amount shall be reduced, but not below zero, by any refunds 3618
of such tax received by the qualifying dealer in intangibles under 3619
Chapter 5703. of the Revised Code during that calendar year. 3620

(2) The product of the amounts described in divisions 3621
(C)(2)(a) to (c) of this section. 3622

(a) The cost of the financial institution's direct investment 3623
in the capital stock of the qualifying dealer in intangibles 3624
calculated on the last day of the financial institution's taxable 3625
year immediately preceding the tax year; 3626

(b) The ratio described in section 5725.15 of the Revised 3627
Code for the calendar year immediately preceding the financial 3628
institution's tax year; 3629

(c) The tax rate imposed under division (D) of section 3630
5707.03 of the Revised Code for the calendar year immediately 3631
preceding the financial institution's tax year. 3632

(D)(1) The principles and concepts described in section 3633
5733.057 of the Revised Code shall apply in determining whether a 3634
dealer in intangibles is a member of a qualifying controlled group 3635
of which the financial institution also is a member and to 3636
ascertain the cost of the financial institution's direct 3637
investment in the capital stock of the qualifying dealer in 3638
intangibles. 3639

(2) Notwithstanding section 5703.56 of the Revised Code to 3640

the contrary, a financial institution claiming the credit provided 3641
by this section has the burden to establish by a preponderance of 3642
the evidence that the doctrines enumerated in that section would 3643
not apply to deny to the financial institution all or a part of 3644
the credit otherwise provided by this section. 3645

Sec. 5726.98. (A) To provide a uniform procedure for 3646
calculating the amount of tax due under section 5726.02 of the 3647
Revised Code, a taxpayer shall claim any credits to which the 3648
taxpayer is entitled under this chapter in the following order: 3649

(1) The bank organization assessment credit under section 3650
5726.51 of the Revised Code; 3651

(2) The nonrefundable job retention credit under division (B) 3652
of section 5726.50 of the Revised Code; 3653

(3) The nonrefundable credit for purchases of qualified 3654
low-income community investments under section 5726.54 of the 3655
Revised Code; 3656

(4) The nonrefundable credit for qualified research expenses 3657
under section 5726.56 of the Revised Code; 3658

(5) The nonrefundable credit for qualifying dealer in 3659
intangibles taxes under section 5726.57 of the Revised Code. 3660

(6) The refundable credit for rehabilitating an historic 3661
building under section 5726.52 of the Revised Code; 3662

(7) The refundable job retention or job creation credit under 3663
division (A) of section 5726.50 of the Revised Code; 3664

(8) The refundable credit under section 5726.53 of the 3665
Revised Code for losses on loans made under the Ohio venture 3666
capital program under sections 150.01 to 150.10 of the Revised 3667
Code; 3668

(9) The refundable motion picture production credit under 3669

section 5726.55 of the Revised Code. 3670

(B) For any credit except the refundable credits enumerated 3671
in this section, the amount of the credit for a taxable year shall 3672
not exceed the tax due after allowing for any other credit that 3673
precedes it in the order required under this section. Any excess 3674
amount of a particular credit may be carried forward if authorized 3675
under the section creating that credit. Nothing in this chapter 3676
shall be construed to allow a taxpayer to claim, directly or 3677
indirectly, a credit more than once for a taxable year. 3678

Sec. 5726.99. Whoever violates section 5726.41 of the Revised 3679
Code shall be fined not less than one hundred dollars or more than 3680
one thousand dollars. 3681

Sec. 5733.01. (A) The tax provided by this chapter for 3682
domestic corporations shall be the amount charged against each 3683
corporation organized for profit under the laws of this state and 3684
each nonprofit corporation organized pursuant to Chapter 1729. of 3685
the Revised Code, except as provided in sections 5733.09 and 3686
5733.10 of the Revised Code, for the privilege of exercising its 3687
franchise during the calendar year in which that amount is 3688
payable, and the tax provided by this chapter for foreign 3689
corporations shall be the amount charged against each corporation 3690
organized for profit and each nonprofit corporation organized or 3691
operating in the same or similar manner as nonprofit corporations 3692
organized under Chapter 1729. of the Revised Code, under the laws 3693
of any state or country other than this state, except as provided 3694
in sections 5733.09 and 5733.10 of the Revised Code, for the 3695
privilege of doing business in this state, owning or using a part 3696
or all of its capital or property in this state, holding a 3697
certificate of compliance with the laws of this state authorizing 3698
it to do business in this state, or otherwise having nexus in or 3699
with this state under the Constitution of the United States, 3700

during the calendar year in which that amount is payable. 3701

(B) A corporation is subject to the tax imposed by section 3702
5733.06 of the Revised Code for each calendar year prior to 2014 3703
that it is so organized, doing business, owning or using a part or 3704
all of its capital or property, holding a certificate of 3705
compliance, or otherwise having nexus in or with this state under 3706
the Constitution of the United States, on the first day of January 3707
of that calendar year. No credit authorized by this chapter may be 3708
claimed for tax year 2014 or any tax year thereafter. 3709

(C) Any corporation subject to this chapter that is not 3710
subject to the federal income tax shall file its returns and 3711
compute its tax liability as required by this chapter in the same 3712
manner as if that corporation were subject to the federal income 3713
tax. 3714

(D) For purposes of this chapter, a federally chartered 3715
financial institution shall be deemed to be organized under the 3716
laws of the state within which its principal office is located. 3717

(E) For purposes of this chapter, any person, as defined in 3718
section 5701.01 of the Revised Code, shall be treated as a 3719
corporation if the person is classified for federal income tax 3720
purposes as an association taxable as a corporation, and an equity 3721
interest in the person shall be treated as capital stock of the 3722
person. 3723

(F) For the purposes of this chapter, "disregarded entity" 3724
has the same meaning as in division (D) of section 5745.01 of the 3725
Revised Code. 3726

(1) A person's interest in a disregarded entity, whether held 3727
directly or indirectly, shall be treated as the person's ownership 3728
of the assets and liabilities of the disregarded entity, and the 3729
income, including gain or loss, shall be included in the person's 3730
net income under this chapter. 3731

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

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

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

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

(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code, as that section existed before its amendment by H.B. 510 of the 129th general assembly, that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

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

specified less the amount under division (G)(2)(b) of this 3763
section: 3764

(a)(i) For tax year 2005, the greater of the minimum payment 3765
required under division (E) of section 5733.06 of the Revised Code 3766
or the difference between all taxes charged the corporation under 3767
this chapter and any credits allowable against such tax; 3768

(ii) For tax year 2006, the greater of the minimum payment 3769
required under division (E) of section 5733.06 of the Revised Code 3770
or four-fifths of the difference between all taxes charged the 3771
corporation under this chapter and any credits allowable against 3772
such tax, except the qualifying pass-through entity tax credit 3773
described in division (A)(30) and the refundable credits described 3774
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3775
Code; 3776

(iii) For tax year 2007, the greater of the minimum payment 3777
required under division (E) of section 5733.06 of the Revised Code 3778
or three-fifths of the difference between all taxes charged the 3779
corporation under this chapter and any credits allowable against 3780
such tax, except the qualifying pass-through entity tax credit 3781
described in division (A)(30) and the refundable credits described 3782
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3783
Code; 3784

(iv) For tax year 2008, the greater of the minimum payment 3785
required under division (E) of section 5733.06 of the Revised Code 3786
or two-fifths of the difference between all taxes charged the 3787
corporation under this chapter and any credits allowable against 3788
such tax, except the qualifying pass-through entity tax credit 3789
described in division (A)(30) and the refundable credits described 3790
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3791
Code; 3792

(v) For tax year 2009, the greater of the minimum payment 3793

required under division (E) of section 5733.06 of the Revised Code 3794
or one-fifth of the difference between all taxes charged the 3795
corporation under this chapter and any credits allowable against 3796
such tax, except the qualifying pass-through entity tax credit 3797
described in division (A)(30) and the refundable credits described 3798
in divisions (A)(31), (32), (33), and (34) of section 5733.98 of 3799
the Revised Code; 3800

(vi) For tax year 2010 and each tax year thereafter, no tax. 3801

(b) A corporation shall subtract from the amount calculated 3802
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 3803
any qualifying pass-through entity tax credit described in 3804
division (A)(30) and any refundable credits described in divisions 3805
(A)(31) to (35) of section 5733.98 of the Revised Code to which 3806
the corporation is entitled. Any unused qualifying pass-through 3807
entity tax credit is not refundable. 3808

(c) For the purposes of computing the amount of a credit that 3809
may be carried forward to a subsequent tax year under division 3810
(G)(2) of this section, a credit is utilized against the tax for a 3811
tax year to the extent the credit applies against the tax for that 3812
tax year, even if the difference is then multiplied by the 3813
applicable fraction under division (G)(2)(a) of this section. 3814

(3) Nothing in division (G) of this section eliminates or 3815
reduces the tax imposed by section 5733.41 of the Revised Code on 3816
a qualifying pass-through entity. 3817

Sec. 5733.02. Annually, for tax years prior to tax year 2014, 3818
between the first day of January and the thirty-first day of March 3819
or on or before the date as extended under section 5733.13 of the 3820
Revised Code, each taxpayer shall make a report in writing to the 3821
tax commissioner in such form as the tax commissioner prescribes, 3822
and shall remit to the commissioner, with the remittance made 3823
payable to the treasurer of state, the amount of the tax as shown 3824

to be due by such report less the amount paid for the year on a 3825
declaration of estimated tax report filed by the taxpayer as 3826
provided by section 5733.021 of the Revised Code. Remittance shall 3827
be made in the form prescribed by the commissioner, including 3828
electronic funds transfer if required by section 5733.022 of the 3829
Revised Code. 3830

The commissioner shall furnish corporations, on request, 3831
copies of the forms prescribed by the commissioner for the purpose 3832
of making such report. A domestic corporation shall not dissolve, 3833
and a foreign corporation shall not withdraw or retire from 3834
business in Ohio, on or after the first day of January in any year 3835
prior to 2014 without making a franchise tax report to the 3836
commissioner and paying or securing the tax charged for the year 3837
in which such dissolution or withdrawal occurs. 3838

The annual corporation report shall be signed by the 3839
president, vice-president, secretary, treasurer, general manager, 3840
superintendent, or managing agent in this state of such 3841
corporation. If a domestic corporation has not completed its 3842
organization, its annual report shall be signed by one of its 3843
incorporators. 3844

The report shall contain the facts, figures, computations, 3845
and attachments that result in the tax charged by this chapter and 3846
determined in the manner provided within the chapter. 3847

Sec. 5733.021. (A) Each taxpayer that does not in January of 3848
any year prior to 2014 file the report and make the payment 3849
required by section 5733.02 of the Revised Code shall make and 3850
file a declaration of estimated tax report for the tax year. 3851

The declaration of estimated tax report shall be filed with 3852
the tax commissioner on or before the last day of January in such 3853
form as prescribed by the tax commissioner, and shall reflect an 3854
estimate of the total amount due under this chapter for the tax 3855

year. 3856

(B) A taxpayer required to file a declaration of estimated 3857
tax report shall make remittance of such estimated tax to the tax 3858
commissioner as follows: 3859

(1) The entire estimated tax at the time of filing the 3860
declaration of estimated tax report, if such estimated tax is not 3861
in excess of the minimum tax as provided in section 5733.06 of the 3862
Revised Code; 3863

(2) If the estimated tax is in excess of the minimum tax: 3864

(a) One-third of the estimated tax at the time of filing the 3865
declaration of estimated tax report; 3866

(b) Two-thirds of the estimated tax on or before the last day 3867
of March of the tax year, if the report required by section 3868
5733.02 of the Revised Code is filed on or before the last day of 3869
March of the tax year. 3870

(3) If the estimated tax is in excess of the minimum tax, and 3871
an extension of time for filing the report required by section 3872
5733.02 of the Revised Code has been granted pursuant to section 3873
5733.13 of the Revised Code: 3874

(a) One-third of the estimated tax at the time of filing the 3875
declaration of estimated tax report; 3876

(b) One-third of the estimated tax on or before the last day 3877
of March of the tax year; 3878

(c) One-third of the estimated tax on or before the last day 3879
of May of the tax year. 3880

Remittance of the estimated tax shall be made payable to the 3881
treasurer of state and shall be made in the form prescribed by the 3882
tax commissioner, including electronic funds transfer if required 3883
by section 5733.022 of the Revised Code. 3884

The tax commissioner shall immediately forward to the 3885

treasurer of state all amounts received under this section, and 3886
the treasurer of state shall credit all payments of such estimated 3887
tax as provided in section 5733.12 of the Revised Code. 3888

(C)(1)(a) For any period of delinquency ending prior to the 3889
first day of June of the tax year, the penalty under division 3890
(A)(2) of section 5733.28 of the Revised Code may be imposed only 3891
on the delinquent portion of the estimated tax required to be paid 3892
under divisions (B)(2)(a) and (b) and (B)(3)(a) and (b) of this 3893
section. 3894

(b) If the taxpayer was not subject to tax for the 3895
immediately preceding tax year, "estimated tax" for purposes of 3896
division (C)(1) of this section is ninety per cent of the 3897
qualifying net tax for the tax year. If the taxpayer was subject 3898
to the tax for the immediately preceding tax year, "estimated tax" 3899
for purposes of division (C)(1) of this section is the lesser of 3900
one hundred per cent of the qualifying net tax for the immediately 3901
preceding tax year or ninety per cent of the qualifying net tax 3902
for the tax year. 3903

(2)(a) For any period of delinquency commencing the first day 3904
of June of the tax year and concluding on the extended due date 3905
pursuant to section 5733.13 of the Revised Code, the penalty under 3906
division (A)(2) of section 5733.28 of the Revised Code may be 3907
imposed only on the delinquent portion of the estimated tax 3908
required to be paid under division (B)(3)(c) of this section. 3909

(b) For purposes of division (C)(2) of this section, 3910
"estimated tax" is ninety per cent of the qualifying net tax for 3911
the tax year. 3912

