

As Introduced

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

H. B. No. 602

Representatives Lundy, Gerberry

**Cosponsors: Representatives Hagan, R., Ramos, Okey, Yuko, Murray,
Letson, Phillips, Milkovich, Fende, O'Brien, Antonio, Foley, Clyde, Fedor**

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A B I L L

To amend sections 718.01, 5739.02, 5747.01, and 1
5751.01 and to repeal sections 126.60, 126.601, 2
126.602, 126.603, 126.604, and 126.605 of the 3
Revised Code to eliminate the authority of the 4
Director of Budget and Management and the Director 5
of Transportation in regard to Ohio 6
Turnpike-related outsourcing contracts and to 7
require the Ohio Turnpike Commission to hold 8
public hearings on the issue of outsourcing the 9
Ohio Turnpike. 10

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

Section 1. That sections 718.01, 5739.02, 5747.01, and 11
5751.01 of the Revised Code be amended to read as follows: 12

Sec. 718.01. (A) As used in this chapter: 13

(1) "Adjusted federal taxable income" means a C corporation's 14
federal taxable income before net operating losses and special 15
deductions as determined under the Internal Revenue Code, adjusted 16
as follows: 17

(a) Deduct intangible income to the extent included in 18

federal taxable income. The deduction shall be allowed regardless 19
of whether the intangible income relates to assets used in a trade 20
or business or assets held for the production of income. 21

(b) Add an amount equal to five per cent of intangible income 22
deducted under division (A)(1)(a) of this section, but excluding 23
that portion of intangible income directly related to the sale, 24
exchange, or other disposition of property described in section 25
1221 of the Internal Revenue Code; 26

(c) Add any losses allowed as a deduction in the computation 27
of federal taxable income if the losses directly relate to the 28
sale, exchange, or other disposition of an asset described in 29
section 1221 or 1231 of the Internal Revenue Code; 30

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 31
section, deduct income and gain included in federal taxable income 32
to the extent the income and gain directly relate to the sale, 33
exchange, or other disposition of an asset described in section 34
1221 or 1231 of the Internal Revenue Code; 35

(ii) Division (A)(1)(d)(i) of this section does not apply to 36
the extent the income or gain is income or gain described in 37
section 1245 or 1250 of the Internal Revenue Code. 38

(e) Add taxes on or measured by net income allowed as a 39
deduction in the computation of federal taxable income; 40

(f) In the case of a real estate investment trust and 41
regulated investment company, add all amounts with respect to 42
dividends to, distributions to, or amounts set aside for or 43
credited to the benefit of investors and allowed as a deduction in 44
the computation of federal taxable income; 45

(g) Deduct, to the extent not otherwise deducted or excluded 46
in computing federal taxable income, any income ~~derived from~~ 47
~~providing public services under a contract through a project owned~~ 48
~~by the state, as described in section 126.604 of the Revised Code~~ 49

~~or~~ derived from a transfer agreement or from the enterprise 50
transferred under that agreement under section 4313.02 of the 51
Revised Code. 52

If the taxpayer is not a C corporation and is not an 53
individual, the taxpayer shall compute adjusted federal taxable 54
income as if the taxpayer were a C corporation, except guaranteed 55
payments and other similar amounts paid or accrued to a partner, 56
former partner, member, or former member shall not be allowed as a 57
deductible expense; amounts paid or accrued to a qualified 58
self-employed retirement plan with respect to an owner or 59
owner-employee of the taxpayer, amounts paid or accrued to or for 60
health insurance for an owner or owner-employee, and amounts paid 61
or accrued to or for life insurance for an owner or owner-employee 62
shall not be allowed as a deduction. 63

Nothing in division (A)(1) of this section shall be construed 64
as allowing the taxpayer to add or deduct any amount more than 65
once or shall be construed as allowing any taxpayer to deduct any 66
amount paid to or accrued for purposes of federal self-employment 67
tax. 68

Nothing in this chapter shall be construed as limiting or 69
removing the ability of any municipal corporation to administer, 70
audit, and enforce the provisions of its municipal income tax. 71

(2) "Internal Revenue Code" means the Internal Revenue Code 72
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 73

(3) "Schedule C" means internal revenue service schedule C 74
filed by a taxpayer pursuant to the Internal Revenue Code. 75

(4) "Form 2106" means internal revenue service form 2106 76
filed by a taxpayer pursuant to the Internal Revenue Code. 77

(5) "Intangible income" means income of any of the following 78
types: income yield, interest, capital gains, dividends, or other 79
income arising from the ownership, sale, exchange, or other 80

disposition of intangible property including, but not limited to, 81
investments, deposits, money, or credits as those terms are 82
defined in Chapter 5701. of the Revised Code, and patents, 83
copyrights, trademarks, tradenames, investments in real estate 84
investment trusts, investments in regulated investment companies, 85
and appreciation on deferred compensation. "Intangible income" 86
does not include prizes, awards, or other income associated with 87
any lottery winnings or other similar games of chance. 88

(6) "S corporation" means a corporation that has made an 89
election under subchapter S of Chapter 1 of Subtitle A of the 90
Internal Revenue Code for its taxable year. 91

(7) For taxable years beginning on or after January 1, 2004, 92
"net profit" for a taxpayer other than an individual means 93
adjusted federal taxable income and "net profit" for a taxpayer 94
who is an individual means the individual's profit required to be 95
reported on schedule C, schedule E, or schedule F, other than any 96
amount allowed as a deduction under division (E)(2) or (3) of this 97
section or amounts described in division (H) of this section. 98

(8) "Taxpayer" means a person subject to a tax on income 99
levied by a municipal corporation. Except as provided in division 100
(L) of this section, "taxpayer" does not include any person that 101
is a disregarded entity or a qualifying subchapter S subsidiary 102
for federal income tax purposes, but "taxpayer" includes any other 103
person who owns the disregarded entity or qualifying subchapter S 104
subsidiary. 105

(9) "Taxable year" means the corresponding tax reporting 106
period as prescribed for the taxpayer under the Internal Revenue 107
Code. 108

(10) "Tax administrator" means the individual charged with 109
direct responsibility for administration of a tax on income levied 110
by a municipal corporation and includes: 111

(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;	112 113 114 115
(b) A municipal corporation acting as the agent of another municipal corporation; and	116 117
(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.	118 119 120 121
(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.	122 123 124 125
(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.	126 127
(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.	128 129
(B) No municipal corporation shall tax income at other than a uniform rate.	130 131
(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least ninety days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief	132 133 134 135 136 137 138 139 140 141 142

description of the purpose of the proposed levy) be passed? 143

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	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

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In the event of an affirmative vote, the proceeds of the levy 148

may be used only for the specified purpose. 149

(D)(1) Except as otherwise provided in this section, no 150

municipal corporation shall exempt from a tax on income 151

compensation for personal services of individuals over eighteen 152

years of age or the net profit from a business or profession. 153

(2)(a) For taxable years beginning on or after January 1, 154

2004, no municipal corporation shall tax the net profit from a 155

business or profession using any base other than the taxpayer's 156

adjusted federal taxable income. 157

(b) Division (D)(2)(a) of this section does not apply to any 158

taxpayer required to file a return under section 5745.03 of the 159

Revised Code or to the net profit from a sole proprietorship. 160

(E)(1) The legislative authority of a municipal corporation 161

may, by ordinance or resolution, exempt from withholding and from 162

a tax on income the following: 163

(a) Compensation arising from the sale, exchange, or other 164

disposition of a stock option, the exercise of a stock option, or 165

the sale, exchange, or other disposition of stock purchased under 166

a stock option; or 167

(b) Compensation attributable to a nonqualified deferred 168

compensation plan or program described in section 3121(v)(2)(C) of 169

the Internal Revenue Code. 170

(2) The legislative authority of a municipal corporation may 171

adopt an ordinance or resolution that allows a taxpayer who is an 172

individual to deduct, in computing the taxpayer's municipal income 173
tax liability, an amount equal to the aggregate amount the 174
taxpayer paid in cash during the taxable year to a health savings 175
account of the taxpayer, to the extent the taxpayer is entitled to 176
deduct that amount on internal revenue service form 1040. 177

(3) The legislative authority of a municipal corporation may 178
adopt an ordinance or resolution that allows a taxpayer who has a 179
net profit from a business or profession that is operated as a 180
sole proprietorship to deduct from that net profit the amount that 181
the taxpayer paid during the taxable year for medical care 182
insurance premiums for the taxpayer, the taxpayer's spouse, and 183
dependents as defined in section 5747.01 of the Revised Code. The 184
deduction shall be allowed to the same extent the taxpayer is 185
entitled to deduct the premiums on internal revenue service form 186
1040. The deduction allowed under this division shall be net of 187
any related premium refunds, related premium reimbursements, or 188
related insurance premium dividends received by the taxpayer 189
during the taxable year. 190

(F) If an individual's taxable income includes income against 191
which the taxpayer has taken a deduction for federal income tax 192
purposes as reportable on the taxpayer's form 2106, and against 193
which a like deduction has not been allowed by the municipal 194
corporation, the municipal corporation shall deduct from the 195
taxpayer's taxable income an amount equal to the deduction shown 196
on such form allowable against such income, to the extent not 197
otherwise so allowed as a deduction by the municipal corporation. 198

(G)(1) In the case of a taxpayer who has a net profit from a 199
business or profession that is operated as a sole proprietorship, 200
no municipal corporation may tax or use as the base for 201
determining the amount of the net profit that shall be considered 202
as having a taxable situs in the municipal corporation, an amount 203
other than the net profit required to be reported by the taxpayer 204

on schedule C or F from such sole proprietorship for the taxable year. 205
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(2) In the case of a taxpayer who has a net profit from rental activity required to be reported on schedule E, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit from rental activities required to be reported by the taxpayer on schedule E for the taxable year. 207
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(H) A municipal corporation shall not tax any of the following: 214
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(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard; 216
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(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities; 219
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(3) Except as otherwise provided in division (I) of this section, intangible income; 224
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(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation. 226
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(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus 233
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or other motor vehicle for the authority or commission in or 236
through the municipal corporation, unless the bus or vehicle is 237
operated on a regularly scheduled route, the operator is subject 238
to such a tax by reason of residence or domicile in the municipal 239
corporation, or the headquarters of the authority or commission is 240
located within the municipal corporation; 241

(6) The income of a public utility, when that public utility 242
is subject to the tax levied under section 5727.24 or 5727.30 of 243
the Revised Code, except a municipal corporation may tax the 244
following, subject to Chapter 5745. of the Revised Code: 245

(a) Beginning January 1, 2002, the income of an electric 246
company or combined company; 247

(b) Beginning January 1, 2004, the income of a telephone 248
company. 249

As used in division (H)(6) of this section, "combined 250
company," "electric company," and "telephone company" have the 251
same meanings as in section 5727.01 of the Revised Code. 252

(7) On and after January 1, 2003, items excluded from federal 253
gross income pursuant to section 107 of the Internal Revenue Code; 254

(8) On and after January 1, 2001, compensation paid to a 255
nonresident individual to the extent prohibited under section 256
718.011 of the Revised Code; 257

(9)(a) Except as provided in division (H)(9)(b) and (c) of 258
this section, an S corporation shareholder's distributive share of 259
net profits of the S corporation, other than any part of the 260
distributive share of net profits that represents wages as defined 261
in section 3121(a) of the Internal Revenue Code or net earnings 262
from self-employment as defined in section 1402(a) of the Internal 263
Revenue Code. 264

(b) If, pursuant to division (H) of former section 718.01 of 265

the Revised Code as it existed before March 11, 2004, a majority 266
of the electors of a municipal corporation voted in favor of the 267
question at an election held on November 4, 2003, the municipal 268
corporation may continue after 2002 to tax an S corporation 269
shareholder's distributive share of net profits of an S 270
corporation. 271

(c) If, on December 6, 2002, a municipal corporation was 272
imposing, assessing, and collecting a tax on an S corporation 273
shareholder's distributive share of net profits of the S 274
corporation to the extent the distributive share would be 275
allocated or apportioned to this state under divisions (B)(1) and 276
(2) of section 5733.05 of the Revised Code if the S corporation 277
were a corporation subject to taxes imposed under Chapter 5733. of 278
the Revised Code, the municipal corporation may continue to impose 279
the tax on such distributive shares to the extent such shares 280
would be so allocated or apportioned to this state only until 281
December 31, 2004, unless a majority of the electors of the 282
municipal corporation voting on the question of continuing to tax 283
such shares after that date vote in favor of that question at an 284
election held November 2, 2004. If a majority of those electors 285
vote in favor of the question, the municipal corporation may 286
continue after December 31, 2004, to impose the tax on such 287
distributive shares only to the extent such shares would be so 288
allocated or apportioned to this state. 289

(d) For the purposes of division (D) of section 718.14 of the 290
Revised Code, a municipal corporation shall be deemed to have 291
elected to tax S corporation shareholders' distributive shares of 292
net profits of the S corporation in the hands of the shareholders 293
if a majority of the electors of a municipal corporation vote in 294
favor of a question at an election held under division (H)(9)(b) 295
or (c) of this section. The municipal corporation shall specify by 296
ordinance or rule that the tax applies to the distributive share 297

of a shareholder of an S corporation in the hands of the 298
shareholder of the S corporation. 299

(10) Employee compensation that is not "qualifying wages" as 300
defined in section 718.03 of the Revised Code; 301

(11) Beginning August 1, 2007, compensation paid to a person 302
employed within the boundaries of a United States air force base 303
under the jurisdiction of the United States air force that is used 304
for the housing of members of the United States air force and is a 305
center for air force operations, unless the person is subject to 306
taxation because of residence or domicile. If the compensation is 307
subject to taxation because of residence or domicile, municipal 308
income tax shall be payable only to the municipal corporation of 309
residence or domicile. 310

(I) Any municipal corporation that taxes any type of 311
intangible income on March 29, 1988, pursuant to Section 3 of 312
Amended Substitute Senate Bill No. 238 of the 116th general 313
assembly, may continue to tax that type of income after 1988 if a 314
majority of the electors of the municipal corporation voting on 315
the question of whether to permit the taxation of that type of 316
intangible income after 1988 vote in favor thereof at an election 317
held on November 8, 1988. 318

