

**As Reported by the House Finance Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. S. B. No. 26**

**Senator Kunze**

**Cosponsors: Senators Maharath, Thomas, Roegner, Sykes, Williams, Fedor, Manning, Antonio, Coley, Craig, Eklund, Gavarone, Hackett, Hoagland, Hottinger, Huffman, S., Lehner, McColley, Obhof, Peterson, Rulli, Schaffer, Schuring, Terhar, Uecker, Wilson, Yuko Representatives Butler, Edwards, Carfagna, Greenspan, Hambley, O'Brien, Patterson, Perales, Roemer, Rogers**

---

**A BILL**

To amend sections 5739.01, 5739.012, 5739.02, 1  
5739.03, 5747.01, and 5747.08 and to repeal 2  
section 101.61 of the Revised Code and to amend 3  
Sections 333.83 and 757.150 of H.B. 166 of the 4  
133rd General Assembly to authorize a state 5  
income tax deduction for teachers' out-of-pocket 6  
expenses for professional development and 7  
classroom supplies, to modify the business 8  
income deduction and delay some tax credit 9  
repeals, to exempt feminine hygiene products and 10  
some incontinence products from sales and use 11  
tax, to abolish the Public Office Compensation 12  
Advisory Commission, and to modify a "Food 13  
Farmacy" pilot project earmark. 14

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

**Section 1.** That sections 5739.01, 5739.012, 5739.02, 15  
5739.03, 5747.01, and 5747.08 of the Revised Code be amended to 16

read as follows:	17
<b>Sec. 5739.01.</b> As used in this chapter:	18
(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.	19 20 21 22 23
(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:	24 25 26 27
(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;	28 29 30 31
(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;	32 33
(3) All transactions by which:	34
(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;	35 36 37 38
(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility	39 40 41 42 43 44

service;	45
(c) The service of washing, cleaning, waxing, polishing,	46
or painting a motor vehicle is or is to be furnished;	47
(d) Until August 1, 2003, industrial laundry cleaning	48
services are or are to be provided and, on and after August 1,	49
2003, laundry and dry cleaning services are or are to be	50
provided;	51
(e) Automatic data processing, computer services, or	52
electronic information services are or are to be provided for	53
use in business when the true object of the transaction is the	54
receipt by the consumer of automatic data processing, computer	55
services, or electronic information services rather than the	56
receipt of personal or professional services to which automatic	57
data processing, computer services, or electronic information	58
services are incidental or supplemental. Notwithstanding any	59
other provision of this chapter, such transactions that occur	60
between members of an affiliated group are not sales. An	61
"affiliated group" means two or more persons related in such a	62
way that one person owns or controls the business operation of	63
another member of the group. In the case of corporations with	64
stock, one corporation owns or controls another if it owns more	65
than fifty per cent of the other corporation's common stock with	66
voting rights.	67
(f) Telecommunications service, including prepaid calling	68
service, prepaid wireless calling service, or ancillary service,	69
is or is to be provided, but not including coin-operated	70
telephone service;	71
(g) Landscaping and lawn care service is or is to be	72
provided;	73

(h) Private investigation and security service is or is to be provided;	74 75
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	76 77
(j) Building maintenance and janitorial service is or is to be provided;	78 79
(k) Employment service is or is to be provided;	80
(l) Employment placement service is or is to be provided;	81
(m) Exterminating service is or is to be provided;	82
(n) Physical fitness facility service is or is to be provided;	83 84
(o) Recreation and sports club service is or is to be provided;	85 86
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	87 88
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	89 90 91 92 93 94 95 96 97
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except	98 99 100

for transportation provided by an ambulance service, by a 101  
transit bus, as defined in section 5735.01 of the Revised Code, 102  
and transportation provided by a citizen of the United States 103  
holding a certificate of public convenience and necessity issued 104  
under 49 U.S.C. 41102; 105

(s) On and after August 1, 2003, motor vehicle towing 106  
service is or is to be provided. As used in this division, 107  
"motor vehicle towing service" means the towing or conveyance of 108  
a wrecked, disabled, or illegally parked motor vehicle. 109

(t) On and after August 1, 2003, snow removal service is 110  
or is to be provided. As used in this division, "snow removal 111  
service" means the removal of snow by any mechanized means, but 112  
does not include the providing of such service by a person that 113  
has less than five thousand dollars in sales of such service 114  
during the calendar year. 115

(u) Electronic publishing service is or is to be provided 116  
to a consumer for use in business, except that such transactions 117  
occurring between members of an affiliated group, as defined in 118  
division (B)(3)(e) of this section, are not sales. 119

(4) All transactions by which printed, imprinted, 120  
overprinted, lithographic, multilithic, blueprinted, 121  
photostatic, or other productions or reproductions of written or 122  
graphic matter are or are to be furnished or transferred; 123

(5) The production or fabrication of tangible personal 124  
property for a consideration for consumers who furnish either 125  
directly or indirectly the materials used in the production of 126  
fabrication work; and include the furnishing, preparing, or 127  
serving for a consideration of any tangible personal property 128  
consumed on the premises of the person furnishing, preparing, or 129

serving such tangible personal property. Except as provided in 130  
section 5739.03 of the Revised Code, a construction contract 131  
pursuant to which tangible personal property is or is to be 132  
incorporated into a structure or improvement on and becoming a 133  
part of real property is not a sale of such tangible personal 134  
property. The construction contractor is the consumer of such 135  
tangible personal property, provided that the sale and 136  
installation of carpeting, the sale and installation of 137  
agricultural land tile, the sale and erection or installation of 138  
portable grain bins, or the provision of landscaping and lawn 139  
care service and the transfer of property as part of such 140  
service is never a construction contract. 141