(3) If the taxpayer did not file a report under section 3913
5733.02 of the Revised Code for the tax year or failed to prepare 3914
and file the report in good faith for the tax year, "qualifying 3915
net tax" as used in division (C) of this section for that tax year 3916

means the amount described in division (C)(3)(a) of this section. 3917
Otherwise, "qualifying net tax" as used in division (C) of this 3918
section for that tax year means the lesser of the amount described 3919
in division (C)(3)(a) or (b) of this section: 3920

(a) The tax imposed by sections 5733.06, 5733.065, and 3921
5733.066 of the Revised Code for that tax year reduced by the 3922
credits listed in section 5733.98 of the Revised Code. If the 3923
credits exceed the total tax, the qualifying net tax is the 3924
minimum tax. 3925

(b) The lesser of the tax shown on the report, prepared and 3926
filed in good faith, reduced by the credits shown on that report, 3927
or the tax shown on an amended report, prepared and filed in good 3928
faith, reduced by the credits shown on that amended report. If the 3929
credits shown exceed the total tax shown, the qualifying net tax 3930
is the minimum tax. 3931

Sec. 5733.06. The For tax years prior to tax year 2014, the 3932
tax hereby charged each corporation subject to this chapter shall 3933
be the greater of the sum of divisions (A) and (B) of this 3934
section, after the reduction, if any, provided by division (J) of 3935
this section, or division (C) of this section, after the 3936
reduction, if any, provided by division (J) of this section, 3937
except that the tax hereby charged each financial institution 3938
subject to this chapter shall be the amount computed under 3939
division (D) of this section: 3940

(A) Except as set forth in division (F) of this section, five 3941
and one-tenth per cent upon the first fifty thousand dollars of 3942
the value of the taxpayer's issued and outstanding shares of stock 3943
as determined under division (B) of section 5733.05 of the Revised 3944
Code; 3945

(B) Except as set forth in division (F) of this section, 3946
eight and one-half per cent upon the value so determined in excess 3947

of fifty thousand dollars; or 3948

(C)(1) Except as otherwise provided under division (G) of 3949
this section, four mills times that portion of the value of the 3950
issued and outstanding shares of stock as determined under 3951
division (C) of section 5733.05 of the Revised Code. For the 3952
purposes of division (C) of this section, division (C)(2) of 3953
section 5733.065, and division (C) of section 5733.066 of the 3954
Revised Code, the value of the issued and outstanding shares of 3955
stock of an eligible corporation for tax year 2003 through tax 3956
year 2007, or of a ~~qualified~~ qualifying holding company, is zero. 3957

(2) As used in division (C) of this section, "eligible 3958
corporation" means a person treated as a corporation for federal 3959
income tax purposes that meets all of the following criteria: 3960

(a) The corporation conducts business for an entire taxable 3961
year as a qualified trade or business as defined by division (C) 3962
of section 122.15 of the Revised Code. 3963

(b) The corporation uses more than fifty per cent of the 3964
corporation's assets, based on net book value, that are located in 3965
Ohio solely to conduct activities that constitute a qualified 3966
trade or business as defined by section 122.15 of the Revised 3967
Code. 3968

(c) The corporation has been formed or organized not more 3969
than three years before the report required to be filed by section 3970
5733.02 of the Revised Code is due, without regard to any 3971
extensions. 3972

(d) The corporation is not a related member, as defined in 3973
section 5733.042 of the Revised Code, at any time during the 3974
taxable year with respect to another person treated as a 3975
corporation for federal income tax purposes. A corporation is not 3976
a related member if during the entire taxable year at least 3977
seventy-five per cent of the corporation's stock is owned directly 3978

or through a pass-through entity by individuals, estates, and 3979
grantor trusts, and the individuals, estates, and grantor trusts 3980
do not directly or indirectly own more than twenty per cent of the 3981
value of another person treated as a corporation for federal 3982
income tax purposes that is conducting a qualified trade or 3983
business. 3984

(D) The tax charged each financial institution subject to 3985
this chapter shall be that portion of the value of the issued and 3986
outstanding shares of stock as determined under division (A) of 3987
section 5733.05 of the Revised Code, multiplied by the following 3988
amounts: 3989

(1) For tax years prior to the 1999 tax year, fifteen mills; 3990

(2) For the 1999 tax year, fourteen mills; 3991

(3) For tax year 2000 and thereafter, thirteen mills. 3992

(E) No tax shall be charged from any corporation that has 3993
been adjudicated bankrupt, or for which a receiver has been 3994
appointed, or that has made a general assignment for the benefit 3995
of creditors, except for the portion of the then current tax year 3996
during which the tax commissioner finds such corporation had the 3997
power to exercise its corporate franchise unimpaired by such 3998
proceedings or act. The minimum payment for each corporation shall 3999
be as follows: 4000

(1) One thousand dollars in the case of a corporation having 4001
gross receipts for the taxable year equal to at least five million 4002
dollars from activities within or outside this state or in the 4003
case of a corporation employing at least three hundred employees 4004
at some time during the taxable year within or outside this state; 4005

(2) Fifty dollars in the case of any other corporation. 4006

The tax charged to corporations under this chapter for the 4007
privilege of engaging in business in this state, which is an 4008

excise tax levied on the value of the issued and outstanding 4009
shares of stock, shall in no manner be construed as prohibiting or 4010
otherwise limiting the powers of municipal corporations, joint 4011
economic development zones created under section 715.691 of the 4012
Revised Code, and joint economic development districts created 4013
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 4014
Revised Code in this state to impose an income tax on the income 4015
of such corporations. 4016

(F) If two or more taxpayers satisfy the ownership or control 4017
requirements of division (A) of section 5733.052 of the Revised 4018
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 4019
amount" for "fifty thousand dollars" in divisions (A) and (B) of 4020
this section. For purposes of this division, "the taxpayer's 4021
pro-rata amount" is an amount that, when added to the other such 4022
taxpayers' pro-rata amounts, does not exceed fifty thousand 4023
dollars. For the purpose of making that computation, the 4024
taxpayer's pro-rata amount shall not be less than zero. Nothing in 4025
this division derogates from or eliminates the requirement to make 4026
the alternative computation of tax under division (C) of this 4027
section. 4028

(G) The tax liability of any corporation under division (C) 4029
of this section shall not exceed one hundred fifty thousand 4030
dollars. 4031

(H)(1) For the purposes of division (H) of this section, 4032
"exiting corporation" means a corporation that satisfies all of 4033
the following conditions: 4034

(a) The corporation had nexus with or in this state under the 4035
Constitution of the United States during any portion of a calendar 4036
year; 4037

(b) The corporation was not a corporation described in 4038
division (A) of section 5733.01 of the Revised Code on the first 4039

day of January immediately following that calendar year; 4040

(c) The corporation was not a financial institution on the 4041
first day of January immediately following that calendar year; 4042

(d) If the corporation was a transferor as defined in section 4043
5733.053 of the Revised Code, the corporation's transferee was not 4044
required to add to the transferee's net income the income of the 4045
transferor pursuant to division (B) of that section; 4046

(e) During any portion of that calendar year, or any portion 4047
of the immediately preceding calendar year, the corporation had 4048
net income that was not included in a report filed by the 4049
corporation or its transferee pursuant to section 5733.02, 4050
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 4051

(f) The corporation would have been subject to the tax 4052
computed under divisions (A), (B), (C), (F), and (G) of this 4053
section if the corporation is assumed to be a corporation 4054
described in division (A) of section 5733.01 of the Revised Code 4055
on the first day of January immediately following the calendar 4056
year to which division (H)(1)(a) of this section refers. 4057

(2) For the purposes of division (H) of this section, 4058
"unreported net income" means net income that was not previously 4059
included in a report filed pursuant to section 5733.02, 5733.021, 4060
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 4061
realized or recognized during the calendar year to which division 4062
(H)(1) of this section refers or the immediately preceding 4063
calendar year. 4064

(3) Each exiting corporation shall pay a tax computed by 4065
first allocating and apportioning the unreported net income 4066
pursuant to division (B) of section 5733.05 and section 5733.051 4067
and, if applicable, section 5733.052 of the Revised Code. The 4068
exiting corporation then shall compute the tax due on its 4069
unreported net income allocated and apportioned to this state by 4070

applying divisions (A), (B), and (F) of this section to that 4071
income. 4072

(4) Divisions (C) and (G) of this section, division (D)(2) of 4073
section 5733.065, and division (C) of section 5733.066 of the 4074
Revised Code do not apply to an exiting corporation, but exiting 4075
corporations are subject to every other provision of this chapter. 4076

(5) Notwithstanding division (B) of section 5733.01 or 4077
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 4078
contrary, each exiting corporation shall report and pay the tax 4079
due under division (H) of this section on or before the 4080
thirty-first day of May immediately following the calendar year to 4081
which division (H)(1)(a) of this section refers. The exiting 4082
corporation shall file that report on the form most recently 4083
prescribed by the tax commissioner for the purposes of complying 4084
with sections 5733.02 and 5733.03 of the Revised Code. Upon 4085
request by the corporation, the tax commissioner may extend the 4086
date for filing the report. 4087

(6) If, on account of the application of section 5733.053 of 4088
the Revised Code, net income is subject to the tax imposed by 4089
divisions (A) and (B) of this section, such income shall not be 4090
subject to the tax imposed by division (H)(3) of this section. 4091

(7) The amendments made to division (H) of this section by 4092
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 4093
any transfer, as defined in section 5733.053 of the Revised Code, 4094
for which negotiations began prior to January 1, 2001, and that 4095
was commenced in and completed during calendar year 2001, unless 4096
the taxpayer makes an election prior to December 31, 2001, to 4097
apply those amendments. 4098

(8) The tax commissioner may adopt rules governing division 4099
(H) of this section. 4100

(I) Any reference in the Revised Code to "the tax imposed by 4101

section 5733.06 of the Revised Code" or "the tax due under section 4102
5733.06 of the Revised Code" includes the taxes imposed under 4103
sections 5733.065 and 5733.066 of the Revised Code. 4104

(J)(1) Division (J) of this section applies solely to a 4105
combined company. Section 5733.057 of the Revised Code shall apply 4106
when calculating the adjustments required by division (J) of this 4107
section. 4108

(2) Subject to division (J)(4) of this section, the total tax 4109
calculated in divisions (A) and (B) of this section shall be 4110
reduced by an amount calculated by multiplying such tax by a 4111
fraction, the numerator of which is the total taxable gross 4112
receipts attributed to providing public utility activity other 4113
than as an electric company under section 5727.03 of the Revised 4114
Code for the year upon which the taxable gross receipts are 4115
measured immediately preceding the tax year, and the denominator 4116
of which is the total gross receipts from all sources for the year 4117
upon which the taxable gross receipts are measured immediately 4118
preceding the tax year. Nothing herein shall be construed to 4119
exclude from the denominator any item of income described in 4120
section 5733.051 of the Revised Code. 4121

(3) Subject to division (J)(4) of this section, the total tax 4122
calculated in division (C) of this section shall be reduced by an 4123
amount calculated by multiplying such tax by the fraction 4124
described in division (J)(2) of this section. 4125

(4) In no event shall the reduction provided by division 4126
(J)(2) or (J)(3) of this section exceed the amount of the excise 4127
tax paid in accordance with section 5727.38 of the Revised Code, 4128
for the year upon which the taxable gross receipts are measured 4129
immediately preceding the tax year. 4130

Sec. 5747.01. Except as otherwise expressly provided or 4131
clearly appearing from the context, any term used in this chapter 4132

that is not otherwise defined in this section has the same meaning 4133
as when used in a comparable context in the laws of the United 4134
States relating to federal income taxes or if not used in a 4135
comparable context in those laws, has the same meaning as in 4136
section 5733.40 of the Revised Code. Any reference in this chapter 4137
to the Internal Revenue Code includes other laws of the United 4138
States relating to federal income taxes. 4139

As used in this chapter: 4140

(A) "Adjusted gross income" or "Ohio adjusted gross income" 4141
means federal adjusted gross income, as defined and used in the 4142
Internal Revenue Code, adjusted as provided in this section: 4143

(1) Add interest or dividends on obligations or securities of 4144
any state or of any political subdivision or authority of any 4145
state, other than this state and its subdivisions and authorities. 4146

(2) Add interest or dividends on obligations of any 4147
authority, commission, instrumentality, territory, or possession 4148
of the United States to the extent that the interest or dividends 4149
are exempt from federal income taxes but not from state income 4150
taxes. 4151

(3) Deduct interest or dividends on obligations of the United 4152
States and its territories and possessions or of any authority, 4153
commission, or instrumentality of the United States to the extent 4154
that the interest or dividends are included in federal adjusted 4155
gross income but exempt from state income taxes under the laws of 4156
the United States. 4157

(4) Deduct disability and survivor's benefits to the extent 4158
included in federal adjusted gross income. 4159

(5) Deduct benefits under Title II of the Social Security Act 4160
and tier 1 railroad retirement benefits to the extent included in 4161
federal adjusted gross income under section 86 of the Internal 4162
Revenue Code. 4163

(6) In the case of a taxpayer who is a beneficiary of a trust 4164
that makes an accumulation distribution as defined in section 665 4165
of the Internal Revenue Code, add, for the beneficiary's taxable 4166
years beginning before 2002, the portion, if any, of such 4167
distribution that does not exceed the undistributed net income of 4168
the trust for the three taxable years preceding the taxable year 4169
in which the distribution is made to the extent that the portion 4170
was not included in the trust's taxable income for any of the 4171
trust's taxable years beginning in 2002 or thereafter. 4172
"Undistributed net income of a trust" means the taxable income of 4173
the trust increased by (a)(i) the additions to adjusted gross 4174
income required under division (A) of this section and (ii) the 4175
personal exemptions allowed to the trust pursuant to section 4176
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 4177
deductions to adjusted gross income required under division (A) of 4178
this section, (ii) the amount of federal income taxes attributable 4179
to such income, and (iii) the amount of taxable income that has 4180
been included in the adjusted gross income of a beneficiary by 4181
reason of a prior accumulation distribution. Any undistributed net 4182
income included in the adjusted gross income of a beneficiary 4183
shall reduce the undistributed net income of the trust commencing 4184
with the earliest years of the accumulation period. 4185