(J) Nothing in this section or section 718.02 of the Revised 319
Code shall authorize the levy of any tax on income that a 320
municipal corporation is not authorized to levy under existing 321
laws or shall require a municipal corporation to allow a deduction 322
from taxable income for losses incurred from a sole proprietorship 323
or partnership. 324

(K)(1) Nothing in this chapter prohibits a municipal 325
corporation from allowing, by resolution or ordinance, a net 326
operating loss carryforward. 327

(2) Nothing in this chapter requires a municipal corporation 328

to allow a net operating loss carryforward. 329

(L)(1) A single member limited liability company that is a 330
disregarded entity for federal tax purposes may elect to be a 331
separate taxpayer from its single member in all Ohio municipal 332
corporations in which it either filed as a separate taxpayer or 333
did not file for its taxable year ending in 2003, if all of the 334
following conditions are met: 335

(a) The limited liability company's single member is also a 336
limited liability company; 337

(b) The limited liability company and its single member were 338
formed and doing business in one or more Ohio municipal 339
corporations for at least five years before January 1, 2004; 340

(c) Not later than December 31, 2004, the limited liability 341
company and its single member each make an election to be treated 342
as a separate taxpayer under division (L) of this section; 343

(d) The limited liability company was not formed for the 344
purpose of evading or reducing Ohio municipal corporation income 345
tax liability of the limited liability company or its single 346
member; 347

(e) The Ohio municipal corporation that is the primary place 348
of business of the sole member of the limited liability company 349
consents to the election. 350

(2) For purposes of division (L)(1)(e) of this section, a 351
municipal corporation is the primary place of business of a 352
limited liability company if, for the limited liability company's 353
taxable year ending in 2003, its income tax liability is greater 354
in that municipal corporation than in any other municipal 355
corporation in Ohio, and that tax liability to that municipal 356
corporation for its taxable year ending in 2003 is at least four 357
hundred thousand dollars. 358

Sec. 5739.02. For the purpose of providing revenue with which 359
to meet the needs of the state, for the use of the general revenue 360
fund of the state, for the purpose of securing a thorough and 361
efficient system of common schools throughout the state, for the 362
purpose of affording revenues, in addition to those from general 363
property taxes, permitted under constitutional limitations, and 364
from other sources, for the support of local governmental 365
functions, and for the purpose of reimbursing the state for the 366
expense of administering this chapter, an excise tax is hereby 367
levied on each retail sale made in this state. 368

(A)(1) The tax shall be collected as provided in section 369
5739.025 of the Revised Code. The rate of the tax shall be five 370
and one-half per cent. The tax applies and is collectible when the 371
sale is made, regardless of the time when the price is paid or 372
delivered. 373

(2) In the case of the lease or rental, with a fixed term of 374
more than thirty days or an indefinite term with a minimum period 375
of more than thirty days, of any motor vehicles designed by the 376
manufacturer to carry a load of not more than one ton, watercraft, 377
outboard motor, or aircraft, or of any tangible personal property, 378
other than motor vehicles designed by the manufacturer to carry a 379
load of more than one ton, to be used by the lessee or renter 380
primarily for business purposes, the tax shall be collected by the 381
vendor at the time the lease or rental is consummated and shall be 382
calculated by the vendor on the basis of the total amount to be 383
paid by the lessee or renter under the lease agreement. If the 384
total amount of the consideration for the lease or rental includes 385
amounts that are not calculated at the time the lease or rental is 386
executed, the tax shall be calculated and collected by the vendor 387
at the time such amounts are billed to the lessee or renter. In 388
the case of an open-end lease or rental, the tax shall be 389
calculated by the vendor on the basis of the total amount to be 390

paid during the initial fixed term of the lease or rental, and for 391
each subsequent renewal period as it comes due. As used in this 392
division, "motor vehicle" has the same meaning as in section 393
4501.01 of the Revised Code, and "watercraft" includes an outdrive 394
unit attached to the watercraft. 395

A lease with a renewal clause and a termination penalty or 396
similar provision that applies if the renewal clause is not 397
exercised is presumed to be a sham transaction. In such a case, 398
the tax shall be calculated and paid on the basis of the entire 399
length of the lease period, including any renewal periods, until 400
the termination penalty or similar provision no longer applies. 401
The taxpayer shall bear the burden, by a preponderance of the 402
evidence, that the transaction or series of transactions is not a 403
sham transaction. 404

(3) Except as provided in division (A)(2) of this section, in 405
the case of a sale, the price of which consists in whole or in 406
part of the lease or rental of tangible personal property, the tax 407
shall be measured by the installments of that lease or rental. 408

(4) In the case of a sale of a physical fitness facility 409
service or recreation and sports club service, the price of which 410
consists in whole or in part of a membership for the receipt of 411
the benefit of the service, the tax applicable to the sale shall 412
be measured by the installments thereof. 413

(B) The tax does not apply to the following: 414

(1) Sales to the state or any of its political subdivisions, 415
or to any other state or its political subdivisions if the laws of 416
that state exempt from taxation sales made to this state and its 417
political subdivisions; 418

(2) Sales of food for human consumption off the premises 419
where sold; 420

(3) Sales of food sold to students only in a cafeteria, 421

dormitory, fraternity, or sorority maintained in a private, 422
public, or parochial school, college, or university; 423

(4) Sales of newspapers and of magazine subscriptions and 424
sales or transfers of magazines distributed as controlled 425
circulation publications; 426

(5) The furnishing, preparing, or serving of meals without 427
charge by an employer to an employee provided the employer records 428
the meals as part compensation for services performed or work 429
done; 430

(6) Sales of motor fuel upon receipt, use, distribution, or 431
sale of which in this state a tax is imposed by the law of this 432
state, but this exemption shall not apply to the sale of motor 433
fuel on which a refund of the tax is allowable under division (A) 434
of section 5735.14 of the Revised Code; and the tax commissioner 435
may deduct the amount of tax levied by this section applicable to 436
the price of motor fuel when granting a refund of motor fuel tax 437
pursuant to division (A) of section 5735.14 of the Revised Code 438
and shall cause the amount deducted to be paid into the general 439
revenue fund of this state; 440

(7) Sales of natural gas by a natural gas company, of water 441
by a water-works company, or of steam by a heating company, if in 442
each case the thing sold is delivered to consumers through pipes 443
or conduits, and all sales of communications services by a 444
telegraph company, all terms as defined in section 5727.01 of the 445
Revised Code, and sales of electricity delivered through wires; 446

(8) Casual sales by a person, or auctioneer employed directly 447
by the person to conduct such sales, except as to such sales of 448
motor vehicles, watercraft or outboard motors required to be 449
titled under section 1548.06 of the Revised Code, watercraft 450
documented with the United States coast guard, snowmobiles, and 451
all-purpose vehicles as defined in section 4519.01 of the Revised 452

Code;	453
(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.	454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469
(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.	470 471 472 473 474 475 476
(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.	477 478 479
(10) Sales not within the taxing power of this state under the Constitution of the United States;	480 481
(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the	482 483

transportation of persons or property, unless the transportation 484
is by a private investigation and security service; 485

(12) Sales of tangible personal property or services to 486
churches, to organizations exempt from taxation under section 487
501(c)(3) of the Internal Revenue Code of 1986, and to any other 488
nonprofit organizations operated exclusively for charitable 489
purposes in this state, no part of the net income of which inures 490
to the benefit of any private shareholder or individual, and no 491
substantial part of the activities of which consists of carrying 492
on propaganda or otherwise attempting to influence legislation; 493
sales to offices administering one or more homes for the aged or 494
one or more hospital facilities exempt under section 140.08 of the 495
Revised Code; and sales to organizations described in division (D) 496
of section 5709.12 of the Revised Code. 497

"Charitable purposes" means the relief of poverty; the 498
improvement of health through the alleviation of illness, disease, 499
or injury; the operation of an organization exclusively for the 500
provision of professional, laundry, printing, and purchasing 501
services to hospitals or charitable institutions; the operation of 502
a home for the aged, as defined in section 5701.13 of the Revised 503
Code; the operation of a radio or television broadcasting station 504
that is licensed by the federal communications commission as a 505
noncommercial educational radio or television station; the 506
operation of a nonprofit animal adoption service or a county 507
humane society; the promotion of education by an institution of 508
learning that maintains a faculty of qualified instructors, 509
teaches regular continuous courses of study, and confers a 510
recognized diploma upon completion of a specific curriculum; the 511
operation of a parent-teacher association, booster group, or 512
similar organization primarily engaged in the promotion and 513
support of the curricular or extracurricular activities of a 514
primary or secondary school; the operation of a community or area 515

center in which presentations in music, dramatics, the arts, and 516
related fields are made in order to foster public interest and 517
education therein; the production of performances in music, 518
dramatics, and the arts; or the promotion of education by an 519
organization engaged in carrying on research in, or the 520
dissemination of, scientific and technological knowledge and 521
information primarily for the public. 522

Nothing in this division shall be deemed to exempt sales to 523
any organization for use in the operation or carrying on of a 524
trade or business, or sales to a home for the aged for use in the 525
operation of independent living facilities as defined in division 526
(A) of section 5709.12 of the Revised Code. 527

(13) Building and construction materials and services sold to 528
construction contractors for incorporation into a structure or 529
improvement to real property under a construction contract with 530
this state or a political subdivision of this state, or with the 531
United States government or any of its agencies; building and 532
construction materials and services sold to construction 533
contractors for incorporation into a structure or improvement to 534
real property that are accepted for ownership by this state or any 535
of its political subdivisions, or by the United States government 536
or any of its agencies at the time of completion of the structures 537
or improvements; building and construction materials sold to 538
construction contractors for incorporation into a horticulture 539
structure or livestock structure for a person engaged in the 540
business of horticulture or producing livestock; building 541
materials and services sold to a construction contractor for 542
incorporation into a house of public worship or religious 543
education, or a building used exclusively for charitable purposes 544
under a construction contract with an organization whose purpose 545
is as described in division (B)(12) of this section; building 546
materials and services sold to a construction contractor for 547

incorporation into a building under a construction contract with 548
an organization exempt from taxation under section 501(c)(3) of 549
the Internal Revenue Code of 1986 when the building is to be used 550
exclusively for the organization's exempt purposes; building and 551
construction materials sold for incorporation into the original 552
construction of a sports facility under section 307.696 of the 553
Revised Code; building and construction materials and services 554
sold to a construction contractor for incorporation into real 555
property outside this state if such materials and services, when 556
sold to a construction contractor in the state in which the real 557
property is located for incorporation into real property in that 558
state, would be exempt from a tax on sales levied by that state; 559
and, until one calendar year after the construction of a 560
convention center that qualifies for property tax exemption under 561
section 5709.084 of the Revised Code is completed, building and 562
construction materials and services sold to a construction 563
contractor for incorporation into the real property comprising 564
that convention center; 565

(14) Sales of ships or vessels or rail rolling stock used or 566
to be used principally in interstate or foreign commerce, and 567
repairs, alterations, fuel, and lubricants for such ships or 568
vessels or rail rolling stock; 569

(15) Sales to persons primarily engaged in any of the 570
activities mentioned in division (B)(42)(a), (g), or (h) of this 571
section, to persons engaged in making retail sales, or to persons 572
who purchase for sale from a manufacturer tangible personal 573
property that was produced by the manufacturer in accordance with 574
specific designs provided by the purchaser, of packages, including 575
material, labels, and parts for packages, and of machinery, 576
equipment, and material for use primarily in packaging tangible 577
personal property produced for sale, including any machinery, 578
equipment, and supplies used to make labels or packages, to 579

prepare packages or products for labeling, or to label packages or 580
products, by or on the order of the person doing the packaging, or 581
sold at retail. "Packages" includes bags, baskets, cartons, 582
crates, boxes, cans, bottles, bindings, wrappings, and other 583
similar devices and containers, but does not include motor 584
vehicles or bulk tanks, trailers, or similar devices attached to 585
motor vehicles. "Packaging" means placing in a package. Division 586
(B)(15) of this section does not apply to persons engaged in 587
highway transportation for hire. 588

(16) Sales of food to persons using supplemental nutrition 589
assistance program benefits to purchase the food. As used in this 590
division, "food" has the same meaning as in 7 U.S.C. 2012 and 591
federal regulations adopted pursuant to the Food and Nutrition Act 592
of 2008. 593

(17) Sales to persons engaged in farming, agriculture, 594
horticulture, or floriculture, of tangible personal property for 595
use or consumption primarily in the production by farming, 596
agriculture, horticulture, or floriculture of other tangible 597
personal property for use or consumption primarily in the 598
production of tangible personal property for sale by farming, 599
agriculture, horticulture, or floriculture; or material and parts 600
for incorporation into any such tangible personal property for use 601
or consumption in production; and of tangible personal property 602
for such use or consumption in the conditioning or holding of 603
products produced by and for such use, consumption, or sale by 604
persons engaged in farming, agriculture, horticulture, or 605
floriculture, except where such property is incorporated into real 606
property; 607

(18) Sales of drugs for a human being that may be dispensed 608
only pursuant to a prescription; insulin as recognized in the 609
official United States pharmacopoeia; urine and blood testing 610
materials when used by diabetics or persons with hypoglycemia to 611

test for glucose or acetone; hypodermic syringes and needles when 612
used by diabetics for insulin injections; epoetin alfa when 613
purchased for use in the treatment of persons with medical 614
disease; hospital beds when purchased by hospitals, nursing homes, 615
or other medical facilities; and medical oxygen and medical 616
oxygen-dispensing equipment when purchased by hospitals, nursing 617
homes, or other medical facilities; 618

(19) Sales of prosthetic devices, durable medical equipment 619
for home use, or mobility enhancing equipment, when made pursuant 620
to a prescription and when such devices or equipment are for use 621
by a human being. 622

(20) Sales of emergency and fire protection vehicles and 623
equipment to nonprofit organizations for use solely in providing 624
fire protection and emergency services, including trauma care and 625
emergency medical services, for political subdivisions of the 626
state; 627

(21) Sales of tangible personal property manufactured in this 628
state, if sold by the manufacturer in this state to a retailer for 629
use in the retail business of the retailer outside of this state 630
and if possession is taken from the manufacturer by the purchaser 631
within this state for the sole purpose of immediately removing the 632
same from this state in a vehicle owned by the purchaser; 633