As used in division (B) (5) of this section: 142

(a) "Agricultural land tile" means fired clay or concrete 143  
tile, or flexible or rigid perforated plastic pipe or tubing, 144  
incorporated or to be incorporated into a subsurface drainage 145  
system appurtenant to land used or to be used primarily in 146  
production by farming, agriculture, horticulture, or 147  
floriculture. The term does not include such materials when they 148  
are or are to be incorporated into a drainage system appurtenant 149  
to a building or structure even if the building or structure is 150  
used or to be used in such production. 151

(b) "Portable grain bin" means a structure that is used or 152  
to be used by a person engaged in farming or agriculture to 153  
shelter the person's grain and that is designed to be 154  
disassembled without significant damage to its component parts. 155

(6) All transactions in which all of the shares of stock 156  
of a closely held corporation are transferred, or an ownership 157  
interest in a pass-through entity, as defined in section 5733.04 158  
of the Revised Code, is transferred, if the corporation or pass- 159

through entity is not engaging in business and its entire assets 160  
consist of boats, planes, motor vehicles, or other tangible 161  
personal property operated primarily for the use and enjoyment 162  
of the shareholders or owners; 163

(7) All transactions in which a warranty, maintenance or 164  
service contract, or similar agreement by which the vendor of 165  
the warranty, contract, or agreement agrees to repair or 166  
maintain the tangible personal property of the consumer is or is 167  
to be provided; 168

(8) The transfer of copyrighted motion picture films used 169  
solely for advertising purposes, except that the transfer of 170  
such films for exhibition purposes is not a sale; 171

(9) On and after August 1, 2003, all transactions by which 172  
tangible personal property is or is to be stored, except such 173  
property that the consumer of the storage holds for sale in the 174  
regular course of business; 175

(10) All transactions in which "guaranteed auto 176  
protection" is provided whereby a person promises to pay to the 177  
consumer the difference between the amount the consumer receives 178  
from motor vehicle insurance and the amount the consumer owes to 179  
a person holding title to or a lien on the consumer's motor 180  
vehicle in the event the consumer's motor vehicle suffers a 181  
total loss under the terms of the motor vehicle insurance policy 182  
or is stolen and not recovered, if the protection and its price 183  
are included in the purchase or lease agreement; 184

(11) (a) Except as provided in division (B) (11) (b) of this 185  
section, on and after October 1, 2009, all transactions by which 186  
health care services are paid for, reimbursed, provided, 187  
delivered, arranged for, or otherwise made available by a 188

medicaid health insuring corporation pursuant to the 189  
corporation's contract with the state. 190

(b) If the centers for medicare and medicaid services of 191  
the United States department of health and human services 192  
determines that the taxation of transactions described in 193  
division (B) (11) (a) of this section constitutes an impermissible 194  
health care-related tax under the "Social Security Act," section 195  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 196  
the medicaid director shall notify the tax commissioner of that 197  
determination. Beginning with the first day of the month 198  
following that notification, the transactions described in 199  
division (B) (11) (a) of this section are not sales for the 200  
purposes of this chapter or Chapter 5741. of the Revised Code. 201  
The tax commissioner shall order that the collection of taxes 202  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 203  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 204  
for transactions occurring on or after that date. 205

(12) All transactions by which a specified digital product 206  
is provided for permanent use or less than permanent use, 207  
regardless of whether continued payment is required. 208

Except as provided in this section, "sale" and "selling" 209  
do not include transfers of interest in leased property where 210  
the original lessee and the terms of the original lease 211  
agreement remain unchanged, or professional, insurance, or 212  
personal service transactions that involve the transfer of 213  
tangible personal property as an inconsequential element, for 214  
which no separate charges are made. 215

(C) "Vendor" means the person providing the service or by 216  
whom the transfer effected or license given by a sale is or is 217  
to be made or given and, for sales described in division (B) (3) 218



(i) of this section, the telecommunications service vendor that 219  
provides the nine hundred telephone service; if two or more 220  
persons are engaged in business at the same place of business 221  
under a single trade name in which all collections on account of 222  
sales by each are made, such persons shall constitute a single 223  
vendor. 224

Physicians, dentists, hospitals, and veterinarians who are 225  
engaged in selling tangible personal property as received from 226  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 227  
articles, are vendors. Veterinarians who are engaged in 228  
transferring to others for a consideration drugs, the dispensing 229  
of which does not require an order of a licensed veterinarian or 230  
physician under federal law, are vendors. 231

The operator of any peer-to-peer car sharing program shall 232  
be considered to be the vendor. 233

(D) (1) "Consumer" means the person for whom the service is 234  
provided, to whom the transfer effected or license given by a 235  
sale is or is to be made or given, to whom the service described 236  
in division (B) (3) (f) or (i) of this section is charged, or to 237  
whom the admission is granted. 238

(2) Physicians, dentists, hospitals, and blood banks 239  
operated by nonprofit institutions and persons licensed to 240  
practice veterinary medicine, surgery, and dentistry are 241  
consumers of all tangible personal property and services 242  
purchased by them in connection with the practice of medicine, 243  
dentistry, the rendition of hospital or blood bank service, or 244  
the practice of veterinary medicine, surgery, and dentistry. In 245  
addition to being consumers of drugs administered by them or by 246  
their assistants according to their direction, veterinarians 247  
also are consumers of drugs that under federal law may be 248

dispensed only by or upon the order of a licensed veterinarian 249  
or physician, when transferred by them to others for a 250  
consideration to provide treatment to animals as directed by the 251  
veterinarian. 252