(7) Deduct the amount of wages and salaries, if any, not 4186
otherwise allowable as a deduction but that would have been 4187
allowable as a deduction in computing federal adjusted gross 4188
income for the taxable year, had the targeted jobs credit allowed 4189
and determined under sections 38, 51, and 52 of the Internal 4190
Revenue Code not been in effect. 4191

(8) Deduct any interest or interest equivalent on public 4192
obligations and purchase obligations to the extent that the 4193
interest or interest equivalent is included in federal adjusted 4194
gross income. 4195

(9) Add any loss or deduct any gain resulting from the sale, 4196
exchange, or other disposition of public obligations to the extent 4197
that the loss has been deducted or the gain has been included in 4198
computing federal adjusted gross income. 4199

(10) Deduct or add amounts, as provided under section 5747.70 4200
of the Revised Code, related to contributions to variable college 4201
savings program accounts made or tuition units purchased pursuant 4202
to Chapter 3334. of the Revised Code. 4203

(11)(a) Deduct, to the extent not otherwise allowable as a 4204
deduction or exclusion in computing federal or Ohio adjusted gross 4205
income for the taxable year, the amount the taxpayer paid during 4206
the taxable year for medical care insurance and qualified 4207
long-term care insurance for the taxpayer, the taxpayer's spouse, 4208
and dependents. No deduction for medical care insurance under 4209
division (A)(11) of this section shall be allowed either to any 4210
taxpayer who is eligible to participate in any subsidized health 4211
plan maintained by any employer of the taxpayer or of the 4212
taxpayer's spouse, or to any taxpayer who is entitled to, or on 4213
application would be entitled to, benefits under part A of Title 4214
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 4215
301, as amended. For the purposes of division (A)(11)(a) of this 4216
section, "subsidized health plan" means a health plan for which 4217
the employer pays any portion of the plan's cost. The deduction 4218
allowed under division (A)(11)(a) of this section shall be the net 4219
of any related premium refunds, related premium reimbursements, or 4220
related insurance premium dividends received during the taxable 4221
year. 4222

(b) Deduct, to the extent not otherwise deducted or excluded 4223
in computing federal or Ohio adjusted gross income during the 4224
taxable year, the amount the taxpayer paid during the taxable 4225
year, not compensated for by any insurance or otherwise, for 4226
medical care of the taxpayer, the taxpayer's spouse, and 4227

dependents, to the extent the expenses exceed seven and one-half 4228
per cent of the taxpayer's federal adjusted gross income. 4229

(c) Deduct, to the extent not otherwise deducted or excluded 4230
in computing federal or Ohio adjusted gross income, any amount 4231
included in federal adjusted gross income under section 105 or not 4232
excluded under section 106 of the Internal Revenue Code solely 4233
because it relates to an accident and health plan for a person who 4234
otherwise would be a "qualifying relative" and thus a "dependent" 4235
under section 152 of the Internal Revenue Code but for the fact 4236
that the person fails to meet the income and support limitations 4237
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 4238

(d) For purposes of division (A)(11) of this section, 4239
"medical care" has the meaning given in section 213 of the 4240
Internal Revenue Code, subject to the special rules, limitations, 4241
and exclusions set forth therein, and "qualified long-term care" 4242
has the same meaning given in section 7702B(c) of the Internal 4243
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 4244
of this section, "dependent" includes a person who otherwise would 4245
be a "qualifying relative" and thus a "dependent" under section 4246
152 of the Internal Revenue Code but for the fact that the person 4247
fails to meet the income and support limitations under section 4248
152(d)(1)(B) and (C) of the Internal Revenue Code. 4249

(12)(a) Deduct any amount included in federal adjusted gross 4250
income solely because the amount represents a reimbursement or 4251
refund of expenses that in any year the taxpayer had deducted as 4252
an itemized deduction pursuant to section 63 of the Internal 4253
Revenue Code and applicable United States department of the 4254
treasury regulations. The deduction otherwise allowed under 4255
division (A)(12)(a) of this section shall be reduced to the extent 4256
the reimbursement is attributable to an amount the taxpayer 4257
deducted under this section in any taxable year. 4258

(b) Add any amount not otherwise included in Ohio adjusted 4259

gross income for any taxable year to the extent that the amount is 4260
attributable to the recovery during the taxable year of any amount 4261
deducted or excluded in computing federal or Ohio adjusted gross 4262
income in any taxable year. 4263

(13) Deduct any portion of the deduction described in section 4264
1341(a)(2) of the Internal Revenue Code, for repaying previously 4265
reported income received under a claim of right, that meets both 4266
of the following requirements: 4267

(a) It is allowable for repayment of an item that was 4268
included in the taxpayer's adjusted gross income for a prior 4269
taxable year and did not qualify for a credit under division (A) 4270
or (B) of section 5747.05 of the Revised Code for that year; 4271

(b) It does not otherwise reduce the taxpayer's adjusted 4272
gross income for the current or any other taxable year. 4273

(14) Deduct an amount equal to the deposits made to, and net 4274
investment earnings of, a medical savings account during the 4275
taxable year, in accordance with section 3924.66 of the Revised 4276
Code. The deduction allowed by division (A)(14) of this section 4277
does not apply to medical savings account deposits and earnings 4278
otherwise deducted or excluded for the current or any other 4279
taxable year from the taxpayer's federal adjusted gross income. 4280

(15)(a) Add an amount equal to the funds withdrawn from a 4281
medical savings account during the taxable year, and the net 4282
investment earnings on those funds, when the funds withdrawn were 4283
used for any purpose other than to reimburse an account holder 4284
for, or to pay, eligible medical expenses, in accordance with 4285
section 3924.66 of the Revised Code; 4286

(b) Add the amounts distributed from a medical savings 4287
account under division (A)(2) of section 3924.68 of the Revised 4288
Code during the taxable year. 4289

(16) Add any amount claimed as a credit under section 4290

5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may

not be claimed for educational expenses for which the taxpayer 4323
claims a credit under section 5747.27 of the Revised Code. 4324

(19) Add any reimbursement received during the taxable year 4325
of any amount the taxpayer deducted under division (A)(18) of this 4326
section in any previous taxable year to the extent the amount is 4327
not otherwise included in Ohio adjusted gross income. 4328

(20)(a)(i) Add five-sixths of the amount of depreciation 4329
expense allowed by subsection (k) of section 168 of the Internal 4330
Revenue Code, including the taxpayer's proportionate or 4331
distributive share of the amount of depreciation expense allowed 4332
by that subsection to a pass-through entity in which the taxpayer 4333
has a direct or indirect ownership interest. 4334

(ii) Add five-sixths of the amount of qualifying section 179 4335
depreciation expense, including a person's proportionate or 4336
distributive share of the amount of qualifying section 179 4337
depreciation expense allowed to any pass-through entity in which 4338
the person has a direct or indirect ownership. For the purposes of 4339
this division, "qualifying section 179 depreciation expense" means 4340
the difference between (I) the amount of depreciation expense 4341
directly or indirectly allowed to the taxpayer under section 179 4342
of the Internal Revenue Code, and (II) the amount of depreciation 4343
expense directly or indirectly allowed to the taxpayer under 4344
section 179 of the Internal Revenue Code as that section existed 4345
on December 31, 2002. 4346

The tax commissioner, under procedures established by the 4347
commissioner, may waive the add-backs related to a pass-through 4348
entity if the taxpayer owns, directly or indirectly, less than 4349
five per cent of the pass-through entity. 4350

(b) Nothing in division (A)(20) of this section shall be 4351
construed to adjust or modify the adjusted basis of any asset. 4352

(c) To the extent the add-back required under division 4353

(A)(20)(a) of this section is attributable to property generating 4354
nonbusiness income or loss allocated under section 5747.20 of the 4355
Revised Code, the add-back shall be sitused to the same location 4356
as the nonbusiness income or loss generated by the property for 4357
the purpose of determining the credit under division (A) of 4358
section 5747.05 of the Revised Code. Otherwise, the add-back shall 4359
be apportioned, subject to one or more of the four alternative 4360
methods of apportionment enumerated in section 5747.21 of the 4361
Revised Code. 4362

(d) For the purposes of division (A) of this section, net 4363
operating loss carryback and carryforward shall not include 4364
five-sixths of the allowance of any net operating loss deduction 4365
carryback or carryforward to the taxable year to the extent such 4366
loss resulted from depreciation allowed by section 168(k) of the 4367
Internal Revenue Code and by the qualifying section 179 4368
depreciation expense amount. 4369

(21)(a) If the taxpayer was required to add an amount under 4370
division (A)(20)(a) of this section for a taxable year, deduct 4371
one-fifth of the amount so added for each of the five succeeding 4372
taxable years. 4373

(b) If the amount deducted under division (A)(21)(a) of this 4374
section is attributable to an add-back allocated under division 4375
(A)(20)(c) of this section, the amount deducted shall be sitused 4376
to the same location. Otherwise, the add-back shall be apportioned 4377
using the apportionment factors for the taxable year in which the 4378
deduction is taken, subject to one or more of the four alternative 4379
methods of apportionment enumerated in section 5747.21 of the 4380
Revised Code. 4381

(c) No deduction is available under division (A)(21)(a) of 4382
this section with regard to any depreciation allowed by section 4383
168(k) of the Internal Revenue Code and by the qualifying section 4384
179 depreciation expense amount to the extent that such 4385

depreciation resulted in or increased a federal net operating loss 4386
carryback or carryforward to a taxable year to which division 4387
(A)(20)(d) of this section does not apply. 4388

(22) Deduct, to the extent not otherwise deducted or excluded 4389
in computing federal or Ohio adjusted gross income for the taxable 4390
year, the amount the taxpayer received during the taxable year as 4391
reimbursement for life insurance premiums under section 5919.31 of 4392
the Revised Code. 4393

(23) Deduct, to the extent not otherwise deducted or excluded 4394
in computing federal or Ohio adjusted gross income for the taxable 4395
year, the amount the taxpayer received during the taxable year as 4396
a death benefit paid by the adjutant general under section 5919.33 4397
of the Revised Code. 4398

(24) Deduct, to the extent included in federal adjusted gross 4399
income and not otherwise allowable as a deduction or exclusion in 4400
computing federal or Ohio adjusted gross income for the taxable 4401
year, military pay and allowances received by the taxpayer during 4402
the taxable year for active duty service in the United States 4403
army, air force, navy, marine corps, or coast guard or reserve 4404
components thereof or the national guard. The deduction may not be 4405
claimed for military pay and allowances received by the taxpayer 4406
while the taxpayer is stationed in this state. 4407

(25) Deduct, to the extent not otherwise allowable as a 4408
deduction or exclusion in computing federal or Ohio adjusted gross 4409
income for the taxable year and not otherwise compensated for by 4410
any other source, the amount of qualified organ donation expenses 4411
incurred by the taxpayer during the taxable year, not to exceed 4412
ten thousand dollars. A taxpayer may deduct qualified organ 4413
donation expenses only once for all taxable years beginning with 4414
taxable years beginning in 2007. 4415

For the purposes of division (A)(25) of this section: 4416

(a) "Human organ" means all or any portion of a human liver, 4417
pancreas, kidney, intestine, or lung, and any portion of human 4418
bone marrow. 4419

(b) "Qualified organ donation expenses" means travel 4420
expenses, lodging expenses, and wages and salary forgone by a 4421
taxpayer in connection with the taxpayer's donation, while living, 4422
of one or more of the taxpayer's human organs to another human 4423
being. 4424

(26) Deduct, to the extent not otherwise deducted or excluded 4425
in computing federal or Ohio adjusted gross income for the taxable 4426
year, amounts received by the taxpayer as retired military 4427
personnel pay for service in the United States army, navy, air 4428
force, coast guard, or marine corps or reserve components thereof, 4429
or the national guard, or received by the surviving spouse or 4430
former spouse of such a taxpayer under the survivor benefit plan 4431
on account of such a taxpayer's death. If the taxpayer receives 4432
income on account of retirement paid under the federal civil 4433
service retirement system or federal employees retirement system, 4434
or under any successor retirement program enacted by the congress 4435
of the United States that is established and maintained for 4436
retired employees of the United States government, and such 4437
retirement income is based, in whole or in part, on credit for the 4438
taxpayer's military service, the deduction allowed under this 4439
division shall include only that portion of such retirement income 4440
that is attributable to the taxpayer's military service, to the 4441
extent that portion of such retirement income is otherwise 4442
included in federal adjusted gross income and is not otherwise 4443
deducted under this section. Any amount deducted under division 4444
(A)(26) of this section is not included in a taxpayer's adjusted 4445
gross income for the purposes of section 5747.055 of the Revised 4446
Code. No amount may be deducted under division (A)(26) of this 4447
section on the basis of which a credit was claimed under section 4448

5747.055 of the Revised Code. 4449

(27) Deduct, to the extent not otherwise deducted or excluded 4450
in computing federal or Ohio adjusted gross income for the taxable 4451
year, the amount the taxpayer received during the taxable year 4452
from the military injury relief fund created in section 5101.98 of 4453
the Revised Code. 4454

(28) Deduct, to the extent not otherwise deducted or excluded 4455
in computing federal or Ohio adjusted gross income for the taxable 4456
year, the amount the taxpayer received as a veterans bonus during 4457
the taxable year from the Ohio department of veterans services as 4458
authorized by Section 2r of Article VIII, Ohio Constitution. 4459

(29) Deduct, to the extent not otherwise deducted or excluded 4460
in computing federal or Ohio adjusted gross income for the taxable 4461
year, any loss from wagering transactions that is allowed as an 4462
itemized deduction under section 165 of the Internal Revenue Code 4463
and that the taxpayer deducted in computing federal taxable 4464
income. 4465

(30) Deduct, to the extent not otherwise deducted or excluded 4466
in computing federal or Ohio adjusted gross income for the taxable 4467
year, any income derived from providing public services under a 4468
contract through a project owned by the state, as described in 4469
section 126.604 of the Revised Code or derived from a transfer 4470
agreement or from the enterprise transferred under that agreement 4471
under section 4313.02 of the Revised Code. 4472