(22) Sales of services provided by the state or any of its 634
political subdivisions, agencies, instrumentalities, institutions, 635
or authorities, or by governmental entities of the state or any of 636
its political subdivisions, agencies, instrumentalities, 637
institutions, or authorities; 638

(23) Sales of motor vehicles to nonresidents of this state 639
under the circumstances described in division (B) of section 640
5739.029 of the Revised Code; 641

(24) Sales to persons engaged in the preparation of eggs for 642

sale of tangible personal property used or consumed directly in 643
such preparation, including such tangible personal property used 644
for cleaning, sanitizing, preserving, grading, sorting, and 645
classifying by size; packages, including material and parts for 646
packages, and machinery, equipment, and material for use in 647
packaging eggs for sale; and handling and transportation equipment 648
and parts therefor, except motor vehicles licensed to operate on 649
public highways, used in intraplant or interplant transfers or 650
shipment of eggs in the process of preparation for sale, when the 651
plant or plants within or between which such transfers or 652
shipments occur are operated by the same person. "Packages" 653
includes containers, cases, baskets, flats, fillers, filler flats, 654
cartons, closure materials, labels, and labeling materials, and 655
"packaging" means placing therein. 656

(25)(a) Sales of water to a consumer for residential use; 657

(b) Sales of water by a nonprofit corporation engaged 658
exclusively in the treatment, distribution, and sale of water to 659
consumers, if such water is delivered to consumers through pipes 660
or tubing. 661

(26) Fees charged for inspection or reinspection of motor 662
vehicles under section 3704.14 of the Revised Code; 663

(27) Sales to persons licensed to conduct a food service 664
operation pursuant to section 3717.43 of the Revised Code, of 665
tangible personal property primarily used directly for the 666
following: 667

(a) To prepare food for human consumption for sale; 668

(b) To preserve food that has been or will be prepared for 669
human consumption for sale by the food service operator, not 670
including tangible personal property used to display food for 671
selection by the consumer; 672

(c) To clean tangible personal property used to prepare or 673

serve food for human consumption for sale.	674
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	675 676
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	677 678 679 680
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	681 682 683
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	684 685 686
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	687 688 689 690 691 692
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	693 694 695 696 697
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to,	698 699 700 701 702 703 704

poles, wires, cables, switching equipment, computers, and record 705
storage devices and media, and component parts for the tangible 706
personal property. The exemption provided in this division shall 707
be in lieu of all other exemptions under division (B)(42)(a) or 708
(n) of this section to which the vendor may otherwise be entitled, 709
based upon the use of the thing purchased in providing the 710
telecommunications, mobile telecommunications, or satellite 711
broadcasting service. 712

(35)(a) Sales where the purpose of the consumer is to use or 713
consume the things transferred in making retail sales and 714
consisting of newspaper inserts, catalogues, coupons, flyers, gift 715
certificates, or other advertising material that prices and 716
describes tangible personal property offered for retail sale. 717

(b) Sales to direct marketing vendors of preliminary 718
materials such as photographs, artwork, and typesetting that will 719
be used in printing advertising material; and of printed matter 720
that offers free merchandise or chances to win sweepstake prizes 721
and that is mailed to potential customers with advertising 722
material described in division (B)(35)(a) of this section; 723

(c) Sales of equipment such as telephones, computers, 724
facsimile machines, and similar tangible personal property 725
primarily used to accept orders for direct marketing retail sales. 726

(d) Sales of automatic food vending machines that preserve 727
food with a shelf life of forty-five days or less by refrigeration 728
and dispense it to the consumer. 729

For purposes of division (B)(35) of this section, "direct 730
marketing" means the method of selling where consumers order 731
tangible personal property by United States mail, delivery 732
service, or telecommunication and the vendor delivers or ships the 733
tangible personal property sold to the consumer from a warehouse, 734
catalogue distribution center, or similar fulfillment facility by 735

means of the United States mail, delivery service, or common 736
carrier. 737

(36) Sales to a person engaged in the business of 738
horticulture or producing livestock of materials to be 739
incorporated into a horticulture structure or livestock structure; 740

(37) Sales of personal computers, computer monitors, computer 741
keyboards, modems, and other peripheral computer equipment to an 742
individual who is licensed or certified to teach in an elementary 743
or a secondary school in this state for use by that individual in 744
preparation for teaching elementary or secondary school students; 745

(38) Sales to a professional racing team of any of the 746
following: 747

(a) Motor racing vehicles; 748

(b) Repair services for motor racing vehicles; 749

(c) Items of property that are attached to or incorporated in 750
motor racing vehicles, including engines, chassis, and all other 751
components of the vehicles, and all spare, replacement, and 752
rebuilt parts or components of the vehicles; except not including 753
tires, consumable fluids, paint, and accessories consisting of 754
instrumentation sensors and related items added to the vehicle to 755
collect and transmit data by means of telemetry and other forms of 756
communication. 757

(39) Sales of used manufactured homes and used mobile homes, 758
as defined in section 5739.0210 of the Revised Code, made on or 759
after January 1, 2000; 760

(40) Sales of tangible personal property and services to a 761
provider of electricity used or consumed directly and primarily in 762
generating, transmitting, or distributing electricity for use by 763
others, including property that is or is to be incorporated into 764
and will become a part of the consumer's production, transmission, 765

or distribution system and that retains its classification as 766
tangible personal property after incorporation; fuel or power used 767
in the production, transmission, or distribution of electricity; 768
energy conversion equipment as defined in section 5727.01 of the 769
Revised Code; and tangible personal property and services used in 770
the repair and maintenance of the production, transmission, or 771
distribution system, including only those motor vehicles as are 772
specially designed and equipped for such use. The exemption 773
provided in this division shall be in lieu of all other exemptions 774
in division (B)(42)(a) or (n) of this section to which a provider 775
of electricity may otherwise be entitled based on the use of the 776
tangible personal property or service purchased in generating, 777
transmitting, or distributing electricity. 778

(41) Sales to a person providing services under division 779
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 780
personal property and services used directly and primarily in 781
providing taxable services under that section. 782

(42) Sales where the purpose of the purchaser is to do any of 783
the following: 784

(a) To incorporate the thing transferred as a material or a 785
part into tangible personal property to be produced for sale by 786
manufacturing, assembling, processing, or refining; or to use or 787
consume the thing transferred directly in producing tangible 788
personal property for sale by mining, including, without 789
limitation, the extraction from the earth of all substances that 790
are classed geologically as minerals, production of crude oil and 791
natural gas, or directly in the rendition of a public utility 792
service, except that the sales tax levied by this section shall be 793
collected upon all meals, drinks, and food for human consumption 794
sold when transporting persons. Persons engaged in rendering 795
services in the exploration for, and production of, crude oil and 796
natural gas for others are deemed engaged directly in the 797

exploration for, and production of, crude oil and natural gas.	798
This paragraph does not exempt from "retail sale" or "sales at	799
retail" the sale of tangible personal property that is to be	800
incorporated into a structure or improvement to real property.	801
(b) To hold the thing transferred as security for the	802
performance of an obligation of the vendor;	803
(c) To resell, hold, use, or consume the thing transferred as	804
evidence of a contract of insurance;	805
(d) To use or consume the thing directly in commercial	806
fishing;	807
(e) To incorporate the thing transferred as a material or a	808
part into, or to use or consume the thing transferred directly in	809
the production of, magazines distributed as controlled circulation	810
publications;	811
(f) To use or consume the thing transferred in the production	812
and preparation in suitable condition for market and sale of	813
printed, imprinted, overprinted, lithographic, multilithic,	814
blueprinted, photostatic, or other productions or reproductions of	815
written or graphic matter;	816
(g) To use the thing transferred, as described in section	817
5739.011 of the Revised Code, primarily in a manufacturing	818
operation to produce tangible personal property for sale;	819
(h) To use the benefit of a warranty, maintenance or service	820
contract, or similar agreement, as described in division (B)(7) of	821
section 5739.01 of the Revised Code, to repair or maintain	822
tangible personal property, if all of the property that is the	823
subject of the warranty, contract, or agreement would not be	824
subject to the tax imposed by this section;	825
(i) To use the thing transferred as qualified research and	826
development equipment;	827

(j) To use or consume the thing transferred primarily in 828
storing, transporting, mailing, or otherwise handling purchased 829
sales inventory in a warehouse, distribution center, or similar 830
facility when the inventory is primarily distributed outside this 831
state to retail stores of the person who owns or controls the 832
warehouse, distribution center, or similar facility, to retail 833
stores of an affiliated group of which that person is a member, or 834
by means of direct marketing. This division does not apply to 835
motor vehicles registered for operation on the public highways. As 836
used in this division, "affiliated group" has the same meaning as 837
in division (B)(3)(e) of section 5739.01 of the Revised Code and 838
"direct marketing" has the same meaning as in division (B)(35) of 839
this section. 840

(k) To use or consume the thing transferred to fulfill a 841
contractual obligation incurred by a warrantor pursuant to a 842
warranty provided as a part of the price of the tangible personal 843
property sold or by a vendor of a warranty, maintenance or service 844
contract, or similar agreement the provision of which is defined 845
as a sale under division (B)(7) of section 5739.01 of the Revised 846
Code; 847

(l) To use or consume the thing transferred in the production 848
of a newspaper for distribution to the public; 849

(m) To use tangible personal property to perform a service 850
listed in division (B)(3) of section 5739.01 of the Revised Code, 851
if the property is or is to be permanently transferred to the 852
consumer of the service as an integral part of the performance of 853
the service; 854

(n) To use or consume the thing transferred primarily in 855
producing tangible personal property for sale by farming, 856
agriculture, horticulture, or floriculture. Persons engaged in 857
rendering farming, agriculture, horticulture, or floriculture 858
services for others are deemed engaged primarily in farming, 859

agriculture, horticulture, or floriculture. This paragraph does 860
not exempt from "retail sale" or "sales at retail" the sale of 861
tangible personal property that is to be incorporated into a 862
structure or improvement to real property. 863

(o) To use or consume the thing transferred in acquiring, 864
formatting, editing, storing, and disseminating data or 865
information by electronic publishing. 866

As used in division (B)(42) of this section, "thing" includes 867
all transactions included in divisions (B)(3)(a), (b), and (e) of 868
section 5739.01 of the Revised Code. 869

(43) Sales conducted through a coin operated device that 870
activates vacuum equipment or equipment that dispenses water, 871
whether or not in combination with soap or other cleaning agents 872
or wax, to the consumer for the consumer's use on the premises in 873
washing, cleaning, or waxing a motor vehicle, provided no other 874
personal property or personal service is provided as part of the 875
transaction. 876

(44) Sales of replacement and modification parts for engines, 877
airframes, instruments, and interiors in, and paint for, aircraft 878
used primarily in a fractional aircraft ownership program, and 879
sales of services for the repair, modification, and maintenance of 880
such aircraft, and machinery, equipment, and supplies primarily 881
used to provide those services. 882

(45) Sales of telecommunications service that is used 883
directly and primarily to perform the functions of a call center. 884
As used in this division, "call center" means any physical 885
location where telephone calls are placed or received in high 886
volume for the purpose of making sales, marketing, customer 887
service, technical support, or other specialized business 888
activity, and that employs at least fifty individuals that engage 889
in call center activities on a full-time basis, or sufficient 890

individuals to fill fifty full-time equivalent positions. 891

(46) Sales by a telecommunications service vendor of 900 892
service to a subscriber. This division does not apply to 893
information services, as defined in division (FF) of section 894
5739.01 of the Revised Code. 895

(47) Sales of value-added non-voice data service. This 896
division does not apply to any similar service that is not 897
otherwise a telecommunications service. 898

(48)(a) Sales of machinery, equipment, and software to a 899
qualified direct selling entity for use in a warehouse or 900
distribution center primarily for storing, transporting, or 901
otherwise handling inventory that is held for sale to independent 902
salespersons who operate as direct sellers and that is held 903
primarily for distribution outside this state; 904

(b) As used in division (B)(48)(a) of this section: 905

(i) "Direct seller" means a person selling consumer products 906
to individuals for personal or household use and not from a fixed 907
retail location, including selling such product at in-home product 908
demonstrations, parties, and other one-on-one selling. 909

(ii) "Qualified direct selling entity" means an entity 910
selling to direct sellers at the time the entity enters into a tax 911
credit agreement with the tax credit authority pursuant to section 912
122.17 of the Revised Code, provided that the agreement was 913
entered into on or after January 1, 2007. Neither contingencies 914
relevant to the granting of, nor later developments with respect 915
to, the tax credit shall impair the status of the qualified direct 916
selling entity under division (B)(48) of this section after 917
execution of the tax credit agreement by the tax credit authority. 918

(c) Division (B)(48) of this section is limited to machinery, 919
equipment, and software first stored, used, or consumed in this 920
state within the period commencing June 24, 2008, and ending on 921

the date that is five years after that date. 922

(49) Sales of materials, parts, equipment, or engines used in 923
the repair or maintenance of aircraft or avionics systems of such 924
aircraft, and sales of repair, remodeling, replacement, or 925
maintenance services in this state performed on aircraft or on an 926
aircraft's avionics, engine, or component materials or parts. As 927
used in division (B)(49) of this section, "aircraft" means 928
aircraft of more than six thousand pounds maximum certified 929
takeoff weight or used exclusively in general aviation. 930

(50) Sales of full flight simulators that are used for pilot 931
or flight-crew training, sales of repair or replacement parts or 932
components, and sales of repair or maintenance services for such 933
full flight simulators. "Full flight simulator" means a replica of 934
a specific type, or make, model, and series of aircraft cockpit. 935
It includes the assemblage of equipment and computer programs 936
necessary to represent aircraft operations in ground and flight 937
conditions, a visual system providing an out-of-the-cockpit view, 938
and a system that provides cues at least equivalent to those of a 939
three-degree-of-freedom motion system, and has the full range of 940
capabilities of the systems installed in the device as described 941
in appendices A and B of part 60 of chapter 1 of title 14 of the 942
Code of Federal Regulations. 943