(3) A person who performs a facility management, or 253  
similar service contract for a contractee is a consumer of all 254  
tangible personal property and services purchased for use in 255  
connection with the performance of such contract, regardless of 256  
whether title to any such property vests in the contractee. The 257  
purchase of such property and services is not subject to the 258  
exception for resale under division (E) of this section. 259

(4) (a) In the case of a person who purchases printed 260  
matter for the purpose of distributing it or having it 261  
distributed to the public or to a designated segment of the 262  
public, free of charge, that person is the consumer of that 263  
printed matter, and the purchase of that printed matter for that 264  
purpose is a sale. 265

(b) In the case of a person who produces, rather than 266  
purchases, printed matter for the purpose of distributing it or 267  
having it distributed to the public or to a designated segment 268  
of the public, free of charge, that person is the consumer of 269  
all tangible personal property and services purchased for use or 270  
consumption in the production of that printed matter. That 271  
person is not entitled to claim exemption under division (B) (42) 272  
(f) of section 5739.02 of the Revised Code for any material 273  
incorporated into the printed matter or any equipment, supplies, 274  
or services primarily used to produce the printed matter. 275

(c) The distribution of printed matter to the public or to 276  
a designated segment of the public, free of charge, is not a 277  
sale to the members of the public to whom the printed matter is 278

distributed or to any persons who purchase space in the printed	279
matter for advertising or other purposes.	280
(5) A person who makes sales of any of the services listed	281
in division (B) (3) of this section is the consumer of any	282
tangible personal property used in performing the service. The	283
purchase of that property is not subject to the resale exception	284
under division (E) of this section.	285
(6) A person who engages in highway transportation for	286
hire is the consumer of all packaging materials purchased by	287
that person and used in performing the service, except for	288
packaging materials sold by such person in a transaction	289
separate from the service.	290
(7) In the case of a transaction for health care services	291
under division (B) (11) of this section, a medicaid health	292
insuring corporation is the consumer of such services. The	293
purchase of such services by a medicaid health insuring	294
corporation is not subject to the exception for resale under	295
division (E) of this section or to the exemptions provided under	296
divisions (B) (12), (18), (19), and (22) of section 5739.02 of	297
the Revised Code.	298
(E) "Retail sale" and "sales at retail" include all sales,	299
except those in which the purpose of the consumer is to resell	300
the thing transferred or benefit of the service provided, by a	301
person engaging in business, in the form in which the same is,	302
or is to be, received by the person.	303
(F) "Business" includes any activity engaged in by any	304
person with the object of gain, benefit, or advantage, either	305
direct or indirect. "Business" does not include the activity of	306
a person in managing and investing the person's own funds.	307

(G) "Engaging in business" means commencing, conducting, 308  
or continuing in business, and liquidating a business when the 309  
liquidator thereof holds itself out to the public as conducting 310  
such business. Making a casual sale is not engaging in business. 311

(H) (1) (a) "Price," except as provided in divisions (H) (2), 312  
(3), and (4) of this section, means the total amount of 313  
consideration, including cash, credit, property, and services, 314  
for which tangible personal property or services are sold, 315  
leased, or rented, valued in money, whether received in money or 316  
otherwise, without any deduction for any of the following: 317

(i) The vendor's cost of the property sold; 318

(ii) The cost of materials used, labor or service costs, 319  
interest, losses, all costs of transportation to the vendor, all 320  
taxes imposed on the vendor, including the tax imposed under 321  
Chapter 5751. of the Revised Code, and any other expense of the 322  
vendor; 323

(iii) Charges by the vendor for any services necessary to 324  
complete the sale; 325

(iv) On and after August 1, 2003, delivery charges. As 326  
used in this division, "delivery charges" means charges by the 327  
vendor for preparation and delivery to a location designated by 328  
the consumer of tangible personal property or a service, 329  
including transportation, shipping, postage, handling, crating, 330  
and packing. 331

(v) Installation charges; 332

(vi) Credit for any trade-in. 333

(b) "Price" includes consideration received by the vendor 334  
from a third party, if the vendor actually receives the 335

consideration from a party other than the consumer, and the 336  
consideration is directly related to a price reduction or 337  
discount on the sale; the vendor has an obligation to pass the 338  
price reduction or discount through to the consumer; the amount 339  
of the consideration attributable to the sale is fixed and 340  
determinable by the vendor at the time of the sale of the item 341  
to the consumer; and one of the following criteria is met: 342

(i) The consumer presents a coupon, certificate, or other 343  
document to the vendor to claim a price reduction or discount 344  
where the coupon, certificate, or document is authorized, 345  
distributed, or granted by a third party with the understanding 346  
that the third party will reimburse any vendor to whom the 347  
coupon, certificate, or document is presented; 348

(ii) The consumer identifies the consumer's self to the 349  
seller as a member of a group or organization entitled to a 350  
price reduction or discount. A preferred customer card that is 351  
available to any patron does not constitute membership in such a 352  
group or organization. 353

(iii) The price reduction or discount is identified as a 354  
third party price reduction or discount on the invoice received 355  
by the consumer, or on a coupon, certificate, or other document 356  
presented by the consumer. 357

(c) "Price" does not include any of the following: 358

(i) Discounts, including cash, term, or coupons that are 359  
not reimbursed by a third party that are allowed by a vendor and 360  
taken by a consumer on a sale; 361

(ii) Interest, financing, and carrying charges from credit 362  
extended on the sale of tangible personal property or services, 363  
if the amount is separately stated on the invoice, bill of sale, 364

or similar document given to the purchaser; 365

(iii) Any taxes legally imposed directly on the consumer 366  
that are separately stated on the invoice, bill of sale, or 367  
similar document given to the consumer. For the purpose of this 368  
division, the tax imposed under Chapter 5751. of the Revised 369  
Code is not a tax directly on the consumer, even if the tax or a 370  
portion thereof is separately stated. 371