(31) Deduct, to the extent not otherwise deducted or excluded 4473
in computing federal or Ohio adjusted gross income for the taxable 4474
year, Ohio college opportunity or federal Pell grant amounts 4475
received by the taxpayer or the taxpayer's spouse or dependent 4476
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 4477
1070a, et seq., and used to pay room or board furnished by the 4478
educational institution for which the grant was awarded at the 4479

institution's facilities, including meal plans administered by the 4480
institution. For the purposes of this division, receipt of a grant 4481
includes the distribution of a grant directly to an educational 4482
institution and the crediting of the grant to the enrollee's 4483
account with the institution. 4484

(B) "Business income" means income, including gain or loss, 4485
arising from transactions, activities, and sources in the regular 4486
course of a trade or business and includes income, gain, or loss 4487
from real property, tangible property, and intangible property if 4488
the acquisition, rental, management, and disposition of the 4489
property constitute integral parts of the regular course of a 4490
trade or business operation. "Business income" includes income, 4491
including gain or loss, from a partial or complete liquidation of 4492
a business, including, but not limited to, gain or loss from the 4493
sale or other disposition of goodwill. 4494

(C) "Nonbusiness income" means all income other than business 4495
income and may include, but is not limited to, compensation, rents 4496
and royalties from real or tangible personal property, capital 4497
gains, interest, dividends and distributions, patent or copyright 4498
royalties, or lottery winnings, prizes, and awards. 4499

(D) "Compensation" means any form of remuneration paid to an 4500
employee for personal services. 4501

(E) "Fiduciary" means a guardian, trustee, executor, 4502
administrator, receiver, conservator, or any other person acting 4503
in any fiduciary capacity for any individual, trust, or estate. 4504

(F) "Fiscal year" means an accounting period of twelve months 4505
ending on the last day of any month other than December. 4506

(G) "Individual" means any natural person. 4507

(H) "Internal Revenue Code" means the "Internal Revenue Code 4508
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 4509

(I) "Resident" means any of the following, provided that 4510
division (I)(3) of this section applies only to taxable years of a 4511
trust beginning in 2002 or thereafter: 4512

(1) An individual who is domiciled in this state, subject to 4513
section 5747.24 of the Revised Code; 4514

(2) The estate of a decedent who at the time of death was 4515
domiciled in this state. The domicile tests of section 5747.24 of 4516
the Revised Code are not controlling for purposes of division 4517
(I)(2) of this section. 4518

(3) A trust that, in whole or part, resides in this state. If 4519
only part of a trust resides in this state, the trust is a 4520
resident only with respect to that part. 4521

For the purposes of division (I)(3) of this section: 4522

(a) A trust resides in this state for the trust's current 4523
taxable year to the extent, as described in division (I)(3)(d) of 4524
this section, that the trust consists directly or indirectly, in 4525
whole or in part, of assets, net of any related liabilities, that 4526
were transferred, or caused to be transferred, directly or 4527
indirectly, to the trust by any of the following: 4528

(i) A person, a court, or a governmental entity or 4529
instrumentality on account of the death of a decedent, but only if 4530
the trust is described in division (I)(3)(e)(i) or (ii) of this 4531
section; 4532

(ii) A person who was domiciled in this state for the 4533
purposes of this chapter when the person directly or indirectly 4534
transferred assets to an irrevocable trust, but only if at least 4535
one of the trust's qualifying beneficiaries is domiciled in this 4536
state for the purposes of this chapter during all or some portion 4537
of the trust's current taxable year; 4538

(iii) A person who was domiciled in this state for the 4539

purposes of this chapter when the trust document or instrument or 4540
part of the trust document or instrument became irrevocable, but 4541
only if at least one of the trust's qualifying beneficiaries is a 4542
resident domiciled in this state for the purposes of this chapter 4543
during all or some portion of the trust's current taxable year. If 4544
a trust document or instrument became irrevocable upon the death 4545
of a person who at the time of death was domiciled in this state 4546
for purposes of this chapter, that person is a person described in 4547
division (I)(3)(a)(iii) of this section. 4548

(b) A trust is irrevocable to the extent that the transferor 4549
is not considered to be the owner of the net assets of the trust 4550
under sections 671 to 678 of the Internal Revenue Code. 4551

(c) With respect to a trust other than a charitable lead 4552
trust, "qualifying beneficiary" has the same meaning as "potential 4553
current beneficiary" as defined in section 1361(e)(2) of the 4554
Internal Revenue Code, and with respect to a charitable lead trust 4555
"qualifying beneficiary" is any current, future, or contingent 4556
beneficiary, but with respect to any trust "qualifying 4557
beneficiary" excludes a person or a governmental entity or 4558
instrumentality to any of which a contribution would qualify for 4559
the charitable deduction under section 170 of the Internal Revenue 4560
Code. 4561

(d) For the purposes of division (I)(3)(a) of this section, 4562
the extent to which a trust consists directly or indirectly, in 4563
whole or in part, of assets, net of any related liabilities, that 4564
were transferred directly or indirectly, in whole or part, to the 4565
trust by any of the sources enumerated in that division shall be 4566
ascertained by multiplying the fair market value of the trust's 4567
assets, net of related liabilities, by the qualifying ratio, which 4568
shall be computed as follows: 4569

(i) The first time the trust receives assets, the numerator 4570
of the qualifying ratio is the fair market value of those assets 4571

at that time, net of any related liabilities, from sources 4572
enumerated in division (I)(3)(a) of this section. The denominator 4573
of the qualifying ratio is the fair market value of all the 4574
trust's assets at that time, net of any related liabilities. 4575

(ii) Each subsequent time the trust receives assets, a 4576
revised qualifying ratio shall be computed. The numerator of the 4577
revised qualifying ratio is the sum of (1) the fair market value 4578
of the trust's assets immediately prior to the subsequent 4579
transfer, net of any related liabilities, multiplied by the 4580
qualifying ratio last computed without regard to the subsequent 4581
transfer, and (2) the fair market value of the subsequently 4582
transferred assets at the time transferred, net of any related 4583
liabilities, from sources enumerated in division (I)(3)(a) of this 4584
section. The denominator of the revised qualifying ratio is the 4585
fair market value of all the trust's assets immediately after the 4586
subsequent transfer, net of any related liabilities. 4587

(iii) Whether a transfer to the trust is by or from any of 4588
the sources enumerated in division (I)(3)(a) of this section shall 4589
be ascertained without regard to the domicile of the trust's 4590
beneficiaries. 4591

(e) For the purposes of division (I)(3)(a)(i) of this 4592
section: 4593

(i) A trust is described in division (I)(3)(e)(i) of this 4594
section if the trust is a testamentary trust and the testator of 4595
that testamentary trust was domiciled in this state at the time of 4596
the testator's death for purposes of the taxes levied under 4597
Chapter 5731. of the Revised Code. 4598

(ii) A trust is described in division (I)(3)(e)(ii) of this 4599
section if the transfer is a qualifying transfer described in any 4600
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 4601
irrevocable inter vivos trust, and at least one of the trust's 4602

qualifying beneficiaries is domiciled in this state for purposes 4603
of this chapter during all or some portion of the trust's current 4604
taxable year. 4605

(f) For the purposes of division (I)(3)(e)(ii) of this 4606
section, a "qualifying transfer" is a transfer of assets, net of 4607
any related liabilities, directly or indirectly to a trust, if the 4608
transfer is described in any of the following: 4609

(i) The transfer is made to a trust, created by the decedent 4610
before the decedent's death and while the decedent was domiciled 4611
in this state for the purposes of this chapter, and, prior to the 4612
death of the decedent, the trust became irrevocable while the 4613
decedent was domiciled in this state for the purposes of this 4614
chapter. 4615

(ii) The transfer is made to a trust to which the decedent, 4616
prior to the decedent's death, had directly or indirectly 4617
transferred assets, net of any related liabilities, while the 4618
decedent was domiciled in this state for the purposes of this 4619
chapter, and prior to the death of the decedent the trust became 4620
irrevocable while the decedent was domiciled in this state for the 4621
purposes of this chapter. 4622

(iii) The transfer is made on account of a contractual 4623
relationship existing directly or indirectly between the 4624
transferor and either the decedent or the estate of the decedent 4625
at any time prior to the date of the decedent's death, and the 4626
decedent was domiciled in this state at the time of death for 4627
purposes of the taxes levied under Chapter 5731. of the Revised 4628
Code. 4629

(iv) The transfer is made to a trust on account of a 4630
contractual relationship existing directly or indirectly between 4631
the transferor and another person who at the time of the 4632
decedent's death was domiciled in this state for purposes of this 4633

chapter. 4634

(v) The transfer is made to a trust on account of the will of 4635
a testator who was domiciled in this state at the time of the 4636
testator's death for purposes of the taxes levied under Chapter 4637
5731. of the Revised Code. 4638

(vi) The transfer is made to a trust created by or caused to 4639
be created by a court, and the trust was directly or indirectly 4640
created in connection with or as a result of the death of an 4641
individual who, for purposes of the taxes levied under Chapter 4642
5731. of the Revised Code, was domiciled in this state at the time 4643
of the individual's death. 4644

(g) The tax commissioner may adopt rules to ascertain the 4645
part of a trust residing in this state. 4646

(J) "Nonresident" means an individual or estate that is not a 4647
resident. An individual who is a resident for only part of a 4648
taxable year is a nonresident for the remainder of that taxable 4649
year. 4650

(K) "Pass-through entity" has the same meaning as in section 4651
5733.04 of the Revised Code. 4652

(L) "Return" means the notifications and reports required to 4653
be filed pursuant to this chapter for the purpose of reporting the 4654
tax due and includes declarations of estimated tax when so 4655
required. 4656

(M) "Taxable year" means the calendar year or the taxpayer's 4657
fiscal year ending during the calendar year, or fractional part 4658
thereof, upon which the adjusted gross income is calculated 4659
pursuant to this chapter. 4660

(N) "Taxpayer" means any person subject to the tax imposed by 4661
section 5747.02 of the Revised Code or any pass-through entity 4662
that makes the election under division (D) of section 5747.08 of 4663

the Revised Code. 4664

(O) "Dependents" means dependents as defined in the Internal 4665
Revenue Code and as claimed in the taxpayer's federal income tax 4666
return for the taxable year or which the taxpayer would have been 4667
permitted to claim had the taxpayer filed a federal income tax 4668
return. 4669

(P) "Principal county of employment" means, in the case of a 4670
nonresident, the county within the state in which a taxpayer 4671
performs services for an employer or, if those services are 4672
performed in more than one county, the county in which the major 4673
portion of the services are performed. 4674

(Q) As used in sections 5747.50 to 5747.55 of the Revised 4675
Code: 4676

(1) "Subdivision" means any county, municipal corporation, 4677
park district, or township. 4678

(2) "Essential local government purposes" includes all 4679
functions that any subdivision is required by general law to 4680
exercise, including like functions that are exercised under a 4681
charter adopted pursuant to the Ohio Constitution. 4682

(R) "Overpayment" means any amount already paid that exceeds 4683
the figure determined to be the correct amount of the tax. 4684

(S) "Taxable income" or "Ohio taxable income" applies only to 4685
estates and trusts, and means federal taxable income, as defined 4686
and used in the Internal Revenue Code, adjusted as follows: 4687

(1) Add interest or dividends, net of ordinary, necessary, 4688
and reasonable expenses not deducted in computing federal taxable 4689
income, on obligations or securities of any state or of any 4690
political subdivision or authority of any state, other than this 4691
state and its subdivisions and authorities, but only to the extent 4692
that such net amount is not otherwise includible in Ohio taxable 4693

income and is described in either division (S)(1)(a) or (b) of 4694
this section: 4695

(a) The net amount is not attributable to the S portion of an 4696
electing small business trust and has not been distributed to 4697
beneficiaries for the taxable year; 4698

(b) The net amount is attributable to the S portion of an 4699
electing small business trust for the taxable year. 4700

(2) Add interest or dividends, net of ordinary, necessary, 4701
and reasonable expenses not deducted in computing federal taxable 4702
income, on obligations of any authority, commission, 4703
instrumentality, territory, or possession of the United States to 4704
the extent that the interest or dividends are exempt from federal 4705
income taxes but not from state income taxes, but only to the 4706
extent that such net amount is not otherwise includible in Ohio 4707
taxable income and is described in either division (S)(1)(a) or 4708
(b) of this section; 4709

(3) Add the amount of personal exemption allowed to the 4710
estate pursuant to section 642(b) of the Internal Revenue Code; 4711

(4) Deduct interest or dividends, net of related expenses 4712
deducted in computing federal taxable income, on obligations of 4713
the United States and its territories and possessions or of any 4714
authority, commission, or instrumentality of the United States to 4715
the extent that the interest or dividends are exempt from state 4716
taxes under the laws of the United States, but only to the extent 4717
that such amount is included in federal taxable income and is 4718
described in either division (S)(1)(a) or (b) of this section; 4719

(5) Deduct the amount of wages and salaries, if any, not 4720
otherwise allowable as a deduction but that would have been 4721
allowable as a deduction in computing federal taxable income for 4722
the taxable year, had the targeted jobs credit allowed under 4723
sections 38, 51, and 52 of the Internal Revenue Code not been in 4724

effect, but only to the extent such amount relates either to 4725
income included in federal taxable income for the taxable year or 4726
to income of the S portion of an electing small business trust for 4727
the taxable year; 4728

(6) Deduct any interest or interest equivalent, net of 4729
related expenses deducted in computing federal taxable income, on 4730
public obligations and purchase obligations, but only to the 4731
extent that such net amount relates either to income included in 4732
federal taxable income for the taxable year or to income of the S 4733
portion of an electing small business trust for the taxable year; 4734

(7) Add any loss or deduct any gain resulting from sale, 4735
exchange, or other disposition of public obligations to the extent 4736
that such loss has been deducted or such gain has been included in 4737
computing either federal taxable income or income of the S portion 4738
of an electing small business trust for the taxable year; 4739

(8) Except in the case of the final return of an estate, add 4740
any amount deducted by the taxpayer on both its Ohio estate tax 4741
return pursuant to section 5731.14 of the Revised Code, and on its 4742
federal income tax return in determining federal taxable income; 4743