(51) Any transfer or lease of tangible personal property 944
~~between the state and a successful proposer in accordance with~~ 945
~~sections 126.60 to 126.605 of the Revised Code, provided the~~ 946
~~property is part of a project as defined in section 126.60 of the~~ 947
~~Revised Code and the state retains ownership of the project or~~ 948
~~part thereof that is being transferred or leased,~~ between the 949
state and JobsOhio in accordance with section 4313.02 of the 950
Revised Code. 951

(C) For the purpose of the proper administration of this 952
chapter, and to prevent the evasion of the tax, it is presumed 953

that all sales made in this state are subject to the tax until the 954
contrary is established. 955

(D) The levy of this tax on retail sales of recreation and 956
sports club service shall not prevent a municipal corporation from 957
levying any tax on recreation and sports club dues or on any 958
income generated by recreation and sports club dues. 959

(E) The tax collected by the vendor from the consumer under 960
this chapter is not part of the price, but is a tax collection for 961
the benefit of the state, and of counties levying an additional 962
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 963
Code and of transit authorities levying an additional sales tax 964
pursuant to section 5739.023 of the Revised Code. Except for the 965
discount authorized under section 5739.12 of the Revised Code and 966
the effects of any rounding pursuant to section 5703.055 of the 967
Revised Code, no person other than the state or such a county or 968
transit authority shall derive any benefit from the collection or 969
payment of the tax levied by this section or section 5739.021, 970
5739.023, or 5739.026 of the Revised Code. 971

Sec. 5747.01. Except as otherwise expressly provided or 972
clearly appearing from the context, any term used in this chapter 973
that is not otherwise defined in this section has the same meaning 974
as when used in a comparable context in the laws of the United 975
States relating to federal income taxes or if not used in a 976
comparable context in those laws, has the same meaning as in 977
section 5733.40 of the Revised Code. Any reference in this chapter 978
to the Internal Revenue Code includes other laws of the United 979
States relating to federal income taxes. 980

As used in this chapter: 981

(A) "Adjusted gross income" or "Ohio adjusted gross income" 982
means federal adjusted gross income, as defined and used in the 983
Internal Revenue Code, adjusted as provided in this section: 984

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	985 986 987
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	988 989 990 991 992
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	993 994 995 996 997 998
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	999 1000
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	1001 1002 1003 1004
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter.	1005 1006 1007 1008 1009 1010 1011 1012 1013
"Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross	1014 1015

income required under division (A) of this section and (ii) the 1016
personal exemptions allowed to the trust pursuant to section 1017
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 1018
deductions to adjusted gross income required under division (A) of 1019
this section, (ii) the amount of federal income taxes attributable 1020
to such income, and (iii) the amount of taxable income that has 1021
been included in the adjusted gross income of a beneficiary by 1022
reason of a prior accumulation distribution. Any undistributed net 1023
income included in the adjusted gross income of a beneficiary 1024
shall reduce the undistributed net income of the trust commencing 1025
with the earliest years of the accumulation period. 1026

(7) Deduct the amount of wages and salaries, if any, not 1027
otherwise allowable as a deduction but that would have been 1028
allowable as a deduction in computing federal adjusted gross 1029
income for the taxable year, had the targeted jobs credit allowed 1030
and determined under sections 38, 51, and 52 of the Internal 1031
Revenue Code not been in effect. 1032

(8) Deduct any interest or interest equivalent on public 1033
obligations and purchase obligations to the extent that the 1034
interest or interest equivalent is included in federal adjusted 1035
gross income. 1036

(9) Add any loss or deduct any gain resulting from the sale, 1037
exchange, or other disposition of public obligations to the extent 1038
that the loss has been deducted or the gain has been included in 1039
computing federal adjusted gross income. 1040

(10) Deduct or add amounts, as provided under section 5747.70 1041
of the Revised Code, related to contributions to variable college 1042
savings program accounts made or tuition units purchased pursuant 1043
to Chapter 3334. of the Revised Code. 1044

(11)(a) Deduct, to the extent not otherwise allowable as a 1045
deduction or exclusion in computing federal or Ohio adjusted gross 1046

income for the taxable year, the amount the taxpayer paid during 1047
the taxable year for medical care insurance and qualified 1048
long-term care insurance for the taxpayer, the taxpayer's spouse, 1049
and dependents. No deduction for medical care insurance under 1050
division (A)(11) of this section shall be allowed either to any 1051
taxpayer who is eligible to participate in any subsidized health 1052
plan maintained by any employer of the taxpayer or of the 1053
taxpayer's spouse, or to any taxpayer who is entitled to, or on 1054
application would be entitled to, benefits under part A of Title 1055
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1056
301, as amended. For the purposes of division (A)(11)(a) of this 1057
section, "subsidized health plan" means a healthplan for which 1058
the employer pays any portion of the plan's cost. The deduction 1059
allowed under division (A)(11)(a) of this section shall be the net 1060
of any related premium refunds, related premium reimbursements, or 1061
related insurance premium dividends received during the taxable 1062
year. 1063

(b) Deduct, to the extent not otherwise deducted or excluded 1064
in computing federal or Ohio adjusted gross income during the 1065
taxable year, the amount the taxpayer paid during the taxable 1066
year, not compensated for by any insurance or otherwise, for 1067
medical care of the taxpayer, the taxpayer's spouse, and 1068
dependents, to the extent the expenses exceed seven and one-half 1069
per cent of the taxpayer's federal adjusted gross income. 1070

(c) Deduct, to the extent not otherwise deducted or excluded 1071
in computing federal or Ohio adjusted gross income, any amount 1072
included in federal adjusted gross income under section 105 or not 1073
excluded under section 106 of the Internal Revenue Code solely 1074
because it relates to an accident and health plan for a person who 1075
otherwise would be a "qualifying relative" and thus a "dependent" 1076
under section 152 of the Internal Revenue Code but for the fact 1077
that the person fails to meet the income and support limitations 1078

under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 1079

(d) For purposes of division (A)(11) of this section, 1080
"medical care" has the meaning given in section 213 of the 1081
Internal Revenue Code, subject to the special rules, limitations, 1082
and exclusions set forth therein, and "qualified long-term care" 1083
has the same meaning given in section 7702B(c) of the Internal 1084
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 1085
of this section, "dependent" includes a person who otherwise would 1086
be a "qualifying relative" and thus a "dependent" under section 1087
152 of the Internal Revenue Code but for the fact that the person 1088
fails to meet the income and support limitations under section 1089
152(d)(1)(B) and (C) of the Internal Revenue Code. 1090

(12)(a) Deduct any amount included in federal adjusted gross 1091
income solely because the amount represents a reimbursement or 1092
refund of expenses that in any year the taxpayer had deducted as 1093
an itemized deduction pursuant to section 63 of the Internal 1094
Revenue Code and applicable United States department of the 1095
treasury regulations. The deduction otherwise allowed under 1096
division (A)(12)(a) of this section shall be reduced to the extent 1097
the reimbursement is attributable to an amount the taxpayer 1098
deducted under this section in any taxable year. 1099

(b) Add any amount not otherwise included in Ohio adjusted 1100
gross income for any taxable year to the extent that the amount is 1101
attributable to the recovery during the taxable year of any amount 1102
deducted or excluded in computing federal or Ohio adjusted gross 1103
income in any taxable year. 1104

(13) Deduct any portion of the deduction described in section 1105
1341(a)(2) of the Internal Revenue Code, for repaying previously 1106
reported income received under a claim of right, that meets both 1107
of the following requirements: 1108

(a) It is allowable for repayment of an item that was 1109

included in the taxpayer's adjusted gross income for a prior 1110
taxable year and did not qualify for a credit under division (A) 1111
or (B) of section 5747.05 of the Revised Code for that year; 1112

(b) It does not otherwise reduce the taxpayer's adjusted 1113
gross income for the current or any other taxable year. 1114

(14) Deduct an amount equal to the deposits made to, and net 1115
investment earnings of, a medical savings account during the 1116
taxable year, in accordance with section 3924.66 of the Revised 1117
Code. The deduction allowed by division (A)(14) of this section 1118
does not apply to medical savings account deposits and earnings 1119
otherwise deducted or excluded for the current or any other 1120
taxable year from the taxpayer's federal adjusted gross income. 1121

(15)(a) Add an amount equal to the funds withdrawn from a 1122
medical savings account during the taxable year, and the net 1123
investment earnings on those funds, when the funds withdrawn were 1124
used for any purpose other than to reimburse an account holder 1125
for, or to pay, eligible medical expenses, in accordance with 1126
section 3924.66 of the Revised Code; 1127

(b) Add the amounts distributed from a medical savings 1128
account under division (A)(2) of section 3924.68 of the Revised 1129
Code during the taxable year. 1130

(16) Add any amount claimed as a credit under section 1131
5747.059 of the Revised Code to the extent that such amount 1132
satisfies either of the following: 1133

(a) The amount was deducted or excluded from the computation 1134
of the taxpayer's federal adjusted gross income as required to be 1135
reported for the taxpayer's taxable year under the Internal 1136
Revenue Code; 1137

(b) The amount resulted in a reduction of the taxpayer's 1138
federal adjusted gross income as required to be reported for any 1139
of the taxpayer's taxable years under the Internal Revenue Code. 1140

(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 claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or

distributive share of the amount of depreciation expense allowed 1173
by that subsection to a pass-through entity in which the taxpayer 1174
has a direct or indirect ownership interest. 1175

(ii) Add five-sixths of the amount of qualifying section 179 1176
depreciation expense, including a person's proportionate or 1177
distributive share of the amount of qualifying section 179 1178
depreciation expense allowed to any pass-through entity in which 1179
the person has a direct or indirect ownership. For the purposes of 1180
this division, "qualifying section 179 depreciation expense" means 1181
the difference between (I) the amount of depreciation expense 1182
directly or indirectly allowed to the taxpayer under section 179 1183
of the Internal Revenue Code, and (II) the amount of depreciation 1184
expense directly or indirectly allowed to the taxpayer under 1185
section 179 of the Internal Revenue Code as that section existed 1186
on December 31, 2002. 1187

The tax commissioner, under procedures established by the 1188
commissioner, may waive the add-backs related to a pass-through 1189
entity if the taxpayer owns, directly or indirectly, less than 1190
five per cent of the pass-through entity. 1191

(b) Nothing in division (A)(20) of this section shall be 1192
construed to adjust or modify the adjusted basis of any asset. 1193

(c) To the extent the add-back required under division 1194
(A)(20)(a) of this section is attributable to property generating 1195
nonbusiness income or loss allocated under section 5747.20 of the 1196
Revised Code, the add-back shall be situated to the same location 1197
as the nonbusiness income or loss generated by the property for 1198
the purpose of determining the credit under division (A) of 1199
section 5747.05 of the Revised Code. Otherwise, the add-back shall 1200
be apportioned, subject to one or more of the four alternative 1201
methods of apportionment enumerated in section 5747.21 of the 1202
Revised Code. 1203

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded 1235
in computing federal or Ohio adjusted gross income for the taxable 1236
year, the amount the taxpayer received during the taxable year as 1237
a death benefit paid by the adjutant general under section 5919.33 1238
of the Revised Code. 1239

(24) Deduct, to the extent included in federal adjusted gross 1240
income and not otherwise allowable as a deduction or exclusion in 1241
computing federal or Ohio adjusted gross income for the taxable 1242
year, military pay and allowances received by the taxpayer during 1243
the taxable year for active duty service in the United States 1244
army, air force, navy, marine corps, or coast guard or reserve 1245
components thereof or the national guard. The deduction may not be 1246
claimed for military pay and allowances received by the taxpayer 1247
while the taxpayer is stationed in this state. 1248

(25) Deduct, to the extent not otherwise allowable as a 1249
deduction or exclusion in computing federal or Ohio adjusted gross 1250
income for the taxable year and not otherwise compensated for by 1251
any other source, the amount of qualified organ donation expenses 1252
incurred by the taxpayer during the taxable year, not to exceed 1253
ten thousand dollars. A taxpayer may deduct qualified organ 1254
donation expenses only once for all taxable years beginning with 1255
taxable years beginning in 2007. 1256

For the purposes of division (A)(25) of this section: 1257

(a) "Human organ" means all or any portion of a human liver, 1258
pancreas, kidney, intestine, or lung, and any portion of human 1259
bone marrow. 1260

(b) "Qualified organ donation expenses" means travel 1261
expenses, lodging expenses, and wages and salary forgone by a 1262
taxpayer in connection with the taxpayer's donation, while living, 1263
of one or more of the taxpayer's human organs to another human 1264
being. 1265

(26) Deduct, to the extent not otherwise deducted or excluded 1266
in computing federal or Ohio adjusted gross income for the taxable 1267
year, amounts received by the taxpayer as retired military 1268
personnel pay for service in the United States army, navy, air 1269
force, coast guard, or marine corps or reserve components thereof, 1270
or the national guard, or received by the surviving spouse or 1271
former spouse of such a taxpayer under the survivor benefit plan 1272
on account of such a taxpayer's death. If the taxpayer receives 1273
income on account of retirement paid under the federal civil 1274
service retirement system or federal employees retirement system, 1275
or under any successor retirement program enacted by the congress 1276
of the United States that is established and maintained for 1277
retired employees of the United States government, and such 1278
retirement income is based, in whole or in part, on credit for the 1279
taxpayer's military service, the deduction allowed under this 1280
division shall include only that portion of such retirement income 1281
that is attributable to the taxpayer's military service, to the 1282
extent that portion of such retirement income is otherwise 1283
included in federal adjusted gross income and is not otherwise 1284
deducted under this section. Any amount deducted under division 1285
(A)(26) of this section is not included in a taxpayer's adjusted 1286
gross income for the purposes of section 5747.055 of the Revised 1287
Code. No amount may be deducted under division (A)(26) of this 1288
section on the basis of which a credit was claimed under section 1289
5747.055 of the Revised Code. 1290

(27) Deduct, to the extent not otherwise deducted or excluded 1291
in computing federal or Ohio adjusted gross income for the taxable 1292
year, the amount the taxpayer received during the taxable year 1293
from the military injury relief fund created in section 5101.98 of 1294
the Revised Code. 1295

(28) Deduct, to the extent not otherwise deducted or excluded 1296
in computing federal or Ohio adjusted gross income for the taxable 1297

year, the amount the taxpayer received as a veterans bonus during 1298
the taxable year from the Ohio department of veterans services as 1299
authorized by Section 2r of Article VIII, Ohio Constitution. 1300