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 372  
this section, any discount allowed by an automobile manufacturer 373  
to its employee, or to the employee of a supplier, on the 374  
purchase of a new motor vehicle from a new motor vehicle dealer 375  
in this state. 376

(v) The dollar value of a gift card that is not sold by a 377  
vendor or purchased by a consumer and that is redeemed by the 378  
consumer in purchasing tangible personal property or services if 379  
the vendor is not reimbursed and does not receive compensation 380  
from a third party to cover all or part of the gift card value. 381  
For the purposes of this division, a gift card is not sold by a 382  
vendor or purchased by a consumer if it is distributed pursuant 383  
to an awards, loyalty, or promotional program. Past and present 384  
purchases of tangible personal property or services by the 385  
consumer shall not be treated as consideration exchanged for a 386  
gift card. 387

(2) In the case of a sale of any new motor vehicle by a 388  
new motor vehicle dealer, as defined in section 4517.01 of the 389  
Revised Code, in which another motor vehicle is accepted by the 390  
dealer as part of the consideration received, "price" has the 391  
same meaning as in division (H) (1) of this section, reduced by 392  
the credit afforded the consumer by the dealer for the motor 393  
vehicle received in trade. 394

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

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

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

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

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or

devoted to, use in conjunction with the business engaged in by 425  
such person. 426

(L) "Casual sale" means a sale of an item of tangible 427  
personal property that was obtained by the person making the 428  
sale, through purchase or otherwise, for the person's own use 429  
and was previously subject to any state's taxing jurisdiction on 430  
its sale or use, and includes such items acquired for the 431  
seller's use that are sold by an auctioneer employed directly by 432  
the person for such purpose, provided the location of such sales 433  
is not the auctioneer's permanent place of business. As used in 434  
this division, "permanent place of business" includes any 435  
location where such auctioneer has conducted more than two 436  
auctions during the year. 437

(M) "Hotel" means every establishment kept, used, 438  
maintained, advertised, or held out to the public to be a place 439  
where sleeping accommodations are offered to guests, in which 440  
five or more rooms are used for the accommodation of such 441  
guests, whether the rooms are in one or several structures, 442  
except as otherwise provided in division (G) of section 5739.09 443  
of the Revised Code. 444

(N) "Transient guests" means persons occupying a room or 445  
rooms for sleeping accommodations for less than thirty 446  
consecutive days. 447

(O) "Making retail sales" means the effecting of 448  
transactions wherein one party is obligated to pay the price and 449  
the other party is obligated to provide a service or to transfer 450  
title to or possession of the item sold. "Making retail sales" 451  
does not include the preliminary acts of promoting or soliciting 452  
the retail sales, other than the distribution of printed matter 453  
which displays or describes and prices the item offered for 454



sale, nor does it include delivery of a predetermined quantity 455  
of tangible personal property or transportation of property or 456  
personnel to or from a place where a service is performed. 457

(P) "Used directly in the rendition of a public utility 458  
service" means that property that is to be incorporated into and 459  
will become a part of the consumer's production, transmission, 460  
transportation, or distribution system and that retains its 461  
classification as tangible personal property after such 462  
incorporation; fuel or power used in the production, 463  
transmission, transportation, or distribution system; and 464  
tangible personal property used in the repair and maintenance of 465  
the production, transmission, transportation, or distribution 466  
system, including only such motor vehicles as are specially 467  
designed and equipped for such use. Tangible personal property 468  
and services used primarily in providing highway transportation 469  
for hire are not used directly in the rendition of a public 470  
utility service. In this definition, "public utility" includes a 471  
citizen of the United States holding, and required to hold, a 472  
certificate of public convenience and necessity issued under 49 473  
U.S.C. 41102. 474

(Q) "Refining" means removing or separating a desirable 475  
product from raw or contaminated materials by distillation or 476  
physical, mechanical, or chemical processes. 477

(R) "Assembly" and "assembling" mean attaching or fitting 478  
together parts to form a product, but do not include packaging a 479  
product. 480

(S) "Manufacturing operation" means a process in which 481  
materials are changed, converted, or transformed into a 482  
different state or form from which they previously existed and 483  
includes refining materials, assembling parts, and preparing raw 484

materials and parts by mixing, measuring, blending, or otherwise 485  
committing such materials or parts to the manufacturing process. 486  
"Manufacturing operation" does not include packaging. 487

(T) "Fiscal officer" means, with respect to a regional 488  
transit authority, the secretary-treasurer thereof, and with 489  
respect to a county that is a transit authority, the fiscal 490  
officer of the county transit board if one is appointed pursuant 491  
to section 306.03 of the Revised Code or the county auditor if 492  
the board of county commissioners operates the county transit 493  
system. 494

(U) "Transit authority" means a regional transit authority 495  
created pursuant to section 306.31 of the Revised Code or a 496  
county in which a county transit system is created pursuant to 497  
section 306.01 of the Revised Code. For the purposes of this 498  
chapter, a transit authority must extend to at least the entire 499  
area of a single county. A transit authority that includes 500  
territory in more than one county must include all the area of 501  
the most populous county that is a part of such transit 502  
authority. County population shall be measured by the most 503  
recent census taken by the United States census bureau. 504

(V) "Legislative authority" means, with respect to a 505  
regional transit authority, the board of trustees thereof, and 506  
with respect to a county that is a transit authority, the board 507  
of county commissioners. 508

(W) "Territory of the transit authority" means all of the 509  
area included within the territorial boundaries of a transit 510  
authority as they from time to time exist. Such territorial 511  
boundaries must at all times include all the area of a single 512  
county or all the area of the most populous county that is a 513  
part of such transit authority. County population shall be 514

measured by the most recent census taken by the United States 515  
census bureau. 516