(9)(a) Deduct any amount included in federal taxable income 4744
solely because the amount represents a reimbursement or refund of 4745
expenses that in a previous year the decedent had deducted as an 4746
itemized deduction pursuant to section 63 of the Internal Revenue 4747
Code and applicable treasury regulations. The deduction otherwise 4748
allowed under division (S)(9)(a) of this section shall be reduced 4749
to the extent the reimbursement is attributable to an amount the 4750
taxpayer or decedent deducted under this section in any taxable 4751
year. 4752

(b) Add any amount not otherwise included in Ohio taxable 4753
income for any taxable year to the extent that the amount is 4754
attributable to the recovery during the taxable year of any amount 4755

deducted or excluded in computing federal or Ohio taxable income 4756
in any taxable year, but only to the extent such amount has not 4757
been distributed to beneficiaries for the taxable year. 4758

(10) Deduct any portion of the deduction described in section 4759
1341(a)(2) of the Internal Revenue Code, for repaying previously 4760
reported income received under a claim of right, that meets both 4761
of the following requirements: 4762

(a) It is allowable for repayment of an item that was 4763
included in the taxpayer's taxable income or the decedent's 4764
adjusted gross income for a prior taxable year and did not qualify 4765
for a credit under division (A) or (B) of section 5747.05 of the 4766
Revised Code for that year. 4767

(b) It does not otherwise reduce the taxpayer's taxable 4768
income or the decedent's adjusted gross income for the current or 4769
any other taxable year. 4770

(11) Add any amount claimed as a credit under section 4771
5747.059 or 5747.65 of the Revised Code to the extent that the 4772
amount satisfies either of the following: 4773

(a) The amount was deducted or excluded from the computation 4774
of the taxpayer's federal taxable income as required to be 4775
reported for the taxpayer's taxable year under the Internal 4776
Revenue Code; 4777

(b) The amount resulted in a reduction in the taxpayer's 4778
federal taxable income as required to be reported for any of the 4779
taxpayer's taxable years under the Internal Revenue Code. 4780

(12) Deduct any amount, net of related expenses deducted in 4781
computing federal taxable income, that a trust is required to 4782
report as farm income on its federal income tax return, but only 4783
if the assets of the trust include at least ten acres of land 4784
satisfying the definition of "land devoted exclusively to 4785
agricultural use" under section 5713.30 of the Revised Code, 4786

regardless of whether the land is valued for tax purposes as such 4787
land under sections 5713.30 to 5713.38 of the Revised Code. If the 4788
trust is a pass-through entity investor, section 5747.231 of the 4789
Revised Code applies in ascertaining if the trust is eligible to 4790
claim the deduction provided by division (S)(12) of this section 4791
in connection with the pass-through entity's farm income. 4792

Except for farm income attributable to the S portion of an 4793
electing small business trust, the deduction provided by division 4794
(S)(12) of this section is allowed only to the extent that the 4795
trust has not distributed such farm income. Division (S)(12) of 4796
this section applies only to taxable years of a trust beginning in 4797
2002 or thereafter. 4798

(13) Add the net amount of income described in section 641(c) 4799
of the Internal Revenue Code to the extent that amount is not 4800
included in federal taxable income. 4801

(14) Add or deduct the amount the taxpayer would be required 4802
to add or deduct under division (A)(20) or (21) of this section if 4803
the taxpayer's Ohio taxable income were computed in the same 4804
manner as an individual's Ohio adjusted gross income is computed 4805
under this section. In the case of a trust, division (S)(14) of 4806
this section applies only to any of the trust's taxable years 4807
beginning in 2002 or thereafter. 4808

(T) "School district income" and "school district income tax" 4809
have the same meanings as in section 5748.01 of the Revised Code. 4810

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 4811
of this section, "public obligations," "purchase obligations," and 4812
"interest or interest equivalent" have the same meanings as in 4813
section 5709.76 of the Revised Code. 4814

(V) "Limited liability company" means any limited liability 4815
company formed under Chapter 1705. of the Revised Code or under 4816
the laws of any other state. 4817

(W) "Pass-through entity investor" means any person who, 4818
during any portion of a taxable year of a pass-through entity, is 4819
a partner, member, shareholder, or equity investor in that 4820
pass-through entity. 4821

(X) "Banking day" has the same meaning as in section 1304.01 4822
of the Revised Code. 4823

(Y) "Month" means a calendar month. 4824

(Z) "Quarter" means the first three months, the second three 4825
months, the third three months, or the last three months of the 4826
taxpayer's taxable year. 4827

(AA)(1) "Eligible institution" means a state university or 4828
state institution of higher education as defined in section 4829
3345.011 of the Revised Code, or a private, nonprofit college, 4830
university, or other post-secondary institution located in this 4831
state that possesses a certificate of authorization issued by the 4832
Ohio board of regents pursuant to Chapter 1713. of the Revised 4833
Code or a certificate of registration issued by the state board of 4834
career colleges and schools under Chapter 3332. of the Revised 4835
Code. 4836

(2) "Qualified tuition and fees" means tuition and fees 4837
imposed by an eligible institution as a condition of enrollment or 4838
attendance, not exceeding two thousand five hundred dollars in 4839
each of the individual's first two years of post-secondary 4840
education. If the individual is a part-time student, "qualified 4841
tuition and fees" includes tuition and fees paid for the academic 4842
equivalent of the first two years of post-secondary education 4843
during a maximum of five taxable years, not exceeding a total of 4844
five thousand dollars. "Qualified tuition and fees" does not 4845
include: 4846

(a) Expenses for any course or activity involving sports, 4847
games, or hobbies unless the course or activity is part of the 4848

individual's degree or diploma program; 4849

(b) The cost of books, room and board, student activity fees, 4850
athletic fees, insurance expenses, or other expenses unrelated to 4851
the individual's academic course of instruction; 4852

(c) Tuition, fees, or other expenses paid or reimbursed 4853
through an employer, scholarship, grant in aid, or other 4854
educational benefit program. 4855

(BB)(1) "Modified business income" means the business income 4856
included in a trust's Ohio taxable income after such taxable 4857
income is first reduced by the qualifying trust amount, if any. 4858

(2) "Qualifying trust amount" of a trust means capital gains 4859
and losses from the sale, exchange, or other disposition of equity 4860
or ownership interests in, or debt obligations of, a qualifying 4861
investee to the extent included in the trust's Ohio taxable 4862
income, but only if the following requirements are satisfied: 4863

(a) The book value of the qualifying investee's physical 4864
assets in this state and everywhere, as of the last day of the 4865
qualifying investee's fiscal or calendar year ending immediately 4866
prior to the date on which the trust recognizes the gain or loss, 4867
is available to the trust. 4868

(b) The requirements of section 5747.011 of the Revised Code 4869
are satisfied for the trust's taxable year in which the trust 4870
recognizes the gain or loss. 4871

Any gain or loss that is not a qualifying trust amount is 4872
modified business income, qualifying investment income, or 4873
modified nonbusiness income, as the case may be. 4874

(3) "Modified nonbusiness income" means a trust's Ohio 4875
taxable income other than modified business income, other than the 4876
qualifying trust amount, and other than qualifying investment 4877
income, as defined in section 5747.012 of the Revised Code, to the 4878

extent such qualifying investment income is not otherwise part of 4879
modified business income. 4880

(4) "Modified Ohio taxable income" applies only to trusts, 4881
and means the sum of the amounts described in divisions (BB)(4)(a) 4882
to (c) of this section: 4883

(a) The fraction, calculated under section 5747.013, and 4884
applying section 5747.231 of the Revised Code, multiplied by the 4885
sum of the following amounts: 4886

(i) The trust's modified business income; 4887

(ii) The trust's qualifying investment income, as defined in 4888
section 5747.012 of the Revised Code, but only to the extent the 4889
qualifying investment income does not otherwise constitute 4890
modified business income and does not otherwise constitute a 4891
qualifying trust amount. 4892

(b) The qualifying trust amount multiplied by a fraction, the 4893
numerator of which is the sum of the book value of the qualifying 4894
investee's physical assets in this state on the last day of the 4895
qualifying investee's fiscal or calendar year ending immediately 4896
prior to the day on which the trust recognizes the qualifying 4897
trust amount, and the denominator of which is the sum of the book 4898
value of the qualifying investee's total physical assets 4899
everywhere on the last day of the qualifying investee's fiscal or 4900
calendar year ending immediately prior to the day on which the 4901
trust recognizes the qualifying trust amount. If, for a taxable 4902
year, the trust recognizes a qualifying trust amount with respect 4903
to more than one qualifying investee, the amount described in 4904
division (BB)(4)(b) of this section shall equal the sum of the 4905
products so computed for each such qualifying investee. 4906

(c)(i) With respect to a trust or portion of a trust that is 4907
a resident as ascertained in accordance with division (I)(3)(d) of 4908
this section, its modified nonbusiness income. 4909

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's

fiscal or calendar year ending immediately prior to the date on 4942
which the trust recognizes the gain or loss, then "qualifying 4943
investee" includes all persons in the qualifying controlled group 4944
on such last day. 4945

(ii) If the qualifying investee, or if the qualifying 4946
investee and any members of the qualifying controlled group of 4947
which the qualifying investee is a member on the last day of the 4948
qualifying investee's fiscal or calendar year ending immediately 4949
prior to the date on which the trust recognizes the gain or loss, 4950
separately or cumulatively own, directly or indirectly, on the 4951
last day of the qualifying investee's fiscal or calendar year 4952
ending immediately prior to the date on which the trust recognizes 4953
the qualifying trust amount, more than fifty per cent of the 4954
equity of a pass-through entity, then the qualifying investee and 4955
the other members are deemed to own the proportionate share of the 4956
pass-through entity's physical assets which the pass-through 4957
entity directly or indirectly owns on the last day of the 4958
pass-through entity's calendar or fiscal year ending within or 4959
with the last day of the qualifying investee's fiscal or calendar 4960
year ending immediately prior to the date on which the trust 4961
recognizes the qualifying trust amount. 4962

(iii) For the purposes of division (BB)(5)(a)(iii) of this 4963
section, "upper level pass-through entity" means a pass-through 4964
entity directly or indirectly owning any equity of another 4965
pass-through entity, and "lower level pass-through entity" means 4966
that other pass-through entity. 4967

An upper level pass-through entity, whether or not it is also 4968
a qualifying investee, is deemed to own, on the last day of the 4969
upper level pass-through entity's calendar or fiscal year, the 4970
proportionate share of the lower level pass-through entity's 4971
physical assets that the lower level pass-through entity directly 4972
or indirectly owns on the last day of the lower level pass-through 4973

entity's calendar or fiscal year ending within or with the last 4974
day of the upper level pass-through entity's fiscal or calendar 4975
year. If the upper level pass-through entity directly and 4976
indirectly owns less than fifty per cent of the equity of the 4977
lower level pass-through entity on each day of the upper level 4978
pass-through entity's calendar or fiscal year in which or with 4979
which ends the calendar or fiscal year of the lower level 4980
pass-through entity and if, based upon clear and convincing 4981
evidence, complete information about the location and cost of the 4982
physical assets of the lower pass-through entity is not available 4983
to the upper level pass-through entity, then solely for purposes 4984
of ascertaining if a gain or loss constitutes a qualifying trust 4985
amount, the upper level pass-through entity shall be deemed as 4986
owning no equity of the lower level pass-through entity for each 4987
day during the upper level pass-through entity's calendar or 4988
fiscal year in which or with which ends the lower level 4989
pass-through entity's calendar or fiscal year. Nothing in division 4990
(BB)(5)(a)(iii) of this section shall be construed to provide for 4991
any deduction or exclusion in computing any trust's Ohio taxable 4992
income. 4993

(b) With respect to a trust that is not a resident for the 4994
taxable year and with respect to a part of a trust that is not a 4995
resident for the taxable year, "qualifying investee" for that 4996
taxable year does not include a C corporation if both of the 4997
following apply: 4998

(i) During the taxable year the trust or part of the trust 4999
recognizes a gain or loss from the sale, exchange, or other 5000
disposition of equity or ownership interests in, or debt 5001
obligations of, the C corporation. 5002

(ii) Such gain or loss constitutes nonbusiness income. 5003

(6) "Available" means information is such that a person is 5004
able to learn of the information by the due date plus extensions, 5005

if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

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

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an 5036
election by a pre-income tax trust to subject to the tax imposed 5037
by section 5751.02 of the Revised Code the pre-income tax trust 5038
and all pass-through entities of which the trust owns or controls, 5039
directly, indirectly, or constructively through related interests, 5040
five per cent or more of the ownership or equity interests. The 5041
trustee shall notify the tax commissioner in writing of the 5042
election on or before April 15, 2006. The election, if timely 5043
made, shall be effective on and after January 1, 2006, and shall 5044
apply for all tax periods and tax years until revoked by the 5045
trustee of the trust. 5046

(4) A "pre-income tax trust" is a trust that satisfies all of 5047
the following requirements: 5048

(a) The document or instrument creating the trust was 5049
executed by the grantor before January 1, 1972; 5050

(b) The trust became irrevocable upon the creation of the 5051
trust; and 5052

(c) The grantor was domiciled in this state at the time the 5053
trust was created. 5054

Sec. 5747.65. There is hereby allowed a refundable credit 5055
against the tax imposed under section 5747.02 of the Revised Code. 5056
The amount of the credit shall equal the taxpayer's proportionate 5057
share of the lesser of either the tax due or the tax paid for the 5058
tax imposed by section 5726.02 of the Revised Code by a 5059
pass-through entity for the pass-through entity's taxable year 5060
ending in the taxpayer's taxable year. 5061

The taxpayer shall claim the credit for the taxpayer's 5062
taxable year that includes the last day of the pass-through 5063
entity's taxable year. For purposes of making tax payments under 5064
this chapter, taxes equal to the amount of the credit shall be 5065

considered to be paid by the taxpayer on the day the pass-through 5066
entity pays to the treasurer of state the amount due for the tax 5067
imposed by section 5726.02 of the Revised Code. 5068