(29) Deduct, to the extent not otherwise deducted or excluded 1301
in computing federal or Ohio adjusted gross income for the taxable 1302
year, any loss from wagering transactions that is allowed as an 1303
itemized deduction under section 165 of the Internal Revenue Code 1304
and that the taxpayer deducted in computing federal taxable 1305
income. 1306

(30) Deduct, to the extent not otherwise deducted or excluded 1307
in computing federal or Ohio adjusted gross income for the taxable 1308
year, any income ~~derived from providing public services under a~~ 1309
~~contract through a project owned by the state, as described in~~ 1310
~~section 126.604 of the Revised Code or~~ derived from a transfer 1311
agreement or from the enterprise transferred under that agreement 1312
under section 4313.02 of the Revised Code. 1313

(31) Deduct, to the extent not otherwise deducted or excluded 1314
in computing federal or Ohio adjusted gross income for the taxable 1315
year, Ohio college opportunity or federal Pell grant amounts 1316
received by the taxpayer or the taxpayer's spouse or dependent 1317
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1318
1070a, et seq., and used to pay room or board furnished by the 1319
educational institution for which the grant was awarded at the 1320
institution's facilities, including meal plans administered by the 1321
institution. For the purposes of this division, receipt of a grant 1322
includes the distribution of a grant directly to an educational 1323
institution and the crediting of the grant to the enrollee's 1324
account with the institution. 1325

(B) "Business income" means income, including gain or loss, 1326
arising from transactions, activities, and sources in the regular 1327
course of a trade or business and includes income, gain, or loss 1328
from real property, tangible property, and intangible property if 1329

the acquisition, rental, management, and disposition of the 1330
property constitute integral parts of the regular course of a 1331
trade or business operation. "Business income" includes income, 1332
including gain or loss, from a partial or complete liquidation of 1333
a business, including, but not limited to, gain or loss from the 1334
sale or other disposition of goodwill. 1335

(C) "Nonbusiness income" means all income other than business 1336
income and may include, but is not limited to, compensation, rents 1337
and royalties from real or tangible personal property, capital 1338
gains, interest, dividends and distributions, patent or copyright 1339
royalties, or lottery winnings, prizes, and awards. 1340

(D) "Compensation" means any form of remuneration paid to an 1341
employee for personal services. 1342

(E) "Fiduciary" means a guardian, trustee, executor, 1343
administrator, receiver, conservator, or any other person acting 1344
in any fiduciary capacity for any individual, trust, or estate. 1345

(F) "Fiscal year" means an accounting period of twelve months 1346
ending on the last day of any month other than December. 1347

(G) "Individual" means any natural person. 1348

(H) "Internal Revenue Code" means the "Internal Revenue Code 1349
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1350

(I) "Resident" means any of the following, provided that 1351
division (I)(3) of this section applies only to taxable years of a 1352
trust beginning in 2002 or thereafter: 1353

(1) An individual who is domiciled in this state, subject to 1354
section 5747.24 of the Revised Code; 1355

(2) The estate of a decedent who at the time of death was 1356
domiciled in this state. The domicile tests of section 5747.24 of 1357
the Revised Code are not controlling for purposes of division 1358
(I)(2) of this section. 1359

(3) A trust that, in whole or part, resides in this state. If 1360
only part of a trust resides in this state, the trust is a 1361
resident only with respect to that part. 1362

For the purposes of division (I)(3) of this section: 1363

(a) A trust resides in this state for the trust's current 1364
taxable year to the extent, as described in division (I)(3)(d) of 1365
this section, that the trust consists directly or indirectly, in 1366
whole or in part, of assets, net of any related liabilities, that 1367
were transferred, or caused to be transferred, directly or 1368
indirectly, to the trust by any of the following: 1369

(i) A person, a court, or a governmental entity or 1370
instrumentality on account of the death of a decedent, but only if 1371
the trust is described in division (I)(3)(e)(i) or (ii) of this 1372
section; 1373

(ii) A person who was domiciled in this state for the 1374
purposes of this chapter when the person directly or indirectly 1375
transferred assets to an irrevocable trust, but only if at least 1376
one of the trust's qualifying beneficiaries is domiciled in this 1377
state for the purposes of this chapter during all or some portion 1378
of the trust's current taxable year; 1379

(iii) A person who was domiciled in this state for the 1380
purposes of this chapter when the trust document or instrument or 1381
part of the trust document or instrument became irrevocable, but 1382
only if at least one of the trust's qualifying beneficiaries is a 1383
resident domiciled in this state for the purposes of this chapter 1384
during all or some portion of the trust's current taxable year. If 1385
a trust document or instrument became irrevocable upon the death 1386
of a person who at the time of death was domiciled in this state 1387
for purposes of this chapter, that person is a person described in 1388
division (I)(3)(a)(iii) of this section. 1389

(b) A trust is irrevocable to the extent that the transferor 1390

is not considered to be the owner of the net assets of the trust 1391
under sections 671 to 678 of the Internal Revenue Code. 1392

(c) With respect to a trust other than a charitable lead 1393
trust, "qualifying beneficiary" has the same meaning as "potential 1394
current beneficiary" as defined in section 1361(e)(2) of the 1395
Internal Revenue Code, and with respect to a charitable lead trust 1396
"qualifying beneficiary" is any current, future, or contingent 1397
beneficiary, but with respect to any trust "qualifying 1398
beneficiary" excludes a person or a governmental entity or 1399
instrumentality to any of which a contribution would qualify for 1400
the charitable deduction under section 170 of the Internal Revenue 1401
Code. 1402

(d) For the purposes of division (I)(3)(a) of this section, 1403
the extent to which a trust consists directly or indirectly, in 1404
whole or in part, of assets, net of any related liabilities, that 1405
were transferred directly or indirectly, in whole or part, to the 1406
trust by any of the sources enumerated in that division shall be 1407
ascertained by multiplying the fair market value of the trust's 1408
assets, net of related liabilities, by the qualifying ratio, which 1409
shall be computed as follows: 1410

(i) The first time the trust receives assets, the numerator 1411
of the qualifying ratio is the fair market value of those assets 1412
at that time, net of any related liabilities, from sources 1413
enumerated in division (I)(3)(a) of this section. The denominator 1414
of the qualifying ratio is the fair market value of all the 1415
trust's assets at that time, net of any related liabilities. 1416

(ii) Each subsequent time the trust receives assets, a 1417
revised qualifying ratio shall be computed. The numerator of the 1418
revised qualifying ratio is the sum of (1) the fair market value 1419
of the trust's assets immediately prior to the subsequent 1420
transfer, net of any related liabilities, multiplied by the 1421
qualifying ratio last computed without regard to the subsequent 1422

transfer, and (2) the fair market value of the subsequently 1423
transferred assets at the time transferred, net of any related 1424
liabilities, from sources enumerated in division (I)(3)(a) of this 1425
section. The denominator of the revised qualifying ratio is the 1426
fair market value of all the trust's assets immediately after the 1427
subsequent transfer, net of any related liabilities. 1428

(iii) Whether a transfer to the trust is by or from any of 1429
the sources enumerated in division (I)(3)(a) of this section shall 1430
be ascertained without regard to the domicile of the trust's 1431
beneficiaries. 1432

(e) For the purposes of division (I)(3)(a)(i) of this 1433
section: 1434

(i) A trust is described in division (I)(3)(e)(i) of this 1435
section if the trust is a testamentary trust and the testator of 1436
that testamentary trust was domiciled in this state at the time of 1437
the testator's death for purposes of the taxes levied under 1438
Chapter 5731. of the Revised Code. 1439

(ii) A trust is described in division (I)(3)(e)(ii) of this 1440
section if the transfer is a qualifying transfer described in any 1441
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 1442
irrevocable inter vivos trust, and at least one of the trust's 1443
qualifying beneficiaries is domiciled in this state for purposes 1444
of this chapter during all or some portion of the trust's current 1445
taxable year. 1446

(f) For the purposes of division (I)(3)(e)(ii) of this 1447
section, a "qualifying transfer" is a transfer of assets, net of 1448
any related liabilities, directly or indirectly to a trust, if the 1449
transfer is described in any of the following: 1450

(i) The transfer is made to a trust, created by the decedent 1451
before the decedent's death and while the decedent was domiciled 1452
in this state for the purposes of this chapter, and, prior to the 1453

death of the decedent, the trust became irrevocable while the 1454
decedent was domiciled in this state for the purposes of this 1455
chapter. 1456

(ii) The transfer is made to a trust to which the decedent, 1457
prior to the decedent's death, had directly or indirectly 1458
transferred assets, net of any related liabilities, while the 1459
decedent was domiciled in this state for the purposes of this 1460
chapter, and prior to the death of the decedent the trust became 1461
irrevocable while the decedent was domiciled in this state for the 1462
purposes of this chapter. 1463

(iii) The transfer is made on account of a contractual 1464
relationship existing directly or indirectly between the 1465
transferor and either the decedent or the estate of the decedent 1466
at any time prior to the date of the decedent's death, and the 1467
decedent was domiciled in this state at the time of death for 1468
purposes of the taxes levied under Chapter 5731. of the Revised 1469
Code. 1470

(iv) The transfer is made to a trust on account of a 1471
contractual relationship existing directly or indirectly between 1472
the transferor and another person who at the time of the 1473
decedent's death was domiciled in this state for purposes of this 1474
chapter. 1475

(v) The transfer is made to a trust on account of the will of 1476
a testator who was domiciled in this state at the time of the 1477
testator's death for purposes of the taxes levied under Chapter 1478
5731. of the Revised Code. 1479

(vi) The transfer is made to a trust created by or caused to 1480
be created by a court, and the trust was directly or indirectly 1481
created in connection with or as a result of the death of an 1482
individual who, for purposes of the taxes levied under Chapter 1483
5731. of the Revised Code, was domiciled in this state at the time 1484

of the individual's death. 1485

(g) The tax commissioner may adopt rules to ascertain the 1486
part of a trust residing in this state. 1487

(J) "Nonresident" means an individual or estate that is not a 1488
resident. An individual who is a resident for only part of a 1489
taxable year is a nonresident for the remainder of that taxable 1490
year. 1491

(K) "Pass-through entity" has the same meaning as in section 1492
5733.04 of the Revised Code. 1493

(L) "Return" means the notifications and reports required to 1494
be filed pursuant to this chapter for the purpose of reporting the 1495
tax due and includes declarations of estimated tax when so 1496
required. 1497

(M) "Taxable year" means the calendar year or the taxpayer's 1498
fiscal year ending during the calendar year, or fractional part 1499
thereof, upon which the adjusted gross income is calculated 1500
pursuant to this chapter. 1501

(N) "Taxpayer" means any person subject to the tax imposed by 1502
section 5747.02 of the Revised Code or any pass-through entity 1503
that makes the election under division (D) of section 5747.08 of 1504
the Revised Code. 1505

(O) "Dependents" means dependents as defined in the Internal 1506
Revenue Code and as claimed in the taxpayer's federal income tax 1507
return for the taxable year or which the taxpayer would have been 1508
permitted to claim had the taxpayer filed a federal income tax 1509
return. 1510

(P) "Principal county of employment" means, in the case of a 1511
nonresident, the county within the state in which a taxpayer 1512
performs services for an employer or, if those services are 1513
performed in more than one county, the county in which the major 1514

portion of the services are performed. 1515

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1516
Code: 1517

(1) "Subdivision" means any county, municipal corporation, 1518
park district, or township. 1519

(2) "Essential local government purposes" includes all 1520
functions that any subdivision is required by general law to 1521
exercise, including like functions that are exercised under a 1522
charter adopted pursuant to the Ohio Constitution. 1523

(R) "Overpayment" means any amount already paid that exceeds 1524
the figure determined to be the correct amount of the tax. 1525

(S) "Taxable income" or "Ohio taxable income" applies only to 1526
estates and trusts, and means federal taxable income, as defined 1527
and used in the Internal Revenue Code, adjusted as follows: 1528

(1) Add interest or dividends, net of ordinary, necessary, 1529
and reasonable expenses not deducted in computing federal taxable 1530
income, on obligations or securities of any state or of any 1531
political subdivision or authority of any state, other than this 1532
state and its subdivisions and authorities, but only to the extent 1533
that such net amount is not otherwise includible in Ohio taxable 1534
income and is described in either division (S)(1)(a) or (b) of 1535
this section: 1536

(a) The net amount is not attributable to the S portion of an 1537
electing small business trust and has not been distributed to 1538
beneficiaries for the taxable year; 1539

(b) The net amount is attributable to the S portion of an 1540
electing small business trust for the taxable year. 1541

(2) Add interest or dividends, net of ordinary, necessary, 1542
and reasonable expenses not deducted in computing federal taxable 1543
income, on obligations of any authority, commission, 1544

instrumentality, territory, or possession of the United States to 1545
the extent that the interest or dividends are exempt from federal 1546
income taxes but not from state income taxes, but only to the 1547
extent that such net amount is not otherwise includible in Ohio 1548
taxable income and is described in either division (S)(1)(a) or 1549
(b) of this section; 1550

(3) Add the amount of personal exemption allowed to the 1551
estate pursuant to section 642(b) of the Internal Revenue Code; 1552

(4) Deduct interest or dividends, net of related expenses 1553
deducted in computing federal taxable income, on obligations of 1554
the United States and its territories and possessions or of any 1555
authority, commission, or instrumentality of the United States to 1556
the extent that the interest or dividends are exempt from state 1557
taxes under the laws of the United States, but only to the extent 1558
that such amount is included in federal taxable income and is 1559
described in either division (S)(1)(a) or (b) of this section; 1560

(5) Deduct the amount of wages and salaries, if any, not 1561
otherwise allowable as a deduction but that would have been 1562
allowable as a deduction in computing federal taxable income for 1563
the taxable year, had the targeted jobs credit allowed under 1564
sections 38, 51, and 52 of the Internal Revenue Code not been in 1565
effect, but only to the extent such amount relates either to 1566
income included in federal taxable income for the taxable year or 1567
to income of the S portion of an electing small business trust for 1568
the taxable year; 1569