(X) "Providing a service" means providing or furnishing 517  
anything described in division (B) (3) of this section for 518  
consideration. 519

(Y) (1) (a) "Automatic data processing" means processing of 520  
others' data, including keypunching or similar data entry 521  
services together with verification thereof, or providing access 522  
to computer equipment for the purpose of processing data. 523

(b) "Computer services" means providing services 524  
consisting of specifying computer hardware configurations and 525  
evaluating technical processing characteristics, computer 526  
programming, and training of computer programmers and operators, 527  
provided in conjunction with and to support the sale, lease, or 528  
operation of taxable computer equipment or systems. 529

(c) "Electronic information services" means providing 530  
access to computer equipment by means of telecommunications 531  
equipment for the purpose of either of the following: 532

(i) Examining or acquiring data stored in or accessible to 533  
the computer equipment; 534

(ii) Placing data into the computer equipment to be 535  
retrieved by designated recipients with access to the computer 536  
equipment. 537

For transactions occurring on or after the effective date 538  
of the amendment of this section by H.B. 157 of the 127th 539  
general assembly, December 21, 2007, "electronic information 540  
services" does not include electronic publishing. 541

(d) "Automatic data processing, computer services, or 542

electronic information services" shall not include personal or 543  
professional services. 544

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 545  
section, "personal and professional services" means all services 546  
other than automatic data processing, computer services, or 547  
electronic information services, including but not limited to: 548

(a) Accounting and legal services such as advice on tax 549  
matters, asset management, budgetary matters, quality control, 550  
information security, and auditing and any other situation where 551  
the service provider receives data or information and studies, 552  
alters, analyzes, interprets, or adjusts such material; 553

(b) Analyzing business policies and procedures; 554

(c) Identifying management information needs; 555

(d) Feasibility studies, including economic and technical 556  
analysis of existing or potential computer hardware or software 557  
needs and alternatives; 558

(e) Designing policies, procedures, and custom software 559  
for collecting business information, and determining how data 560  
should be summarized, sequenced, formatted, processed, 561  
controlled, and reported so that it will be meaningful to 562  
management; 563

(f) Developing policies and procedures that document how 564  
business events and transactions are to be authorized, executed, 565  
and controlled; 566

(g) Testing of business procedures; 567

(h) Training personnel in business procedure applications; 568

(i) Providing credit information to users of such 569

information by a consumer reporting agency, as defined in the 570  
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 571  
U.S.C. 1681a(f), or as hereafter amended, including but not 572  
limited to gathering, organizing, analyzing, recording, and 573  
furnishing such information by any oral, written, graphic, or 574  
electronic medium; 575

(j) Providing debt collection services by any oral, 576  
written, graphic, or electronic means; 577

(k) Providing digital advertising services. 578

The services listed in divisions (Y) (2) (a) to (k) of this 579  
section are not automatic data processing or computer services. 580

(Z) "Highway transportation for hire" means the 581  
transportation of personal property belonging to others for 582  
consideration by any of the following: 583

(1) The holder of a permit or certificate issued by this 584  
state or the United States authorizing the holder to engage in 585  
transportation of personal property belonging to others for 586  
consideration over or on highways, roadways, streets, or any 587  
similar public thoroughfare; 588

(2) A person who engages in the transportation of personal 589  
property belonging to others for consideration over or on 590  
highways, roadways, streets, or any similar public thoroughfare 591  
but who could not have engaged in such transportation on 592  
December 11, 1985, unless the person was the holder of a permit 593  
or certificate of the types described in division (Z) (1) of this 594  
section; 595

(3) A person who leases a motor vehicle to and operates it 596  
for a person described by division (Z) (1) or (2) of this 597  
section. 598

(AA) (1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

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

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

(c) Tangible personal property;

(d) Advertising, including directory advertising;

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

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to,

cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

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

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

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

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

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

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

(e) "Voice mail service" means an ancillary service that

enables the customer to store, send, or receive recorded 656  
messages. "Voice mail service" does not include any vertical 657  
services that the customer may be required to have in order to 658  
utilize the voice mail service. 659

(3) "900 service" means an inbound toll telecommunications 660  
service purchased by a subscriber that allows the subscriber's 661  
customers to call in to the subscriber's prerecorded 662  
announcement or live service, and which is typically marketed 663  
under the name "900 service" and any subsequent numbers 664  
designated by the federal communications commission. "900 665  
service" does not include the charge for collection services 666  
provided by the seller of the telecommunications service to the 667  
subscriber, or services or products sold by the subscriber to 668  
the subscriber's customer. 669

(4) "Prepaid calling service" means the right to access 670  
exclusively telecommunications services, which must be paid for 671  
in advance and which enables the origination of calls using an 672  
access number or authorization code, whether manually or 673  
electronically dialed, and that is sold in predetermined units 674  
or dollars of which the number declines with use in a known 675  
amount. 676

(5) "Prepaid wireless calling service" means a 677  
telecommunications service that provides the right to utilize 678  
mobile telecommunications service as well as other non- 679  
telecommunications services, including the download of digital 680  
products delivered electronically, and content and ancillary 681  
services, that must be paid for in advance and that is sold in 682  
predetermined units or dollars of which the number declines with 683  
use in a known amount. 684

(6) "Value-added non-voice data service" means a 685



telecommunications service in which computer processing 686  
applications are used to act on the form, content, code, or 687  
protocol of the information or data primarily for a purpose 688  
other than transmission, conveyance, or routing. 689

(7) "Coin-operated telephone service" means a 690  
telecommunications service paid for by inserting money into a 691  
telephone accepting direct deposits of money to operate. 692