In claiming the credit and determining the taxpayer's 5069
proportionate share of the tax due and the tax paid by a 5070
pass-through entity, the taxpayer shall follow the concepts set 5071
forth in subchapters J and K of the Internal Revenue Code. 5072

The credit shall be claimed in the order required under 5073
section 5747.98 of the Revised Code. If the amount of the credit 5074
exceeds the amount of tax otherwise due under section 5747.02 of 5075
the Revised Code after deduction of all other credits in that 5076
order, the taxpayer is entitled to a refund of the excess. 5077

Sec. 5747.98. (A) To provide a uniform procedure for 5078
calculating the amount of tax due under section 5747.02 of the 5079
Revised Code, a taxpayer shall claim any credits to which the 5080
taxpayer is entitled in the following order: 5081

(1) The retirement income credit under division (B) of 5082
section 5747.055 of the Revised Code; 5083

(2) The senior citizen credit under division (C) of section 5084
5747.05 of the Revised Code; 5085

(3) The lump sum distribution credit under division (D) of 5086
section 5747.05 of the Revised Code; 5087

(4) The dependent care credit under section 5747.054 of the 5088
Revised Code; 5089

(5) The lump sum retirement income credit under division (C) 5090
of section 5747.055 of the Revised Code; 5091

(6) The lump sum retirement income credit under division (D) 5092
of section 5747.055 of the Revised Code; 5093

(7) The lump sum retirement income credit under division (E) 5094

of section 5747.055 of the Revised Code;	5095
(8) The low-income credit under section 5747.056 of the Revised Code;	5096 5097
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	5098 5099
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	5100 5101
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	5102 5103
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	5104 5105
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	5106 5107
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	5108 5109
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	5110 5111
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	5112 5113
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	5114 5115
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	5116 5117
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	5118 5119
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	5120 5121
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under	5122 5123

section 5747.31 of the Revised Code;	5124
(22) The job training credit under section 5747.39 of the Revised Code;	5125 5126
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	5127 5128
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	5129 5130
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	5131 5132
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	5133 5134
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	5135 5136
(28) The small business investment credit under section 5747.81 of the Revised Code;	5137 5138
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	5139 5140
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	5141 5142
(31) The research and development credit under section 5747.331 of the Revised Code;	5143 5144
(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	5145 5146
(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	5147 5148
(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	5149 5150
(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	5151 5152

(36) The refundable credits for taxes paid by a qualifying
pass-through entity granted under division (J) of section 5747.08
of the Revised Code;

(37) The refundable credit for tax withheld under division
(B)(1) of section 5747.062 of the Revised Code;

(38) The refundable credit for tax withheld under section
5747.063 of the Revised Code;

(39) The refundable credit under section 5747.80 of the
Revised Code for losses on loans made to the Ohio venture capital
program under sections 150.01 to 150.10 of the Revised Code;

(40) The refundable motion picture production credit under
section 5747.66 of the Revised Code;

(41) The refundable credit for financial institution taxes
paid by a pass-through entity granted under section 5747.65 of the
Revised Code.

(B) For any credit, except the refundable credits enumerated
in this section and the credit granted under division (I) of
section 5747.08 of the Revised Code, the amount of the credit for
a taxable year shall not exceed the tax due after allowing for any
other credit that precedes it in the order required under this
section. Any excess amount of a particular credit may be carried
forward if authorized under the section creating that credit.
Nothing in this chapter shall be construed to allow a taxpayer to
claim, directly or indirectly, a credit more than once for a
taxable year.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals,
combinations of individuals of any form, receivers, assignees,
trustees in bankruptcy, firms, companies, joint-stock companies,
business trusts, estates, partnerships, limited liability

partnerships, limited liability companies, associations, joint 5183
ventures, clubs, societies, for-profit corporations, S 5184
corporations, qualified subchapter S subsidiaries, qualified 5185
subchapter S trusts, trusts, entities that are disregarded for 5186
federal income tax purposes, and any other entities. 5187

(B) "Consolidated elected taxpayer" means a group of two or 5188
more persons treated as a single taxpayer for purposes of this 5189
chapter as the result of an election made under section 5751.011 5190
of the Revised Code. 5191

(C) "Combined taxpayer" means a group of two or more persons 5192
treated as a single taxpayer for purposes of this chapter under 5193
section 5751.012 of the Revised Code. 5194

(D) "Taxpayer" means any person, or any group of persons in 5195
the case of a consolidated elected taxpayer or combined taxpayer 5196
treated as one taxpayer, required to register or pay tax under 5197
this chapter. "Taxpayer" does not include excluded persons. 5198

(E) "Excluded person" means any of the following: 5199

(1) Any person with not more than one hundred fifty thousand 5200
dollars of taxable gross receipts during the calendar year. 5201
Division (E)(1) of this section does not apply to a person that is 5202
a member of a consolidated elected taxpayer; 5203

(2) A public utility that paid the excise tax imposed by 5204
section 5727.24 or 5727.30 of the Revised Code based on one or 5205
more measurement periods that include the entire tax period under 5206
this chapter, except that a public utility that is a combined 5207
company is a taxpayer with regard to the following gross receipts: 5208

(a) Taxable gross receipts directly attributed to a public 5209
utility activity, but not directly attributed to an activity that 5210
is subject to the excise tax imposed by section 5727.24 or 5727.30 5211
of the Revised Code; 5212

(b) Taxable gross receipts that cannot be directly attributed 5213
to any activity, multiplied by a fraction whose numerator is the 5214
taxable gross receipts described in division (E)(2)(a) of this 5215
section and whose denominator is the total taxable gross receipts 5216
that can be directly attributed to any activity; 5217

(c) Except for any differences resulting from the use of an 5218
accrual basis method of accounting for purposes of determining 5219
gross receipts under this chapter and the use of the cash basis 5220
method of accounting for purposes of determining gross receipts 5221
under section 5727.24 of the Revised Code, the gross receipts 5222
directly attributed to the activity of a natural gas company shall 5223
be determined in a manner consistent with division (D) of section 5224
5727.03 of the Revised Code. 5225

As used in division (E)(2) of this section, "combined 5226
company" and "public utility" have the same meanings as in section 5227
5727.01 of the Revised Code. 5228

(3) A financial institution, as defined in section ~~5725.01~~ 5229
5726.01 of the Revised Code, that paid the ~~corporation franchise~~ 5230
~~tax charged by division (D) of~~ imposed by section 5733.06 5726.02 5231
of the Revised Code based on one or more taxable years that 5232
include the entire tax period under this chapter; 5233

(4) ~~A dealer in intangibles, as defined in section 5725.01 of~~ 5234
~~the Revised Code, that paid the dealer in intangibles tax levied~~ 5235
~~by division (D) of section 5707.03 of the Revised Code based on~~ 5236
~~one or more measurement periods that include the entire tax period~~ 5237
~~under this chapter;~~ 5238

~~(5) A financial holding company as defined in the "Bank~~ 5239
~~Holding Company Act," 12 U.S.C. 1841(p);~~ 5240

~~(6) A bank holding company as defined in the "Bank Holding~~ 5241
~~Company Act," 12 U.S.C. 1841(a);~~ 5242

~~(7) A savings and loan holding company as defined in the~~ 5243

~~"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 5244
only in activities or investments permissible for a financial 5245
holding company under 12 U.S.C. 1843(k); 5246~~

~~(8) A person directly or indirectly owned by one or more 5247
financial institutions, financial holding companies, bank holding 5248
companies, or savings and loan holding companies described in 5249
division (E)(3), (5), (6), or (7) of this section that is engaged 5250
in activities permissible for a financial holding company under 12 5251
U.S.C. 1843(k), except that any such person held pursuant to 5252
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 5253
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 5254
directly or indirectly owned by one or more insurance companies 5255
described in division (E)(9) of this section that is authorized to 5256
do the business of insurance in this state. A person directly or 5257
indirectly owned by one or more financial institutions, as defined 5258
in section 5726.01 of the Revised Code, that paid the tax imposed 5259
by section 5726.02 of the Revised Code based on one or more 5260
taxable years that include the entire tax period under this 5261
chapter. 5262~~

For the purposes of division (E)~~(8)~~(4) of this section, a 5263
person owns another person under the following circumstances: 5264

(a) In the case of corporations issuing capital stock, one 5265
corporation owns another corporation if it owns fifty per cent or 5266
more of the other corporation's capital stock with current voting 5267
rights; 5268

(b) In the case of a limited liability company, one person 5269
owns the company if that person's membership interest, as defined 5270
in section 1705.01 of the Revised Code, is fifty per cent or more 5271
of the combined membership interests of all persons owning such 5272
interests in the company; 5273

(c) In the case of a partnership, trust, or other 5274

unincorporated business organization other than a limited 5275
liability company, one person owns the organization if, under the 5276
articles of organization or other instrument governing the affairs 5277
of the organization, that person has a beneficial interest in the 5278
organization's profits, surpluses, losses, or distributions of 5279
fifty per cent or more of the combined beneficial interests of all 5280
persons having such an interest in the organization; 5281

~~(d) In the case of multiple ownership, the ownership 5282
interests of more than one person may be aggregated to meet the 5283
fifty per cent ownership tests in this division only when each 5284
such owner is described in division (E)(3), (5), (6), or (7) of 5285
this section and is engaged in activities permissible for a 5286
financial holding company under 12 U.S.C. 1843(k) or is a person 5287
directly or indirectly owned by one or more insurance companies 5288
described in division (E)(9) of this section that is authorized to 5289
do the business of insurance in this state. 5290~~

~~(9)(5) A domestic insurance company or foreign insurance 5291
company, as defined in section 5725.01 of the Revised Code, that 5292
paid the insurance company premiums tax imposed by section 5725.18 5293
or Chapter 5729. of the Revised Code based on one or more 5294
measurement periods that include the entire tax period under this 5295
chapter; 5296~~

~~(10) A person that solely facilitates or services one or more 5297
securitizations or similar transactions for any person described 5298
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 5299
For purposes of this division, "securitization" means transferring 5300
one or more assets to one or more persons and then issuing 5301
securities backed by the right to receive payment from the asset 5302
or assets so transferred. 5303~~

~~(11)(6) Except as otherwise provided in this division, a 5304
pre-income tax trust as defined in division (FF)(4) of section 5305
5747.01 of the Revised Code and any pass-through entity of which 5306~~

such pre-income tax trust owns or controls, directly, indirectly, 5307
or constructively through related interests, more than five per 5308
cent of the ownership or equity interests. If the pre-income tax 5309
trust has made a qualifying pre-income tax trust election under 5310
division (FF)(3) of section 5747.01 of the Revised Code, then the 5311
trust and the pass-through entities of which it owns or controls, 5312
directly, indirectly, or constructively through related interests, 5313
more than five per cent of the ownership or equity interests, 5314
shall not be excluded persons for purposes of the tax imposed 5315
under section 5751.02 of the Revised Code. 5316

~~(12)~~(7) Nonprofit organizations or the state and its 5317
agencies, instrumentalities, or political subdivisions. 5318

(F) Except as otherwise provided in divisions (F)(2), (3), 5319
and (4) of this section, "gross receipts" means the total amount 5320
realized by a person, without deduction for the cost of goods sold 5321
or other expenses incurred, that contributes to the production of 5322
gross income of the person, including the fair market value of any 5323
property and any services received, and any debt transferred or 5324
forgiven as consideration. 5325

(1) The following are examples of gross receipts: 5326

(a) Amounts realized from the sale, exchange, or other 5327
disposition of the taxpayer's property to or with another; 5328

(b) Amounts realized from the taxpayer's performance of 5329
services for another; 5330

(c) Amounts realized from another's use or possession of the 5331
taxpayer's property or capital; 5332

(d) Any combination of the foregoing amounts. 5333

(2) "Gross receipts" excludes the following amounts: 5334

(a) Interest income except interest on credit sales; 5335

(b) Dividends and distributions from corporations, and 5336

distributive or proportionate shares of receipts and income from a 5337
pass-through entity as defined under section 5733.04 of the 5338
Revised Code; 5339

(c) Receipts from the sale, exchange, or other disposition of 5340
an asset described in section 1221 or 1231 of the Internal Revenue 5341
Code, without regard to the length of time the person held the 5342
asset. Notwithstanding section 1221 of the Internal Revenue Code, 5343
receipts from hedging transactions also are excluded to the extent 5344
the transactions are entered into primarily to protect a financial 5345
position, such as managing the risk of exposure to (i) foreign 5346
currency fluctuations that affect assets, liabilities, profits, 5347
losses, equity, or investments in foreign operations; (ii) 5348
interest rate fluctuations; or (iii) commodity price fluctuations. 5349
As used in division (F)(2)(c) of this section, "hedging 5350
transaction" has the same meaning as used in section 1221 of the 5351
Internal Revenue Code and also includes transactions accorded 5352
hedge accounting treatment under statement of financial accounting 5353
standards number 133 of the financial accounting standards board. 5354
For the purposes of division (F)(2)(c) of this section, the actual 5355
transfer of title of real or tangible personal property to another 5356
entity is not a hedging transaction. 5357

(d) Proceeds received attributable to the repayment, 5358
maturity, or redemption of the principal of a loan, bond, mutual 5359
fund, certificate of deposit, or marketable instrument; 5360

(e) The principal amount received under a repurchase 5361
agreement or on account of any transaction properly characterized 5362
as a loan to the person; 5363

(f) Contributions received by a trust, plan, or other 5364
arrangement, any of which is described in section 501(a) of the 5365
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 5366
1, Subchapter (D) of the Internal Revenue Code applies; 5367