(6) Deduct any interest or interest equivalent, net of 1570
related expenses deducted in computing federal taxable income, on 1571
public obligations and purchase obligations, but only to the 1572
extent that such net amount relates either to income included in 1573
federal taxable income for the taxable year or to income of the S 1574
portion of an electing small business trust for the taxable year; 1575

(7) Add any loss or deduct any gain resulting from sale, 1576
exchange, or other disposition of public obligations to the extent 1577
that such loss has been deducted or such gain has been included in 1578
computing either federal taxable income or income of the S portion 1579
of an electing small business trust for the taxable year; 1580

(8) Except in the case of the final return of an estate, add 1581
any amount deducted by the taxpayer on both its Ohio estate tax 1582
return pursuant to section 5731.14 of the Revised Code, and on its 1583
federal income tax return in determining federal taxable income; 1584

(9)(a) Deduct any amount included in federal taxable income 1585
solely because the amount represents a reimbursement or refund of 1586
expenses that in a previous year the decedent had deducted as an 1587
itemized deduction pursuant to section 63 of the Internal Revenue 1588
Code and applicable treasury regulations. The deduction otherwise 1589
allowed under division (S)(9)(a) of this section shall be reduced 1590
to the extent the reimbursement is attributable to an amount the 1591
taxpayer or decedent deducted under this section in any taxable 1592
year. 1593

(b) Add any amount not otherwise included in Ohio taxable 1594
income for any taxable year to the extent that the amount is 1595
attributable to the recovery during the taxable year of any amount 1596
deducted or excluded in computing federal or Ohio taxable income 1597
in any taxable year, but only to the extent such amount has not 1598
been distributed to beneficiaries for the taxable year. 1599

(10) Deduct any portion of the deduction described in section 1600
1341(a)(2) of the Internal Revenue Code, for repaying previously 1601
reported income received under a claim of right, that meets both 1602
of the following requirements: 1603

(a) It is allowable for repayment of an item that was 1604
included in the taxpayer's taxable income or the decedent's 1605
adjusted gross income for a prior taxable year and did not qualify 1606

for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of

this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the

taxpayer's taxable year. 1668

(AA)(1) "Eligible institution" means a state university or 1669
state institution of higher education as defined in section 1670
3345.011 of the Revised Code, or a private, nonprofit college, 1671
university, or other post-secondary institution located in this 1672
state that possesses a certificate of authorization issued by the 1673
Ohio board of regents pursuant to Chapter 1713. of the Revised 1674
Code or a certificate of registration issued by the state board of 1675
career colleges and schools under Chapter 3332. of the Revised 1676
Code. 1677

(2) "Qualified tuition and fees" means tuition and fees 1678
imposed by an eligible institution as a condition of enrollment or 1679
attendance, not exceeding two thousand five hundred dollars in 1680
each of the individual's first two years of post-secondary 1681
education. If the individual is a part-time student, "qualified 1682
tuition and fees" includes tuition and fees paid for the academic 1683
equivalent of the first two years of post-secondary education 1684
during a maximum of five taxable years, not exceeding a total of 1685
five thousand dollars. "Qualified tuition and fees" does not 1686
include: 1687

(a) Expenses for any course or activity involving sports, 1688
games, or hobbies unless the course or activity is part of the 1689
individual's degree or diploma program; 1690

(b) The cost of books, room and board, student activity fees, 1691
athletic fees, insurance expenses, or other expenses unrelated to 1692
the individual's academic course of instruction; 1693

(c) Tuition, fees, or other expenses paid or reimbursed 1694
through an employer, scholarship, grant in aid, or other 1695
educational benefit program. 1696

(BB)(1) "Modified business income" means the business income 1697
included in a trust's Ohio taxable income after such taxable 1698

income is first reduced by the qualifying trust amount, if any. 1699

(2) "Qualifying trust amount" of a trust means capital gains 1700
and losses from the sale, exchange, or other disposition of equity 1701
or ownership interests in, or debt obligations of, a qualifying 1702
investee to the extent included in the trust's Ohio taxable 1703
income, but only if the following requirements are satisfied: 1704

(a) The book value of the qualifying investee's physical 1705
assets in this state and everywhere, as of the last day of the 1706
qualifying investee's fiscal or calendar year ending immediately 1707
prior to the date on which the trust recognizes the gain or loss, 1708
is available to the trust. 1709

(b) The requirements of section 5747.011 of the Revised Code 1710
are satisfied for the trust's taxable year in which the trust 1711
recognizes the gain or loss. 1712

Any gain or loss that is not a qualifying trust amount is 1713
modified business income, qualifying investment income, or 1714
modified nonbusiness income, as the case may be. 1715

(3) "Modified nonbusiness income" means a trust's Ohio 1716
taxable income other than modified business income, other than the 1717
qualifying trust amount, and other than qualifying investment 1718
income, as defined in section 5747.012 of the Revised Code, to the 1719
extent such qualifying investment income is not otherwise part of 1720
modified business income. 1721

(4) "Modified Ohio taxable income" applies only to trusts, 1722
and means the sum of the amounts described in divisions (BB)(4)(a) 1723
to (c) of this section: 1724

(a) The fraction, calculated under section 5747.013, and 1725
applying section 5747.231 of the Revised Code, multiplied by the 1726
sum of the following amounts: 1727

(i) The trust's modified business income; 1728

(ii) The trust's qualifying investment income, as defined in 1729
section 5747.012 of the Revised Code, but only to the extent the 1730
qualifying investment income does not otherwise constitute 1731
modified business income and does not otherwise constitute a 1732
qualifying trust amount. 1733

(b) The qualifying trust amount multiplied by a fraction, the 1734
numerator of which is the sum of the book value of the qualifying 1735
investee's physical assets in this state on the last day of the 1736
qualifying investee's fiscal or calendar year ending immediately 1737
prior to the day on which the trust recognizes the qualifying 1738
trust amount, and the denominator of which is the sum of the book 1739
value of the qualifying investee's total physical assets 1740
everywhere on the last day of the qualifying investee's fiscal or 1741
calendar year ending immediately prior to the day on which the 1742
trust recognizes the qualifying trust amount. If, for a taxable 1743
year, the trust recognizes a qualifying trust amount with respect 1744
to more than one qualifying investee, the amount described in 1745
division (BB)(4)(b) of this section shall equal the sum of the 1746
products so computed for each such qualifying investee. 1747

(c)(i) With respect to a trust or portion of a trust that is 1748
a resident as ascertained in accordance with division (I)(3)(d) of 1749
this section, its modified nonbusiness income. 1750

(ii) With respect to a trust or portion of a trust that is 1751
not a resident as ascertained in accordance with division 1752
(I)(3)(d) of this section, the amount of its modified nonbusiness 1753
income satisfying the descriptions in divisions (B)(2) to (5) of 1754
section 5747.20 of the Revised Code, except as otherwise provided 1755
in division (BB)(4)(c)(ii) of this section. With respect to a 1756
trust or portion of a trust that is not a resident as ascertained 1757
in accordance with division (I)(3)(d) of this section, the trust's 1758
portion of modified nonbusiness income recognized from the sale, 1759
exchange, or other disposition of a debt interest in or equity 1760

interest in a section 5747.212 entity, as defined in section 1761
5747.212 of the Revised Code, without regard to division (A) of 1762
that section, shall not be allocated to this state in accordance 1763
with section 5747.20 of the Revised Code but shall be apportioned 1764
to this state in accordance with division (B) of section 5747.212 1765
of the Revised Code without regard to division (A) of that 1766
section. 1767

If the allocation and apportionment of a trust's income under 1768
divisions (BB)(4)(a) and (c) of this section do not fairly 1769
represent the modified Ohio taxable income of the trust in this 1770
state, the alternative methods described in division (C) of 1771
section 5747.21 of the Revised Code may be applied in the manner 1772
and to the same extent provided in that section. 1773

(5)(a) Except as set forth in division (BB)(5)(b) of this 1774
section, "qualifying investee" means a person in which a trust has 1775
an equity or ownership interest, or a person or unit of government 1776
the debt obligations of either of which are owned by a trust. For 1777
the purposes of division (BB)(2)(a) of this section and for the 1778
purpose of computing the fraction described in division (BB)(4)(b) 1779
of this section, all of the following apply: 1780

(i) If the qualifying investee is a member of a qualifying 1781
controlled group on the last day of the qualifying investee's 1782
fiscal or calendar year ending immediately prior to the date on 1783
which the trust recognizes the gain or loss, then "qualifying 1784
investee" includes all persons in the qualifying controlled group 1785
on such last day. 1786

(ii) If the qualifying investee, or if the qualifying 1787
investee and any members of the qualifying controlled group of 1788
which the qualifying investee is a member on the last day of the 1789
qualifying investee's fiscal or calendar year ending immediately 1790
prior to the date on which the trust recognizes the gain or loss, 1791
separately or cumulatively own, directly or indirectly, on the 1792

last day of the qualifying investee's fiscal or calendar year 1793
ending immediately prior to the date on which the trust recognizes 1794
the qualifying trust amount, more than fifty per cent of the 1795
equity of a pass-through entity, then the qualifying investee and 1796
the other members are deemed to own the proportionate share of the 1797
pass-through entity's physical assets which the pass-through 1798
entity directly or indirectly owns on the last day of the 1799
pass-through entity's calendar or fiscal year ending within or 1800
with the last day of the qualifying investee's fiscal or calendar 1801
year ending immediately prior to the date on which the trust 1802
recognizes the qualifying trust amount. 1803

(iii) For the purposes of division (BB)(5)(a)(iii) of this 1804
section, "upper level pass-through entity" means a pass-through 1805
entity directly or indirectly owning any equity of another 1806
pass-through entity, and "lower level pass-through entity" means 1807
that other pass-through entity. 1808

An upper level pass-through entity, whether or not it is also 1809
a qualifying investee, is deemed to own, on the last day of the 1810
upper level pass-through entity's calendar or fiscal year, the 1811
proportionate share of the lower level pass-through entity's 1812
physical assets that the lower level pass-through entity directly 1813
or indirectly owns on the last day of the lower level pass-through 1814
entity's calendar or fiscal year ending within or with the last 1815
day of the upper level pass-through entity's fiscal or calendar 1816
year. If the upper level pass-through entity directly and 1817
indirectly owns less than fifty per cent of the equity of the 1818
lower level pass-through entity on each day of the upper level 1819
pass-through entity's calendar or fiscal year in which or with 1820
which ends the calendar or fiscal year of the lower level 1821
pass-through entity and if, based upon clear and convincing 1822
evidence, complete information about the location and cost of the 1823
physical assets of the lower pass-through entity is not available 1824

to the upper level pass-through entity, then solely for purposes 1825
of ascertaining if a gain or loss constitutes a qualifying trust 1826
amount, the upper level pass-through entity shall be deemed as 1827
owning no equity of the lower level pass-through entity for each 1828
day during the upper level pass-through entity's calendar or 1829
fiscal year in which or with which ends the lower level 1830
pass-through entity's calendar or fiscal year. Nothing in division 1831
(BB)(5)(a)(iii) of this section shall be construed to provide for 1832
any deduction or exclusion in computing any trust's Ohio taxable 1833
income. 1834

(b) With respect to a trust that is not a resident for the 1835
taxable year and with respect to a part of a trust that is not a 1836
resident for the taxable year, "qualifying investee" for that 1837
taxable year does not include a C corporation if both of the 1838
following apply: 1839

(i) During the taxable year the trust or part of the trust 1840
recognizes a gain or loss from the sale, exchange, or other 1841
disposition of equity or ownership interests in, or debt 1842
obligations of, the C corporation. 1843

(ii) Such gain or loss constitutes nonbusiness income. 1844

(6) "Available" means information is such that a person is 1845
able to learn of the information by the due date plus extensions, 1846
if any, for filing the return for the taxable year in which the 1847
trust recognizes the gain or loss. 1848

(CC) "Qualifying controlled group" has the same meaning as in 1849
section 5733.04 of the Revised Code. 1850

(DD) "Related member" has the same meaning as in section 1851
5733.042 of the Revised Code. 1852

(EE)(1) For the purposes of division (EE) of this section: 1853

(a) "Qualifying person" means any person other than a 1854

qualifying corporation. 1855

(b) "Qualifying corporation" means any person classified for 1856
federal income tax purposes as an association taxable as a 1857
corporation, except either of the following: 1858

(i) A corporation that has made an election under subchapter 1859
S, chapter one, subtitle A, of the Internal Revenue Code for its 1860
taxable year ending within, or on the last day of, the investor's 1861
taxable year; 1862

(ii) A subsidiary that is wholly owned by any corporation 1863
that has made an election under subchapter S, chapter one, 1864
subtitle A of the Internal Revenue Code for its taxable year 1865
ending within, or on the last day of, the investor's taxable year. 1866

(2) For the purposes of this chapter, unless expressly stated 1867
otherwise, no qualifying person indirectly owns any asset directly 1868
or indirectly owned by any qualifying corporation. 1869

(FF) For purposes of this chapter and Chapter 5751. of the 1870
Revised Code: 1871

(1) "Trust" does not include a qualified pre-income tax 1872
trust. 1873

(2) A "qualified pre-income tax trust" is any pre-income tax 1874
trust that makes a qualifying pre-income tax trust election as 1875
described in division (FF)(3) of this section. 1876

(3) A "qualifying pre-income tax trust election" is an 1877
election by a pre-income tax trust to subject to the tax imposed 1878
by section 5751.02 of the Revised Code the pre-income tax trust 1879
and all pass-through entities of which the trust owns or controls, 1880
directly, indirectly, or constructively through related interests, 1881
five per cent or more of the ownership or equity interests. The 1882
trustee shall notify the tax commissioner in writing of the 1883
election on or before April 15, 2006. The election, if timely 1884

made, shall be effective on and after January 1, 2006, and shall 1885
apply for all tax periods and tax years until revoked by the 1886
trustee of the trust. 1887

(4) A "pre-income tax trust" is a trust that satisfies all of 1888
the following requirements: 1889

(a) The document or instrument creating the trust was 1890
executed by the grantor before January 1, 1972; 1891

(b) The trust became irrevocable upon the creation of the 1892
trust; and 1893

(c) The grantor was domiciled in this state at the time the 1894
trust was created. 1895