(8) "Customer" has the same meaning as in section 5739.034 693  
of the Revised Code. 694

(BB) "Laundry and dry cleaning services" means removing 695  
soil or dirt from towels, linens, articles of clothing, or other 696  
fabric items that belong to others and supplying towels, linens, 697  
articles of clothing, or other fabric items. "Laundry and dry 698  
cleaning services" does not include the provision of self- 699  
service facilities for use by consumers to remove soil or dirt 700  
from towels, linens, articles of clothing, or other fabric 701  
items. 702

(CC) "Magazines distributed as controlled circulation 703  
publications" means magazines containing at least twenty-four 704  
pages, at least twenty-five per cent editorial content, issued 705  
at regular intervals four or more times a year, and circulated 706  
without charge to the recipient, provided that such magazines 707  
are not owned or controlled by individuals or business concerns 708  
which conduct such publications as an auxiliary to, and 709  
essentially for the advancement of the main business or calling 710  
of, those who own or control them. 711

(DD) "Landscaping and lawn care service" means the 712  
services of planting, seeding, sodding, removing, cutting, 713  
trimming, pruning, mulching, aerating, applying chemicals, 714

watering, fertilizing, and providing similar services to 715  
establish, promote, or control the growth of trees, shrubs, 716  
flowers, grass, ground cover, and other flora, or otherwise 717  
maintaining a lawn or landscape grown or maintained by the owner 718  
for ornamentation or other nonagricultural purpose. However, 719  
"landscaping and lawn care service" does not include the 720  
providing of such services by a person who has less than five 721  
thousand dollars in sales of such services during the calendar 722  
year. 723

(EE) "Private investigation and security service" means 724  
the performance of any activity for which the provider of such 725  
service is required to be licensed pursuant to Chapter 4749. of 726  
the Revised Code, or would be required to be so licensed in 727  
performing such services in this state, and also includes the 728  
services of conducting polygraph examinations and of monitoring 729  
or overseeing the activities on or in, or the condition of, the 730  
consumer's home, business, or other facility by means of 731  
electronic or similar monitoring devices. "Private investigation 732  
and security service" does not include special duty services 733  
provided by off-duty police officers, deputy sheriffs, and other 734  
peace officers regularly employed by the state or a political 735  
subdivision. 736

(FF) "Information services" means providing conversation, 737  
giving consultation or advice, playing or making a voice or 738  
other recording, making or keeping a record of the number of 739  
callers, and any other service provided to a consumer by means 740  
of a nine hundred telephone call, except when the nine hundred 741  
telephone call is the means by which the consumer makes a 742  
contribution to a recognized charity. 743

(GG) "Research and development" means designing, creating, 744

or formulating new or enhanced products, equipment, or 745  
manufacturing processes, and also means conducting scientific or 746  
technological inquiry and experimentation in the physical 747  
sciences with the goal of increasing scientific knowledge which 748  
may reveal the bases for new or enhanced products, equipment, or 749  
manufacturing processes. 750

(HH) "Qualified research and development equipment" means 751  
capitalized tangible personal property, and leased personal 752  
property that would be capitalized if purchased, used by a 753  
person primarily to perform research and development. Tangible 754  
personal property primarily used in testing, as defined in 755  
division (A) (4) of section 5739.011 of the Revised Code, or used 756  
for recording or storing test results, is not qualified research 757  
and development equipment unless such property is primarily used 758  
by the consumer in testing the product, equipment, or 759  
manufacturing process being created, designed, or formulated by 760  
the consumer in the research and development activity or in 761  
recording or storing such test results. 762

(II) "Building maintenance and janitorial service" means 763  
cleaning the interior or exterior of a building and any tangible 764  
personal property located therein or thereon, including any 765  
services incidental to such cleaning for which no separate 766  
charge is made. However, "building maintenance and janitorial 767  
service" does not include the providing of such service by a 768  
person who has less than five thousand dollars in sales of such 769  
service during the calendar year. As used in this division, 770  
"cleaning" does not include sanitation services necessary for an 771  
establishment described in 21 U.S.C. 608 to comply with rules 772  
and regulations adopted pursuant to that section. 773

(JJ) "Employment service" means providing or supplying 774

personnel, on a temporary or long-term basis, to perform work or 775  
labor under the supervision or control of another, when the 776  
personnel so provided or supplied receive their wages, salary, 777  
or other compensation from the provider or supplier of the 778  
employment service or from a third party that provided or 779  
supplied the personnel to the provider or supplier. "Employment 780  
service" does not include: 781

(1) Acting as a contractor or subcontractor, where the 782  
personnel performing the work are not under the direct control 783  
of the purchaser. 784

(2) Medical and health care services. 785

(3) Supplying personnel to a purchaser pursuant to a 786  
contract of at least one year between the service provider and 787  
the purchaser that specifies that each employee covered under 788  
the contract is assigned to the purchaser on a permanent basis. 789

(4) Transactions between members of an affiliated group, 790  
as defined in division (B) (3) (e) of this section. 791

(5) Transactions where the personnel so provided or 792  
supplied by a provider or supplier to a purchaser of an 793  
employment service are then provided or supplied by that 794  
purchaser to a third party as an employment service, except 795  
"employment service" does include the transaction between that 796  
purchaser and the third party. 797

(KK) "Employment placement service" means locating or 798  
finding employment for a person or finding or locating an 799  
employee to fill an available position. 800

(LL) "Exterminating service" means eradicating or 801  
attempting to eradicate vermin infestations from a building or 802  
structure, or the area surrounding a building or structure, and 803

includes activities to inspect, detect, or prevent vermin 804  
infestation of a building or structure. 805