(g) Compensation, whether current or deferred, and whether in	5368
cash or in kind, received or to be received by an employee, former	5369
employee, or the employee's legal successor for services rendered	5370
to or for an employer, including reimbursements received by or for	5371
an individual for medical or education expenses, health insurance	5372
premiums, or employee expenses, or on account of a dependent care	5373
spending account, legal services plan, any cafeteria plan	5374
described in section 125 of the Internal Revenue Code, or any	5375
similar employee reimbursement;	5376
(h) Proceeds received from the issuance of the taxpayer's own	5377
stock, options, warrants, puts, or calls, or from the sale of the	5378
taxpayer's treasury stock;	5379
(i) Proceeds received on the account of payments from	5380
insurance policies, except those proceeds received for the loss of	5381
business revenue;	5382
(j) Gifts or charitable contributions received; membership	5383
dues received by trade, professional, homeowners', or condominium	5384
associations; and payments received for educational courses,	5385
meetings, meals, or similar payments to a trade, professional, or	5386
other similar association; and fundraising receipts received by	5387
any person when any excess receipts are donated or used	5388
exclusively for charitable purposes;	5389
(k) Damages received as the result of litigation in excess of	5390
amounts that, if received without litigation, would be gross	5391
receipts;	5392
(l) Property, money, and other amounts received or acquired	5393
by an agent on behalf of another in excess of the agent's	5394
commission, fee, or other remuneration;	5395
(m) Tax refunds, other tax benefit recoveries, and	5396
reimbursements for the tax imposed under this chapter made by	5397
entities that are part of the same combined taxpayer or	5398

consolidated elected taxpayer group, and reimbursements made by 5399
entities that are not members of a combined taxpayer or 5400
consolidated elected taxpayer group that are required to be made 5401
for economic parity among multiple owners of an entity whose tax 5402
obligation under this chapter is required to be reported and paid 5403
entirely by one owner, pursuant to the requirements of sections 5404
5751.011 and 5751.012 of the Revised Code; 5405

(n) Pension reversions; 5406

(o) Contributions to capital; 5407

(p) Sales or use taxes collected as a vendor or an 5408
out-of-state seller on behalf of the taxing jurisdiction from a 5409
consumer or other taxes the taxpayer is required by law to collect 5410
directly from a purchaser and remit to a local, state, or federal 5411
tax authority; 5412

(q) In the case of receipts from the sale of cigarettes or 5413
tobacco products by a wholesale dealer, retail dealer, 5414
distributor, manufacturer, or seller, all as defined in section 5415
5743.01 of the Revised Code, an amount equal to the federal and 5416
state excise taxes paid by any person on or for such cigarettes or 5417
tobacco products under subtitle E of the Internal Revenue Code or 5418
Chapter 5743. of the Revised Code; 5419

(r) In the case of receipts from the sale of motor fuel by a 5420
licensed motor fuel dealer, licensed retail dealer, or licensed 5421
permissive motor fuel dealer, all as defined in section 5735.01 of 5422
the Revised Code, an amount equal to federal and state excise 5423
taxes paid by any person on such motor fuel under section 4081 of 5424
the Internal Revenue Code or Chapter 5735. of the Revised Code; 5425

(s) In the case of receipts from the sale of beer or 5426
intoxicating liquor, as defined in section 4301.01 of the Revised 5427
Code, by a person holding a permit issued under Chapter 4301. or 5428
4303. of the Revised Code, an amount equal to federal and state 5429

excise taxes paid by any person on or for such beer or 5430
intoxicating liquor under subtitle E of the Internal Revenue Code 5431
or Chapter 4301. or 4305. of the Revised Code; 5432

(t) Receipts realized by a new motor vehicle dealer or used 5433
motor vehicle dealer, as defined in section 4517.01 of the Revised 5434
Code, from the sale or other transfer of a motor vehicle, as 5435
defined in that section, to another motor vehicle dealer for the 5436
purpose of resale by the transferee motor vehicle dealer, but only 5437
if the sale or other transfer was based upon the transferee's need 5438
to meet a specific customer's preference for a motor vehicle; 5439

(u) Receipts from a financial institution described in 5440
division (E)(3) of this section for services provided to the 5441
financial institution in connection with the issuance, processing, 5442
servicing, and management of loans or credit accounts, if such 5443
financial institution and the recipient of such receipts have at 5444
least fifty per cent of their ownership interests owned or 5445
controlled, directly or constructively through related interests, 5446
by common owners; 5447

(v) Receipts realized from administering anti-neoplastic 5448
drugs and other cancer chemotherapy, biologicals, therapeutic 5449
agents, and supportive drugs in a physician's office to patients 5450
with cancer; 5451

(w) Funds received or used by a mortgage broker that is not a 5452
dealer in intangibles, other than fees or other consideration, 5453
pursuant to a table-funding mortgage loan or warehouse-lending 5454
mortgage loan. Terms used in division (F)(2)(w) of this section 5455
have the same meanings as in section 1322.01 of the Revised Code, 5456
except "mortgage broker" means a person assisting a buyer in 5457
obtaining a mortgage loan for a fee or other consideration paid by 5458
the buyer or a lender, or a person engaged in table-funding or 5459
warehouse-lending mortgage loans that are first lien mortgage 5460
loans. 5461

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

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

(z) Qualifying distribution center receipts.

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

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

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

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution

center. 5493

(IV) "Qualifying year" means the calendar year to which the 5494
qualifying certificate applies. 5495

(V) "Qualifying period" means the period of the first day of 5496
July of the second year preceding the qualifying year through the 5497
thirtieth day of June of the year preceding the qualifying year. 5498

(VI) "Qualifying certificate" means the certificate issued by 5499
the tax commissioner after the operator of a distribution center 5500
files an annual application with the commissioner. The application 5501
and annual fee shall be filed and paid for each qualified 5502
distribution center on or before the first day of September before 5503
the qualifying year or within forty-five days after the 5504
distribution center opens, whichever is later. 5505

The applicant must substantiate to the commissioner's 5506
satisfaction that, for the qualifying period, all persons 5507
operating the distribution center have more than fifty per cent of 5508
the cost of the qualified property shipped to a location such that 5509
it would be situated outside this state under the provisions of 5510
division (E) of section 5751.033 of the Revised Code. The 5511
applicant must also substantiate that the distribution center 5512
cumulatively had costs from its suppliers equal to or exceeding 5513
five hundred million dollars during the qualifying period. (For 5514
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 5515
excludes any person that is part of the consolidated elected 5516
taxpayer group, if applicable, of the operator of the qualified 5517
distribution center.) The commissioner may require the applicant 5518
to have an independent certified public accountant certify that 5519
the calculation of the minimum thresholds required for a qualified 5520
distribution center by the operator of a distribution center has 5521
been made in accordance with generally accepted accounting 5522
principles. The commissioner shall issue or deny the issuance of a 5523
certificate within sixty days after the receipt of the 5524

application. A denial is subject to appeal under section 5717.02 5525
of the Revised Code. If the operator files a timely appeal under 5526
section 5717.02 of the Revised Code, the operator shall be granted 5527
a qualifying certificate, provided that the operator is liable for 5528
any tax, interest, or penalty upon amounts claimed as qualifying 5529
distribution center receipts, other than those receipts exempt 5530
under division (C)(1) of section 5751.011 of the Revised Code, 5531
that would have otherwise not been owed by its suppliers if the 5532
qualifying certificate was valid. 5533

(VII) "Ohio delivery percentage" means the proportion of the 5534
total property delivered to a destination inside Ohio from the 5535
qualified distribution center during the qualifying period 5536
compared with total deliveries from such distribution center 5537
everywhere during the qualifying period. 5538

(ii) If the distribution center is new and was not open for 5539
the entire qualifying period, the operator of the distribution 5540
center may request that the commissioner grant a qualifying 5541
certificate. If the certificate is granted and it is later 5542
determined that more than fifty per cent of the qualified property 5543
during that year was not shipped to a location such that it would 5544
be situated outside of this state under the provisions of division 5545
(E) of section 5751.033 of the Revised Code or if it is later 5546
determined that the person that operates the distribution center 5547
had average monthly costs from its suppliers of less than forty 5548
million dollars during that year, then the operator of the 5549
distribution center shall be liable for any tax, interest, or 5550
penalty upon amounts claimed as qualifying distribution center 5551
receipts, other than those receipts exempt under division (C)(1) 5552
of section 5751.011 of the Revised Code, that would have not 5553
otherwise been owed by its suppliers during the qualifying year if 5554
the qualifying certificate was valid. (For purposes of division 5555
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 5556

is part of the consolidated elected taxpayer group, if applicable, 5557
of the operator of the qualified distribution center.) 5558

(iii) When filing an application for a qualifying certificate 5559
under division (F)(2)(z)(i)(VI) of this section, the operator of a 5560
qualified distribution center also shall provide documentation, as 5561
the commissioner requires, for the commissioner to ascertain the 5562
Ohio delivery percentage. The commissioner, upon issuing the 5563
qualifying certificate, also shall certify the Ohio delivery 5564
percentage. The operator of the qualified distribution center may 5565
appeal the commissioner's certification of the Ohio delivery 5566
percentage in the same manner as an appeal is taken from the 5567
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 5568
of this section. 5569

Within thirty days after all appeals have been exhausted, the 5570
operator of the qualified distribution center shall notify the 5571
affected suppliers of qualified property that such suppliers are 5572
required to file, within sixty days after receiving notice from 5573
the operator of the qualified distribution center, amended reports 5574
for the impacted calendar quarter or quarters or calendar year, 5575
whichever the case may be. Any additional tax liability or tax 5576
overpayment shall be subject to interest but shall not be subject 5577
to the imposition of any penalty so long as the amended returns 5578
are timely filed. The supplier of tangible personal property 5579
delivered to the qualified distribution center shall include in 5580
its report of taxable gross receipts the receipts from the total 5581
sales of property delivered to the qualified distribution center 5582
for the calendar quarter or calendar year, whichever the case may 5583
be, multiplied by the Ohio delivery percentage for the qualifying 5584
year. Nothing in division (F)(2)(z)(iii) of this section shall be 5585
construed as imposing liability on the operator of a qualified 5586
distribution center for the tax imposed by this chapter arising 5587
from any change to the Ohio delivery percentage. 5588

(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 distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the commercial activity tax administrative fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed

as such if the taxpayer kept its accounts on the accrual basis. 5652
"Bad debts" does not include repossessed property, uncollectible 5653
amounts on property that remains in the possession of the taxpayer 5654
until the full purchase price is paid, or expenses in attempting 5655
to collect any account receivable or for any portion of the debt 5656
recovered; 5657

(ee) Any amount realized from the sale of an account 5658
receivable to the extent the receipts from the underlying 5659
transaction giving rise to the account receivable were included in 5660
the gross receipts of the taxpayer; 5661

(ff) Any receipts directly attributed to providing public 5662
services pursuant to sections 126.60 to 126.605 of the Revised 5663
Code, or any receipts directly attributed to a transfer agreement 5664
or to the enterprise transferred under that agreement under 5665
section 4313.02 of the Revised Code. 5666

(gg) Any receipts for which the tax imposed by this chapter 5667
is prohibited by the Constitution or laws of the United States or 5668
the Constitution of Ohio. 5669

(hh)(i) As used in this division: 5670

(I) "Qualified uranium receipts" means receipts from the 5671
sale, exchange, lease, loan, production, processing, or other 5672
disposition of uranium within a uranium enrichment zone certified 5673
by the tax commissioner under division (F)(2)(hh)(ii) of this 5674
section. "Qualified uranium receipts" does not include any 5675
receipts with a situs in this state outside a uranium enrichment 5676
zone certified by the tax commissioner under division 5677
(F)(2)(hh)(ii) of this section. 5678

(II) "Uranium enrichment zone" means all real property that 5679
is part of a uranium enrichment facility licensed by the United 5680
States nuclear regulatory commission and that was or is owned or 5681
controlled by the United States department of energy or its 5682

successor. 5683

(ii) Any person that owns, leases, or operates real or 5684
tangible personal property constituting or located within a 5685
uranium enrichment zone may apply to the tax commissioner to have 5686
the uranium enrichment zone certified for the purpose of excluding 5687
qualified uranium receipts under division (F)(2)(hh) of this 5688
section. The application shall include such information that the 5689
tax commissioner prescribes. Within sixty days after receiving the 5690
application, the tax commissioner shall certify the zone for that 5691
purpose if the commissioner determines that the property qualifies 5692
as a uranium enrichment zone as defined in division (F)(2)(hh) of 5693
this section, or, if the tax commissioner determines that the 5694
property does not qualify, the commissioner shall deny the 5695
application or request additional information from the applicant. 5696
If the tax commissioner denies an application, the commissioner 5697
shall state the reasons for the denial. The applicant may appeal 5698
the denial of an application to the board of tax appeals pursuant 5699
to section 5717.02 of the Revised Code. If the applicant files a 5700
timely appeal, the tax commissioner shall conditionally certify 5701
the applicant's property. The conditional certification shall 5702
expire when all of the applicant's appeals are exhausted. Until 5703
final resolution of the appeal, the applicant shall retain the 5704
applicant's records in accordance with section 5751.12 of the 5705
Revised Code, notwithstanding any time limit on the preservation 5706
of records under that section. 5707

(ii) Amounts realized by licensed motor fuel dealers or 5708
licensed permissive motor fuel dealers from the exchange of 5709
petroleum products, including motor fuel, between such dealers, 5710
provided that delivery of the petroleum products occurs at a 5711
refinery, terminal, pipeline, or marine vessel and that the 5712
exchanging dealers agree neither dealer shall require monetary 5713
compensation from the other for the value of the exchanged 5714

petroleum products other than such compensation for differences in 5715
product location or grade. Division (F)(2)(ii) of this section 5716
does not apply to amounts realized as a result of differences in 5717
location or grade of exchanged petroleum products or from 5718
handling, lubricity, dye, or other additive injections fees, 5719
pipeline security fees, or similar fees. As used in this division, 5720
"motor fuel," "licensed motor fuel dealer," "licensed permissive 5721
motor fuel dealer," and "terminal" have the same meanings as in 5722
section 5735.01 of the Revised Code. 5723

~~(hh)~~(jj) In the case of amounts collected by a licensed 5724
casino operator from casino gaming, amounts in excess of the 5725
casino operator's gross casino revenue. In this division, "casino 5726
operator" and "casino gaming" have the meanings defined in section 5727
3772.01 of the Revised Code, and "gross casino revenue" has the 5728
meaning defined in section 5753.01 of the Revised Code. 5729