Sec. 5751.01. As used in this chapter: 1896

(A) "Person" means, but is not limited to, individuals, 1897
combinations of individuals of any form, receivers, assignees, 1898
trustees in bankruptcy, firms, companies, joint-stock companies, 1899
business trusts, estates, partnerships, limited liability 1900
partnerships, limited liability companies, associations, joint 1901
ventures, clubs, societies, for-profit corporations, S 1902
corporations, qualified subchapter S subsidiaries, qualified 1903
subchapter S trusts, trusts, entities that are disregarded for 1904
federal income tax purposes, and any other entities. 1905

(B) "Consolidated elected taxpayer" means a group of two or 1906
more persons treated as a single taxpayer for purposes of this 1907
chapter as the result of an election made under section 5751.011 1908
of the Revised Code. 1909

(C) "Combined taxpayer" means a group of two or more persons 1910
treated as a single taxpayer for purposes of this chapter under 1911
section 5751.012 of the Revised Code. 1912

(D) "Taxpayer" means any person, or any group of persons in 1913
the case of a consolidated elected taxpayer or combined taxpayer 1914

treated as one taxpayer, required to register or pay tax under 1915
this chapter. "Taxpayer" does not include excluded persons. 1916

(E) "Excluded person" means any of the following: 1917

(1) Any person with not more than one hundred fifty thousand 1918
dollars of taxable gross receipts during the calendar year. 1919

Division (E)(1) of this section does not apply to a person that is 1920
a member of a consolidated elected taxpayer; 1921

(2) A public utility that paid the excise tax imposed by 1922
section 5727.24 or 5727.30 of the Revised Code based on one or 1923
more measurement periods that include the entire tax period under 1924
this chapter, except that a public utility that is a combined 1925
company is a taxpayer with regard to the following gross receipts: 1926

(a) Taxable gross receipts directly attributed to a public 1927
utility activity, but not directly attributed to an activity that 1928
is subject to the excise tax imposed by section 5727.24 or 5727.30 1929
of the Revised Code; 1930

(b) Taxable gross receipts that cannot be directly attributed 1931
to any activity, multiplied by a fraction whose numerator is the 1932
taxable gross receipts described in division (E)(2)(a) of this 1933
section and whose denominator is the total taxable gross receipts 1934
that can be directly attributed to any activity; 1935

(c) Except for any differences resulting from the use of an 1936
accrual basis method of accounting for purposes of determining 1937
gross receipts under this chapter and the use of the cash basis 1938
method of accounting for purposes of determining gross receipts 1939
under section 5727.24 of the Revised Code, the gross receipts 1940
directly attributed to the activity of a natural gas company shall 1941
be determined in a manner consistent with division (D) of section 1942
5727.03 of the Revised Code. 1943

As used in division (E)(2) of this section, "combined 1944
company" and "public utility" have the same meanings as in section 1945

5727.01 of the Revised Code.	1946
(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;	1947 1948 1949 1950 1951
(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;	1952 1953 1954 1955 1956
(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);	1957 1958
(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);	1959 1960
(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);	1961 1962 1963 1964
(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.	1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975
For the purposes of division (E)(8) of this section, a person	1976

owns another person under the following circumstances:	1977
(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;	1978 1979 1980 1981
(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;	1982 1983 1984 1985 1986
(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization;	1987 1988 1989 1990 1991 1992 1993 1994
(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each such owner is described in division (E)(3), (5), (6), or (7) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k) or is a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.	1995 1996 1997 1998 1999 2000 2001 2002 2003
(9) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance	2004 2005 2006 2007

company whose gross premiums are subject to tax under section 2008
3905.36 of the Revised Code based on one or more measurement 2009
periods that include the entire tax period under this chapter; 2010

(10) A person that solely facilitates or services one or more 2011
securitizations or similar transactions for any person described 2012
in division (E)(3), (5), (6), (7), (8), or (9) of this section, or 2013
a person that solely facilitates or services one or more 2014
securitizations of phase-in-recovery property pursuant to a final 2015
financing order as those terms are defined in section 4928.23 of 2016
the Revised Code. For purposes of this division, "securitization" 2017
means transferring one or more assets to one or more persons and 2018
then issuing securities backed by the right to receive payment 2019
from the asset or assets so transferred. 2020

(11) Except as otherwise provided in this division, a 2021
pre-income tax trust as defined in division (FF)(4) of section 2022
5747.01 of the Revised Code and any pass-through entity of which 2023
such pre-income tax trust owns or controls, directly, indirectly, 2024
or constructively through related interests, more than five per 2025
cent of the ownership or equity interests. If the pre-income tax 2026
trust has made a qualifying pre-income tax trust election under 2027
division (FF)(3) of section 5747.01 of the Revised Code, then the 2028
trust and the pass-through entities of which it owns or controls, 2029
directly, indirectly, or constructively through related interests, 2030
more than five per cent of the ownership or equity interests, 2031
shall not be excluded persons for purposes of the tax imposed 2032
under section 5751.02 of the Revised Code. 2033

(12) Nonprofit organizations or the state and its agencies, 2034
instrumentalities, or political subdivisions. 2035

(F) Except as otherwise provided in divisions (F)(2), (3), 2036
and (4) of this section, "gross receipts" means the total amount 2037
realized by a person, without deduction for the cost of goods sold 2038
or other expenses incurred, that contributes to the production of 2039

gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

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

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

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

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded

hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board.	2070 2071
For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.	2072 2073 2074
(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;	2075 2076 2077
(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;	2078 2079 2080
(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;	2081 2082 2083 2084
(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;	2085 2086 2087 2088 2089 2090 2091 2092 2093
(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	2094 2095 2096
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	2097 2098 2099
(j) Gifts or charitable contributions received; membership	2100

dues received by trade, professional, homeowners', or condominium 2101
associations; and payments received for educational courses, 2102
meetings, meals, or similar payments to a trade, professional, or 2103
other similar association; and fundraising receipts received by 2104
any person when any excess receipts are donated or used 2105
exclusively for charitable purposes; 2106

(k) Damages received as the result of litigation in excess of 2107
amounts that, if received without litigation, would be gross 2108
receipts; 2109

(l) Property, money, and other amounts received or acquired 2110
by an agent on behalf of another in excess of the agent's 2111
commission, fee, or other remuneration; 2112

(m) Tax refunds, other tax benefit recoveries, and 2113
reimbursements for the tax imposed under this chapter made by 2114
entities that are part of the same combined taxpayer or 2115
consolidated elected taxpayer group, and reimbursements made by 2116
entities that are not members of a combined taxpayer or 2117
consolidated elected taxpayer group that are required to be made 2118
for economic parity among multiple owners of an entity whose tax 2119
obligation under this chapter is required to be reported and paid 2120
entirely by one owner, pursuant to the requirements of sections 2121
5751.011 and 5751.012 of the Revised Code; 2122

(n) Pension reversions; 2123

(o) Contributions to capital; 2124

(p) Sales or use taxes collected as a vendor or an 2125
out-of-state seller on behalf of the taxing jurisdiction from a 2126
consumer or other taxes the taxpayer is required by law to collect 2127
directly from a purchaser and remit to a local, state, or federal 2128
tax authority; 2129

(q) In the case of receipts from the sale of cigarettes or 2130
tobacco products by a wholesale dealer, retail dealer, 2131

distributor, manufacturer, or seller, all as defined in section 2132
5743.01 of the Revised Code, an amount equal to the federal and 2133
state excise taxes paid by any person on or for such cigarettes or 2134
tobacco products under subtitle E of the Internal Revenue Code or 2135
Chapter 5743. of the Revised Code; 2136

(r) In the case of receipts from the sale of motor fuel by a 2137
licensed motor fuel dealer, licensed retail dealer, or licensed 2138
permissive motor fuel dealer, all as defined in section 5735.01 of 2139
the Revised Code, an amount equal to federal and state excise 2140
taxes paid by any person on such motor fuel under section 4081 of 2141
the Internal Revenue Code or Chapter 5735. of the Revised Code; 2142

(s) In the case of receipts from the sale of beer or 2143
intoxicating liquor, as defined in section 4301.01 of the Revised 2144
Code, by a person holding a permit issued under Chapter 4301. or 2145
4303. of the Revised Code, an amount equal to federal and state 2146
excise taxes paid by any person on or for such beer or 2147
intoxicating liquor under subtitle E of the Internal Revenue Code 2148
or Chapter 4301. or 4305. of the Revised Code; 2149

(t) Receipts realized by a new motor vehicle dealer or used 2150
motor vehicle dealer, as defined in section 4517.01 of the Revised 2151
Code, from the sale or other transfer of a motor vehicle, as 2152
defined in that section, to another motor vehicle dealer for the 2153
purpose of resale by the transferee motor vehicle dealer, but only 2154
if the sale or other transfer was based upon the transferee's need 2155
to meet a specific customer's preference for a motor vehicle; 2156

(u) Receipts from a financial institution described in 2157
division (E)(3) of this section for services provided to the 2158
financial institution in connection with the issuance, processing, 2159
servicing, and management of loans or credit accounts, if such 2160
financial institution and the recipient of such receipts have at 2161
least fifty per cent of their ownership interests owned or 2162
controlled, directly or constructively through related interests, 2163

by common owners;	2164
(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;	2165 2166 2167 2168
(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.	2169 2170 2171 2172 2173 2174 2175 2176 2177 2178
(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;	2179 2180 2181 2182 2183
(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;	2184 2185 2186 2187 2188
(z) Qualifying distribution center receipts.	2189
(i) For purposes of division (F)(2)(z) of this section:	2190
(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.	2191 2192 2193 2194

(II) "Qualified property" means tangible personal property 2195
delivered to a qualified distribution center that is shipped to 2196
that qualified distribution center solely for further shipping by 2197
the qualified distribution center to another location in this 2198
state or elsewhere. "Further shipping" includes storing and 2199
repackaging such property into smaller or larger bundles, so long 2200
as such property is not subject to further manufacturing or 2201
processing. 2202

(III) "Qualified distribution center" means a warehouse or 2203
other similar facility in this state that, for the qualifying 2204
year, is operated by a person that is not part of a combined 2205
taxpayer group and that has a qualifying certificate. However, all 2206
warehouses or other similar facilities that are operated by 2207
persons in the same taxpayer group and that are located within one 2208
mile of each other shall be treated as one qualified distribution 2209
center. 2210

(IV) "Qualifying year" means the calendar year to which the 2211
qualifying certificate applies. 2212

(V) "Qualifying period" means the period of the first day of 2213
July of the second year preceding the qualifying year through the 2214
thirtieth day of June of the year preceding the qualifying year. 2215

(VI) "Qualifying certificate" means the certificate issued by 2216
the tax commissioner after the operator of a distribution center 2217
files an annual application with the commissioner. The application 2218
and annual fee shall be filed and paid for each qualified 2219
distribution center on or before the first day of September before 2220
the qualifying year or within forty-five days after the 2221
distribution center opens, whichever is later. 2222

The applicant must substantiate to the commissioner's 2223
satisfaction that, for the qualifying period, all persons 2224
operating the distribution center have more than fifty per cent of 2225

the cost of the qualified property shipped to a location such that 2226
it would be situated outside this state under the provisions of 2227
division (E) of section 5751.033 of the Revised Code. The 2228
applicant must also substantiate that the distribution center 2229
cumulatively had costs from its suppliers equal to or exceeding 2230
five hundred million dollars during the qualifying period. (For 2231
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 2232
excludes any person that is part of the consolidated elected 2233
taxpayer group, if applicable, of the operator of the qualified 2234
distribution center.) The commissioner may require the applicant 2235
to have an independent certified public accountant certify that 2236
the calculation of the minimum thresholds required for a qualified 2237
distribution center by the operator of a distribution center has 2238
been made in accordance with generally accepted accounting 2239
principles. The commissioner shall issue or deny the issuance of a 2240
certificate within sixty days after the receipt of the 2241
application. A denial is subject to appeal under section 5717.02 2242
of the Revised Code. If the operator files a timely appeal under 2243
section 5717.02 of the Revised Code, the operator shall be granted 2244
a qualifying certificate, provided that the operator is liable for 2245
any tax, interest, or penalty upon amounts claimed as qualifying 2246
distribution center receipts, other than those receipts exempt 2247
under division (C)(1) of section 5751.011 of the Revised Code, 2248
that would have otherwise not been owed by its suppliers if the 2249
qualifying certificate was valid. 2250

(VII) "Ohio delivery percentage" means the proportion of the 2251
total property delivered to a destination inside Ohio from the 2252
qualified distribution center during the qualifying period 2253
compared with total deliveries from such distribution center 2254
everywhere during the qualifying period. 2255

(ii) If the distribution center is new and was not open for 2256
the entire qualifying period, the operator of the distribution 2257

center may request that the commissioner grant a qualifying 2258
certificate. If the certificate is granted and it is later 2259
determined that more than fifty per cent of the qualified property 2260
during that year was not shipped to a location such that it would 2261
be sitused outside of this state under the provisions of division 2262
(E) of section 5751.033 of the Revised Code or if it is later 2263
determined that the person that operates the distribution center 2264
had average monthly costs from its suppliers of less than forty 2265
million dollars during that year, then the operator of the 2266
distribution center shall be liable for any tax, interest, or 2267
penalty upon amounts claimed as qualifying distribution center 2268
receipts, other than those receipts exempt under division (C)(1) 2269
of section 5751.011 of the Revised Code, that would have not 2270
otherwise been owed by its suppliers during the qualifying year if 2271
the qualifying certificate was valid. (For purposes of division 2272
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 2273
is part of the consolidated elected taxpayer group, if applicable, 2274
of the operator of the qualified distribution center.) 2275

(iii) When filing an application for a qualifying certificate 2276
under division (F)(2)(z)(i)(VI) of this section, the operator of a 2277
qualified distribution center also shall provide documentation, as 2278
the commissioner requires, for the commissioner to ascertain the 2279
Ohio delivery percentage. The commissioner, upon issuing the 2280
qualifying certificate, also shall certify the Ohio delivery 2281
percentage. The operator of the qualified distribution center may 2282
appeal the commissioner's certification of the Ohio delivery 2283
percentage in the same manner as an appeal is taken from the 2284
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 2285
of this section. 2286