(MM) "Physical fitness facility service" means all 806  
transactions by which a membership is granted, maintained, or 807  
renewed, including initiation fees, membership dues, renewal 808  
fees, monthly minimum fees, and other similar fees and dues, by 809  
a physical fitness facility such as an athletic club, health 810  
spa, or gymnasium, which entitles the member to use the facility 811  
for physical exercise. 812

(NN) "Recreation and sports club service" means all 813  
transactions by which a membership is granted, maintained, or 814  
renewed, including initiation fees, membership dues, renewal 815  
fees, monthly minimum fees, and other similar fees and dues, by 816  
a recreation and sports club, which entitles the member to use 817  
the facilities of the organization. "Recreation and sports club" 818  
means an organization that has ownership of, or controls or 819  
leases on a continuing, long-term basis, the facilities used by 820  
its members and includes an aviation club, gun or shooting club, 821  
yacht club, card club, swimming club, tennis club, golf club, 822  
country club, riding club, amateur sports club, or similar 823  
organization. 824

(OO) "Livestock" means farm animals commonly raised for 825  
food, food production, or other agricultural purposes, 826  
including, but not limited to, cattle, sheep, goats, swine, 827  
poultry, and captive deer. "Livestock" does not include 828  
invertebrates, amphibians, reptiles, domestic pets, animals for 829  
use in laboratories or for exhibition, or other animals not 830  
commonly raised for food or food production. 831

(PP) "Livestock structure" means a building or structure 832  
used exclusively for the housing, raising, feeding, or 833

sheltering of livestock, and includes feed storage or handling 834  
structures and structures for livestock waste handling. 835

(QQ) "Horticulture" means the growing, cultivation, and 836  
production of flowers, fruits, herbs, vegetables, sod, 837  
mushrooms, and nursery stock. As used in this division, "nursery 838  
stock" has the same meaning as in section 927.51 of the Revised 839  
Code. 840

(RR) "Horticulture structure" means a building or 841  
structure used exclusively for the commercial growing, raising, 842  
or overwintering of horticultural products, and includes the 843  
area used for stocking, storing, and packing horticultural 844  
products when done in conjunction with the production of those 845  
products. 846

(SS) "Newspaper" means an unbound publication bearing a 847  
title or name that is regularly published, at least as 848  
frequently as biweekly, and distributed from a fixed place of 849  
business to the public in a specific geographic area, and that 850  
contains a substantial amount of news matter of international, 851  
national, or local events of interest to the general public. 852

(TT) (1) "Feminine hygiene products" means tampons, panty 853  
liners, menstrual cups, sanitary napkins, and other similar 854  
tangible personal property designed for feminine hygiene in 855  
connection with the human menstrual cycle, but does not include 856  
grooming and hygiene products. 857

(2) "Grooming and hygiene products" means soaps and 858  
cleaning solutions, shampoo, toothpaste, mouthwash, 859  
antiperspirants, and sun tan lotions and screens, regardless of 860  
whether any of these products are over-the-counter drugs. 861

(3) "Over-the-counter drugs" means a drug that contains a 862

label that identifies the product as a drug as required by 21 863  
C.F.R. 201.66, which label includes a drug facts panel or a 864  
statement of the active ingredients with a list of those 865  
ingredients contained in the compound, substance, or 866  
preparation. 867

(UU) (1) "Lease" or "rental" means any transfer of the 868  
possession or control of tangible personal property for a fixed 869  
or indefinite term, for consideration. "Lease" or "rental" 870  
includes future options to purchase or extend, and agreements 871  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 872  
trailers where the amount of consideration may be increased or 873  
decreased by reference to the amount realized upon the sale or 874  
disposition of the property. "Lease" or "rental" does not 875  
include: 876

(a) A transfer of possession or control of tangible 877  
personal property under a security agreement or a deferred 878  
payment plan that requires the transfer of title upon completion 879  
of the required payments; 880

(b) A transfer of possession or control of tangible 881  
personal property under an agreement that requires the transfer 882  
of title upon completion of required payments and payment of an 883  
option price that does not exceed the greater of one hundred 884  
dollars or one per cent of the total required payments; 885

(c) Providing tangible personal property along with an 886  
operator for a fixed or indefinite period of time, if the 887  
operator is necessary for the property to perform as designed. 888  
For purposes of this division, the operator must do more than 889  
maintain, inspect, or set up the tangible personal property. 890

(2) "Lease" and "rental," as defined in division (UU) of 891

this section, shall not apply to leases or rentals that exist 892  
before June 26, 2003. 893

(3) "Lease" and "rental" have the same meaning as in 894  
division (UU) (1) of this section regardless of whether a 895  
transaction is characterized as a lease or rental under 896  
generally accepted accounting principles, the Internal Revenue 897  
Code, Title XIII of the Revised Code, or other federal, state, 898  
or local laws. 899

(VV) "Mobile telecommunications service" has the same 900  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 901  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 902  
amended, and, on and after August 1, 2003, includes related fees 903  
and ancillary services, including universal service fees, 904  
detailed billing service, directory assistance, service 905  
initiation, voice mail service, and vertical services, such as 906  
caller ID and three-way calling. 907

(WW) "Certified service provider" has the same meaning as 908  
in section 5740.01 of the Revised Code. 909

(XX) "Satellite broadcasting service" means the 910  
distribution or broadcasting of programming or services by 911  
satellite directly to the subscriber's receiving equipment 912  
without the use of ground receiving or distribution equipment, 913  
except the subscriber's receiving equipment or equipment used in 914  
the uplink process to the satellite, and includes all service 915  
and rental charges, premium channels or other special services, 916  
installation and repair service charges, and any other charges 917  
having any connection with the provision of the satellite 918  
broadcasting service. 919