(3) In the case of a taxpayer when acting as a real estate 5730
broker, "gross receipts" includes only the portion of any fee for 5731
the service of a real estate broker, or service of a real estate 5732
salesperson associated with that broker, that is retained by the 5733
broker and not paid to an associated real estate salesperson or 5734
another real estate broker. For the purposes of this division, 5735
"real estate broker" and "real estate salesperson" have the same 5736
meanings as in section 4735.01 of the Revised Code. 5737

(4) A taxpayer's method of accounting for gross receipts for 5738
a tax period shall be the same as the taxpayer's method of 5739
accounting for federal income tax purposes for the taxpayer's 5740
federal taxable year that includes the tax period. If a taxpayer's 5741
method of accounting for federal income tax purposes changes, its 5742
method of accounting for gross receipts under this chapter shall 5743
be changed accordingly. 5744

(G) "Taxable gross receipts" means gross receipts sitused to 5745
this state under section 5751.033 of the Revised Code. 5746

(H) A person has "substantial nexus with this state" if any 5747
of the following applies. The person: 5748

(1) Owns or uses a part or all of its capital in this state; 5749

(2) Holds a certificate of compliance with the laws of this 5750
state authorizing the person to do business in this state; 5751

(3) Has bright-line presence in this state; 5752

(4) Otherwise has nexus with this state to an extent that the 5753
person can be required to remit the tax imposed under this chapter 5754
under the Constitution of the United States. 5755

(I) A person has "bright-line presence" in this state for a 5756
reporting period and for the remaining portion of the calendar 5757
year if any of the following applies. The person: 5758

(1) Has at any time during the calendar year property in this 5759
state with an aggregate value of at least fifty thousand dollars. 5760
For the purpose of division (I)(1) of this section, owned property 5761
is valued at original cost and rented property is valued at eight 5762
times the net annual rental charge. 5763

(2) Has during the calendar year payroll in this state of at 5764
least fifty thousand dollars. Payroll in this state includes all 5765
of the following: 5766

(a) Any amount subject to withholding by the person under 5767
section 5747.06 of the Revised Code; 5768

(b) Any other amount the person pays as compensation to an 5769
individual under the supervision or control of the person for work 5770
done in this state; and 5771

(c) Any amount the person pays for services performed in this 5772
state on its behalf by another. 5773

(3) Has during the calendar year taxable gross receipts of at 5774
least five hundred thousand dollars. 5775

(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.	5776 5777 5778
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	5779 5780
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	5781 5782
(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.	5783 5784 5785 5786 5787 5788 5789 5790
(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.	5791 5792 5793
(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.	5794 5795 5796
(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	5797 5798
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	5799 5800
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	5801 5802 5803
(1) A person receiving a fee to sell financial instruments;	5804
(2) A person retaining only a commission from a transaction	5805

with the other proceeds from the transaction being remitted to 5806
another person; 5807

(3) A person issuing licenses and permits under section 5808
1533.13 of the Revised Code; 5809

(4) A lottery sales agent holding a valid license issued 5810
under section 3770.05 of the Revised Code; 5811

(5) A person acting as an agent of the division of liquor 5812
control under section 4301.17 of the Revised Code. 5813

(Q) "Received" includes amounts accrued under the accrual 5814
method of accounting. 5815

(R) "Reporting person" means a person in a consolidated 5816
elected taxpayer or combined taxpayer group that is designated by 5817
that group to legally bind the group for all filings and tax 5818
liabilities and to receive all legal notices with respect to 5819
matters under this chapter, or, for the purposes of section 5820
5751.04 of the Revised Code, a separate taxpayer that is not a 5821
member of such a group. 5822

Sec. 5751.011. (A) A group of two or more persons may elect 5823
to be a consolidated elected taxpayer for the purposes of this 5824
chapter if the group satisfies all of the following requirements: 5825

(1) The group elects to include all persons, including 5826
persons enumerated in divisions (E)(2) to ~~(10)~~(5) of section 5827
5751.01 of the Revised Code, having at least eighty per cent, or 5828
having at least fifty per cent, of the value of their ownership 5829
interests owned or controlled, directly or constructively through 5830
related interests, by common owners during all or any portion of 5831
the tax period, together with the common owners. 5832

A group making its initial election on the basis of the 5833
eighty per cent ownership test may change its election so that its 5834
consolidated elected taxpayer group is formed on the basis of the 5835

fifty per cent ownership test if all of the following are 5836
satisfied: 5837

(a) When the initial election was made, the group did not 5838
have any persons satisfying the fifty per cent ownership test; 5839

(b) One or more of the persons in the initial group 5840
subsequently acquires ownership interests in a person such that 5841
the fifty per cent ownership test is satisfied, the eighty per 5842
cent ownership test is not satisfied, and the acquired person 5843
would be required to be included in a combined taxpayer group 5844
under section 5751.012 of the Revised Code; 5845

(c) The group requests the change in a written request to the 5846
tax commissioner on or before the due date for filing the first 5847
return due under section 5751.051 of the Revised Code after the 5848
date of the acquisition; 5849

(d) The group has not previously changed its election. 5850

At the election of the group, all entities that are not 5851
incorporated or formed under the laws of a state or of the United 5852
States and that meet the consolidated elected ownership test shall 5853
either be included in the group or all shall be excluded from the 5854
group. If, at the time of registration, the group does not include 5855
any such entities that meet the consolidated elected ownership 5856
test, the group shall elect to either include or exclude the newly 5857
acquired entities before the due date of the first return due 5858
after the date of the acquisition. 5859

Each group shall notify the tax commissioner of the foregoing 5860
elections before the due date of the return for the period in 5861
which the election becomes binding. If fifty per cent of the value 5862
of a person's ownership interests is owned or controlled by each 5863
of two consolidated elected taxpayer groups formed under the fifty 5864
per cent ownership or control test, that person is a member of 5865
each group for the purposes of this section, and each group shall 5866

include in the group's taxable gross receipts fifty per cent of 5867
that person's taxable gross receipts. Otherwise, all of that 5868
person's taxable gross receipts shall be included in the taxable 5869
gross receipts of the consolidated elected taxpayer group of which 5870
the person is a member. In no event shall the ownership or control 5871
of fifty per cent of the value of a person's ownership interests 5872
by two otherwise unrelated groups form the basis for consolidating 5873
the groups into a single consolidated elected taxpayer group or 5874
permit any exclusion under division (C) of this section of taxable 5875
gross receipts between members of the two groups. Division (A)(3) 5876
of this section applies with respect to the elections described in 5877
this division. 5878

(2) The group makes the election to be treated as a 5879
consolidated elected taxpayer in the manner prescribed under 5880
division (D) of this section. 5881

(3) Subject to review and audit by the tax commissioner, the 5882
group agrees that all of the following apply: 5883

(a) The group shall file reports as a single taxpayer for at 5884
least the next eight calendar quarters following the election so 5885
long as at least two or more of the members of the group meet the 5886
requirements of division (A)(1) of this section. 5887

(b) Before the expiration of the eighth such calendar 5888
quarter, the group shall notify the commissioner if it elects to 5889
cancel its designation as a consolidated elected taxpayer. If the 5890
group does not so notify the tax commissioner, the election 5891
remains in effect for another eight calendar quarters. 5892

(c) If, at any time during any of those eight calendar 5893
quarters following the election, a former member of the group no 5894
longer meets the requirements under division (A)(1) of this 5895
section, that member shall report and pay the tax imposed under 5896
this chapter separately, as a member of a combined taxpayer, or, 5897

if the former member satisfies such requirements with respect to 5898
another consolidated elected group, as a member of that 5899
consolidated elected group. 5900

(d) The group agrees to the application of division (B) of 5901
this section. 5902

(B) A group of persons making the election under this section 5903
shall report and pay tax on all of the group's taxable gross 5904
receipts even if substantial nexus with this state does not exist 5905
for one or more persons in the group. 5906

(C)(1)(a) Members of a consolidated elected taxpayer group 5907
shall exclude gross receipts among persons included in the 5908
consolidated elected taxpayer group. 5909

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 5910
section, nothing in this section shall have the effect of 5911
requiring a consolidated elected taxpayer group to include gross 5912
receipts received by a person enumerated in divisions (E)(2) to 5913
~~(10)~~(5) of section 5751.01 of the Revised Code if that person is a 5914
member of the group pursuant to the elections made by the group 5915
under division (A)(1) of this section. 5916

(c)(i) As used in division (C)(1)(c) of this section, "dealer 5917
transfer" means a transfer of property that satisfies both of the 5918
following: (I) the property is directly transferred by any means 5919
from one member of the group to another member of the group that 5920
is a dealer in intangibles but is not a qualifying dealer as 5921
defined in section 5707.031 of the Revised Code; and (II) the 5922
property is subsequently delivered by the dealer in intangibles to 5923
a person that is not a member of the group. 5924

(ii) In the event of a dealer transfer, a consolidated 5925
elected taxpayer group shall not exclude, under division (C) of 5926
this section, gross receipts from the transfer described in 5927
division (C)(1)(c)(i)(I) of this section. 5928

(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group.

(D) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the tax commissioner of the election in the manner prescribed by the commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The election shall be made and the fee paid before the beginning of the first calendar quarter to which the election applies. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to ~~(4)~~(5) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively

through related interests, by common owners during all or any 5960
portion of the tax period, together with the common owners, shall 5961
be members of a combined taxpayer if those persons are not members 5962
of a consolidated elected taxpayer pursuant to an election under 5963
section 5751.011 of the Revised Code. 5964

(B) A combined taxpayer shall register, file returns, and pay 5965
taxes under this chapter as a single taxpayer. 5966

(C) A combined taxpayer shall neither exclude taxable gross 5967
receipts between its members nor from others that are not members. 5968

(D) A combined taxpayer shall pay to the tax commissioner a 5969
registration fee equal to the lesser of two hundred dollars or 5970
twenty dollars for each person in the group. No additional fee 5971
shall be imposed for the addition of new members to the group once 5972
the group has remitted a fee in the amount of two hundred dollars. 5973
The fee shall be timely paid before the later of the beginning of 5974
the first calendar quarter or November 15, 2005. The fee shall be 5975
collected and used in the same manner as provided in section 5976
5751.04 of the Revised Code. 5977

Any person acquired or formed after the filing of the 5978
registration shall be included in the group if the person meets 5979
the requirements of division (A) of this section, and the group 5980
must notify the tax commissioner of any additions with the next 5981
quarterly tax return it files with the commissioner. 5982

Sec. 5751.54. (A) Any term used in this section has the same 5983
meaning as in section 122.85 of the Revised Code. 5984

(B) There is allowed a refundable credit against the tax 5985
imposed by section 5751.02 of the Revised Code for any person that 5986
is the certificate owner of a tax credit certificate issued under 5987
section 122.85 of the Revised Code. The credit shall be claimed 5988
for the tax period in which the certificate is issued by the 5989

director of development services. The credit amount equals the 5990
amount stated in the certificate. The credit shall be claimed in 5991
the order required under section 5751.98 of the Revised Code. If 5992
the credit amount exceeds the tax otherwise due under section 5993
5751.02 of the Revised Code after deducting all other credits in 5994
that order, the excess shall be refunded. 5995

(C) Nothing in this section allows a person to claim more 5996
than one credit per tax credit-eligible production. 5997

Sec. 5751.98. (A) To provide a uniform procedure for 5998
calculating the amount of tax due under this chapter, a taxpayer 5999
shall claim any credits to which it is entitled in the following 6000
order: 6001

(1) The nonrefundable jobs retention credit under division 6002
(B) of section 5751.50 of the Revised Code; 6003

(2) The nonrefundable credit for qualified research expenses 6004
under division (B) of section 5751.51 of the Revised Code; 6005

(3) The nonrefundable credit for a borrower's qualified 6006
research and development loan payments under division (B) of 6007
section 5751.52 of the Revised Code; 6008

(4) The nonrefundable credit for calendar years 2010 to 2029 6009
for unused net operating losses under division (B) of section 6010
5751.53 of the Revised Code; 6011

(5) The refundable motion picture production credit ~~for~~ 6012
~~calendar year 2030 for unused net operating losses~~ under division 6013
~~(C) of section 5751.53~~ 5751.54 of the Revised Code; 6014

(6) The refundable jobs creation credit or job retention 6015
credit under division (A) of section 5751.50 of the Revised Code; 6016

(7) The refundable credit for calendar year 2030 for unused 6017
net operating losses under division (C) of section 5751.53 of the 6018
Revised Code. 6019

(B) For any credit except the refundable credits enumerated 6020
in this section, the amount of the credit for a tax period shall 6021
not exceed the tax due after allowing for any other credit that 6022
precedes it in the order required under this section. Any excess 6023
amount of a particular credit may be carried forward if authorized 6024
under the section creating the credit. 6025

Section 2. That existing sections 122.17, 122.171, 122.85, 6026
145.114, 145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 6027
742.114, 742.116, 3307.152, 3307.154, 3309.157, 3309.159, 6028
5505.068, 5505.0610, 5703.052, 5703.053, 5703.70, 5707.03, 6029
5709.76, 5711.22, 5725.02, 5725.14, 5725.16, 5725.26, 5725.33, 6030
5733.01, 5733.02, 5733.021, 5733.06, 5747.01, 5747.98, 5751.01, 6031
5751.011, 5751.012, and 5751.98 of the Revised Code are hereby 6032
repealed. 6033

Section 3. The amendment by this act of division (E) of 6034
section 5751.01 and sections 5751.011 and 5751.012 of the Revised 6035
Code applies to tax periods beginning on or after January 1, 2014. 6036

Section 4. The General Assembly, applying the principle 6037
stated in division (B) of section 1.52 of the Revised Code that 6038
amendments are to be harmonized if reasonably capable of 6039
simultaneous operation, finds that the following sections, 6040
presented in this act as composites of the sections as amended by 6041
the acts indicated, are the resulting versions of the sections in 6042
effect prior to the effective date of the sections as presented in 6043
this act: 6044

Section 5747.01 of the Revised Code as amended by both Am. 6045
Sub. H.B. 153 and Am. H.B. 167 of the 129th General Assembly. 6046

Section 5751.01 of the Revised Code as amended by both Am. 6047
Sub. H.B. 153 and Sub. H.B. 277 of the 129th General Assembly. 6048