Within thirty days after all appeals have been exhausted, the 2287
operator of the qualified distribution center shall notify the 2288
affected suppliers of qualified property that such suppliers are 2289

required to file, within sixty days after receiving notice from 2290
the operator of the qualified distribution center, amended reports 2291
for the impacted calendar quarter or quarters or calendar year, 2292
whichever the case may be. Any additional tax liability or tax 2293
overpayment shall be subject to interest but shall not be subject 2294
to the imposition of any penalty so long as the amended returns 2295
are timely filed. The supplier of tangible personal property 2296
delivered to the qualified distribution center shall include in 2297
its report of taxable gross receipts the receipts from the total 2298
sales of property delivered to the qualified distribution center 2299
for the calendar quarter or calendar year, whichever the case may 2300
be, multiplied by the Ohio delivery percentage for the qualifying 2301
year. Nothing in division (F)(2)(z)(iii) of this section shall be 2302
construed as imposing liability on the operator of a qualified 2303
distribution center for the tax imposed by this chapter arising 2304
from any change to the Ohio delivery percentage. 2305

(iv) In the case where the distribution center is new and not 2306
open for the entire qualifying period, the operator shall make a 2307
good faith estimate of an Ohio delivery percentage for use by 2308
suppliers in their reports of taxable gross receipts for the 2309
remainder of the qualifying period. The operator of the facility 2310
shall disclose to the suppliers that such Ohio delivery percentage 2311
is an estimate and is subject to recalculation. By the due date of 2312
the next application for a qualifying certificate, the operator 2313
shall determine the actual Ohio delivery percentage for the 2314
estimated qualifying period and proceed as provided in division 2315
(F)(2)(z)(iii) of this section with respect to the calculation and 2316
recalculation of the Ohio delivery percentage. The supplier is 2317
required to file, within sixty days after receiving notice from 2318
the operator of the qualified distribution center, amended reports 2319
for the impacted calendar quarter or quarters or calendar year, 2320
whichever the case may be. Any additional tax liability or tax 2321
overpayment shall be subject to interest but shall not be subject 2322

to the imposition of any penalty so long as the amended returns 2323
are timely filed. 2324

(v) Qualifying certificates and Ohio delivery percentages 2325
issued by the commissioner shall be open to public inspection and 2326
shall be timely published by the commissioner. A supplier relying 2327
in good faith on a certificate issued under this division shall 2328
not be subject to tax on the qualifying distribution center 2329
receipts under division (F)(2)(z) of this section. A person 2330
receiving a qualifying certificate is responsible for paying the 2331
tax, interest, and penalty upon amounts claimed as qualifying 2332
distribution center receipts that would not otherwise have been 2333
owed by the supplier if the qualifying certificate were available 2334
when it is later determined that the qualifying certificate should 2335
not have been issued because the statutory requirements were in 2336
fact not met. 2337

(vi) The annual fee for a qualifying certificate shall be one 2338
hundred thousand dollars for each qualified distribution center. 2339
If a qualifying certificate is not issued, the annual fee is 2340
subject to refund after the exhaustion of all appeals provided for 2341
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 2342
under this division may be assessed in the same manner as the tax 2343
imposed under this chapter. The first one hundred thousand dollars 2344
of the annual application fees collected each calendar year shall 2345
be credited to the revenue enhancement fund. The remainder of the 2346
annual application fees collected shall be distributed in the same 2347
manner required under section 5751.20 of the Revised Code. 2348

(vii) The tax commissioner may require that adequate security 2349
be posted by the operator of the distribution center on appeal 2350
when the commissioner disagrees that the applicant has met the 2351
minimum thresholds for a qualified distribution center as set 2352
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 2353
section. 2354

(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;	2355 2356 2357
(bb) Cash discounts allowed and taken;	2358
(cc) Returns and allowances;	2359
(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. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;	2360 2361 2362 2363 2364 2365 2366 2367 2368 2369 2370 2371 2372 2373
(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;	2374 2375 2376 2377
(ff) Any receipts directly attributed to providing public services pursuant to sections 126.60 to 126.605 of the Revised Code, or any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	2378 2379 2380 2381 2382
(gg)(i) As used in this division:	2383
(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other	2384 2385

disposition of uranium within a uranium enrichment zone certified 2386
by the tax commissioner under division (F)(2)(gg)(ii) of this 2387
section. "Qualified uranium receipts" does not include any 2388
receipts with a situs in this state outside a uranium enrichment 2389
zone certified by the tax commissioner under division 2390
(F)(2)(gg)(ii) of this section. 2391

(II) "Uranium enrichment zone" means all real property that 2392
is part of a uranium enrichment facility licensed by the United 2393
States nuclear regulatory commission and that was or is owned or 2394
controlled by the United States department of energy or its 2395
successor. 2396

(ii) Any person that owns, leases, or operates real or 2397
tangible personal property constituting or located within a 2398
uranium enrichment zone may apply to the tax commissioner to have 2399
the uranium enrichment zone certified for the purpose of excluding 2400
qualified uranium receipts under division (F)(2)(gg) of this 2401
section. The application shall include such information that the 2402
tax commissioner prescribes. Within sixty days after receiving the 2403
application, the tax commissioner shall certify the zone for that 2404
purpose if the commissioner determines that the property qualifies 2405
as a uranium enrichment zone as defined in division (F)(2)(gg) of 2406
this section, or, if the tax commissioner determines that the 2407
property does not qualify, the commissioner shall deny the 2408
application or request additional information from the applicant. 2409
If the tax commissioner denies an application, the commissioner 2410
shall state the reasons for the denial. The applicant may appeal 2411
the denial of an application to the board of tax appeals pursuant 2412
to section 5717.02 of the Revised Code. If the applicant files a 2413
timely appeal, the tax commissioner shall conditionally certify 2414
the applicant's property. The conditional certification shall 2415
expire when all of the applicant's appeals are exhausted. Until 2416
final resolution of the appeal, the applicant shall retain the 2417

applicant's records in accordance with section 5751.12 of the 2418
Revised Code, notwithstanding any time limit on the preservation 2419
of records under that section. 2420

(hh) Amounts realized by licensed motor fuel dealers or 2421
licensed permissive motor fuel dealers from the exchange of 2422
petroleum products, including motor fuel, between such dealers, 2423
provided that delivery of the petroleum products occurs at a 2424
refinery, terminal, pipeline, or marine vessel and that the 2425
exchanging dealers agree neither dealer shall require monetary 2426
compensation from the other for the value of the exchanged 2427
petroleum products other than such compensation for differences in 2428
product location or grade. Division (F)(2)(hh) of this section 2429
does not apply to amounts realized as a result of differences in 2430
location or grade of exchanged petroleum products or from 2431
handling, lubricity, dye, or other additive injections fees, 2432
pipeline security fees, or similar fees. As used in this division, 2433
"motor fuel," "licensed motor fuel dealer," "licensed permissive 2434
motor fuel dealer," and "terminal" have the same meanings as in 2435
section 5735.01 of the Revised Code. 2436

(ii) In the case of amounts collected by a licensed casino 2437
operator from casino gaming, amounts in excess of the casino 2438
operator's gross casino revenue. In this division, "casino 2439
operator" and "casino gaming" have the meanings defined in section 2440
3772.01 of the Revised Code, and "gross casino revenue" has the 2441
meaning defined in section 5753.01 of the Revised Code. 2442

(jj) Any receipts for which the tax imposed by this chapter 2443
is prohibited by the constitution or laws of the United States or 2444
the constitution of this state. 2445

(3) In the case of a taxpayer when acting as a real estate 2446
broker, "gross receipts" includes only the portion of any fee for 2447
the service of a real estate broker, or service of a real estate 2448
salesperson associated with that broker, that is retained by the 2449

broker and not paid to an associated real estate salesperson or 2450
another real estate broker. For the purposes of this division, 2451
"real estate broker" and "real estate salesperson" have the same 2452
meanings as in section 4735.01 of the Revised Code. 2453

(4) A taxpayer's method of accounting for gross receipts for 2454
a tax period shall be the same as the taxpayer's method of 2455
accounting for federal income tax purposes for the taxpayer's 2456
federal taxable year that includes the tax period. If a taxpayer's 2457
method of accounting for federal income tax purposes changes, its 2458
method of accounting for gross receipts under this chapter shall 2459
be changed accordingly. 2460

(G) "Taxable gross receipts" means gross receipts situated to 2461
this state under section 5751.033 of the Revised Code. 2462

(H) A person has "substantial nexus with this state" if any 2463
of the following applies. The person: 2464

(1) Owns or uses a part or all of its capital in this state; 2465

(2) Holds a certificate of compliance with the laws of this 2466
state authorizing the person to do business in this state; 2467

(3) Has bright-line presence in this state; 2468

(4) Otherwise has nexus with this state to an extent that the 2469
person can be required to remit the tax imposed under this chapter 2470
under the Constitution of the United States. 2471

(I) A person has "bright-line presence" in this state for a 2472
reporting period and for the remaining portion of the calendar 2473
year if any of the following applies. The person: 2474

(1) Has at any time during the calendar year property in this 2475
state with an aggregate value of at least fifty thousand dollars. 2476
For the purpose of division (I)(1) of this section, owned property 2477
is valued at original cost and rented property is valued at eight 2478
times the net annual rental charge. 2479

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:	2480 2481 2482
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	2483 2484
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	2485 2486 2487
(c) Any amount the person pays for services performed in this state on its behalf by another.	2488 2489
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	2490 2491
(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.	2492 2493 2494
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	2495 2496
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	2497 2498
(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.	2499 2500 2501 2502 2503 2504 2505 2506
(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.	2507 2508 2509

(M) "Tax period" means the calendar quarter or calendar year	2510
on the basis of which a taxpayer is required to pay the tax	2511
imposed under this chapter.	2512
(N) "Calendar year taxpayer" means a taxpayer for which the	2513
tax period is a calendar year.	2514
(O) "Calendar quarter taxpayer" means a taxpayer for which	2515
the tax period is a calendar quarter.	2516
(P) "Agent" means a person authorized by another person to	2517
act on its behalf to undertake a transaction for the other,	2518
including any of the following:	2519
(1) A person receiving a fee to sell financial instruments;	2520
(2) A person retaining only a commission from a transaction	2521
with the other proceeds from the transaction being remitted to	2522
another person;	2523
(3) A person issuing licenses and permits under section	2524
1533.13 of the Revised Code;	2525
(4) A lottery sales agent holding a valid license issued	2526
under section 3770.05 of the Revised Code;	2527
(5) A person acting as an agent of the division of liquor	2528
control under section 4301.17 of the Revised Code.	2529
(Q) "Received" includes amounts accrued under the accrual	2530
method of accounting.	2531
(R) "Reporting person" means a person in a consolidated	2532
elected taxpayer or combined taxpayer group that is designated by	2533
that group to legally bind the group for all filings and tax	2534
liabilities and to receive all legal notices with respect to	2535
matters under this chapter, or, for the purposes of section	2536
5751.04 of the Revised Code, a separate taxpayer that is not a	2537
member of such a group.	2538

Section 2. That existing sections 718.01, 5739.02, 5747.01, 2539
and 5751.01 and sections 126.60, 126.601, 126.602, 126.603, 2540
126.604, and 126.605 of the Revised Code are hereby repealed. 2541

Section 3. It is the intent of the General Assembly in 2542
enacting this act to eliminate all authority granted to the 2543
Director of Budget and Management and the Director of 2544
Transportation in Am. Sub. H.B. 153 of the 129th General Assembly 2545
pertaining to a purchase and sale agreement, lease, service 2546
agreement, franchise agreement, concession agreement, or other 2547
written agreement with respect to the operation or maintenance of 2548
the Ohio Turnpike, and to restore to the Ohio Turnpike Commission 2549
the full exercise of all powers granted to the Commission in the 2550
Revised Code. 2551

The Director of Budget and Management shall terminate any 2552
contract entered into or other action taken under sections 126.60 2553
to 126.605 of the Revised Code prior to their repeal by this act 2554
promptly and in a manner determined to be least costly to the 2555
state and its citizens. 2556

Section 4. The Ohio Turnpike Commission shall hold not less 2557
than four public hearings on the issue of outsourcing the 2558
maintenance and operation of the Ohio Turnpike. The hearings shall 2559
be held in geographically diverse locations in this state that are 2560
within the immediate vicinity of the Ohio Turnpike. The Commission 2561
shall inform the public of each hearing by causing an appropriate 2562
notice to be published on the Commission's internet web site and 2563
in a newspaper of general circulation in the county in which the 2564
hearing is to be held. Notice shall be published not less than one 2565
week prior to the date of the hearing. Additionally, the 2566
Commission shall send notice to the Governor and the presiding 2567
officers and minority leaders of the Senate and House of 2568

Representatives of the public hearing schedule and locations. 2569

The Commission shall hold the first hearing within thirty 2570
days of the effective date of this act and shall conclude the last 2571
hearing not more than ninety days after the effective date of this 2572
act. At each hearing, the Commission shall afford any person that 2573
may be affected by the potential outsourcing of the maintenance 2574
and operation of the Ohio Turnpike the opportunity to comment on 2575
such a course of action and the opportunity to present material to 2576
the Commission in support of the person's position. Upon the 2577
conclusion of the last hearing, the Commission shall compile any 2578
materials submitted to it during the hearings and prepare a report 2579
that summarizes the comments of persons who appeared at the 2580
hearings. The Commission shall present the report to the Governor 2581
and the presiding officers and minority leaders of the Senate and 2582
House of Representatives not later than thirty days after the date 2583
of the last hearing. 2584

Section 5. The General Assembly, applying the principle 2585
stated in division (B) of section 1.52 of the Revised Code that 2586
amendments are to be harmonized if reasonably capable of 2587
simultaneous operation, finds that the following sections, 2588
presented in this act as composites of the sections as amended by 2589
the acts indicated, are the resulting versions of the sections in 2590
effect prior to the effective date of the sections as presented in 2591
this act: 2592

Section 5739.02 of the Revised Code as amended by both Am. 2593
Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly. 2594

Section 5747.01 of the Revised Code as amended by both Am. 2595
Sub. H.B. 153 and Am. H.B. 167 of the 129th General Assembly. 2596

Section 5751.01 of the Revised Code as amended by both Am. 2597
Sub. H.B. 508 and Am. Sub. S.B. 315 of the 129th General Assembly. 2598