(YY) "Tangible personal property" means personal property 920



that can be seen, weighed, measured, felt, or touched, or that 921  
is in any other manner perceptible to the senses. For purposes 922  
of this chapter and Chapter 5741. of the Revised Code, "tangible 923  
personal property" includes motor vehicles, electricity, water, 924  
gas, steam, and prewritten computer software. 925

(ZZ) "Municipal gas utility" means a municipal corporation 926  
that owns or operates a system for the distribution of natural 927  
gas. 928

(AAA) "Computer" means an electronic device that accepts 929  
information in digital or similar form and manipulates it for a 930  
result based on a sequence of instructions. 931

(BBB) "Computer software" means a set of coded 932  
instructions designed to cause a computer or automatic data 933  
processing equipment to perform a task. 934

(CCC) "Delivered electronically" means delivery of 935  
computer software from the seller to the purchaser by means 936  
other than tangible storage media. 937

(DDD) "Prewritten computer software" means computer 938  
software, including prewritten upgrades, that is not designed 939  
and developed by the author or other creator to the 940  
specifications of a specific purchaser. The combining of two or 941  
more prewritten computer software programs or prewritten 942  
portions thereof does not cause the combination to be other than 943  
prewritten computer software. "Prewritten computer software" 944  
includes software designed and developed by the author or other 945  
creator to the specifications of a specific purchaser when it is 946  
sold to a person other than the purchaser. If a person modifies 947  
or enhances computer software of which the person is not the 948  
author or creator, the person shall be deemed to be the author 949

or creator only of such person's modifications or enhancements. 950  
Prewritten computer software or a prewritten portion thereof 951  
that is modified or enhanced to any degree, where such 952  
modification or enhancement is designed and developed to the 953  
specifications of a specific purchaser, remains prewritten 954  
computer software; provided, however, that where there is a 955  
reasonable, separately stated charge or an invoice or other 956  
statement of the price given to the purchaser for the 957  
modification or enhancement, the modification or enhancement 958  
shall not constitute prewritten computer software. 959

(EEE) (1) "Food" means substances, whether in liquid, 960  
concentrated, solid, frozen, dried, or dehydrated form, that are 961  
sold for ingestion or chewing by humans and are consumed for 962  
their taste or nutritional value. "Food" does not include 963  
alcoholic beverages, dietary supplements, soft drinks, or 964  
tobacco. 965

(2) As used in division (EEE) (1) of this section: 966

(a) "Alcoholic beverages" means beverages that are 967  
suitable for human consumption and contain one-half of one per 968  
cent or more of alcohol by volume. 969

(b) "Dietary supplements" means any product, other than 970  
tobacco, that is intended to supplement the diet and that is 971  
intended for ingestion in tablet, capsule, powder, softgel, 972  
gelcap, or liquid form, or, if not intended for ingestion in 973  
such a form, is not represented as conventional food for use as 974  
a sole item of a meal or of the diet; that is required to be 975  
labeled as a dietary supplement, identifiable by the "supplement 976  
facts" box found on the label, as required by 21 C.F.R. 101.36; 977  
and that contains one or more of the following dietary 978  
ingredients: 979

(i) A vitamin;	980
(ii) A mineral;	981
(iii) An herb or other botanical;	982
(iv) An amino acid;	983
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	984 985
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section.	986 987 988
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	989 990 991 992 993
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	994 995
(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	996 997 998 999 1000 1001 1002 1003 1004
(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by	1005 1006 1007

the laws of this state to issue a prescription. 1008

(HHH) "Durable medical equipment" means equipment, 1009  
including repair and replacement parts for such equipment, that 1010  
can withstand repeated use, is primarily and customarily used to 1011  
serve a medical purpose, generally is not useful to a person in 1012  
the absence of illness or injury, and is not worn in or on the 1013  
body. "Durable medical equipment" does not include mobility 1014  
enhancing equipment. 1015

(III) "Mobility enhancing equipment" means equipment, 1016  
including repair and replacement parts for such equipment, that 1017  
is primarily and customarily used to provide or increase the 1018  
ability to move from one place to another and is appropriate for 1019  
use either in a home or a motor vehicle, that is not generally 1020  
used by persons with normal mobility, and that does not include 1021  
any motor vehicle or equipment on a motor vehicle normally 1022  
provided by a motor vehicle manufacturer. "Mobility enhancing 1023  
equipment" does not include durable medical equipment. 1024

(JJJ) "Prosthetic device" means a replacement, corrective, 1025  
or supportive device, including repair and replacement parts for 1026  
the device, worn on or in the human body to artificially replace 1027  
a missing portion of the body, prevent or correct physical 1028  
deformity or malfunction, or support a weak or deformed portion 1029  
of the body. As used in this division, before July 1, 2019, 1030  
"prosthetic device" does not include corrective eyeglasses, 1031  
contact lenses, or dental prosthesis. On or after July 1, 2019, 1032  
"prosthetic device" does not include dental prosthesis but does 1033  
include corrective eyeglasses or contact lenses. 1034

(KKK) (1) "Fractional aircraft ownership program" means a 1035  
program in which persons within an affiliated group sell and 1036  
manage fractional ownership program aircraft, provided that at 1037

least one hundred airworthy aircraft are operated in the program	1038
and the program meets all of the following criteria:	1039
(a) Management services are provided by at least one	1040
program manager within an affiliated group on behalf of the	1041
fractional owners.	1042
(b) Each program aircraft is owned or possessed by at	1043
least one fractional owner.	1044
(c) Each fractional owner owns or possesses at least a	1045
one-sixteenth interest in at least one fixed-wing program	1046
aircraft.	1047
(d) A dry-lease aircraft interchange arrangement is in	1048
effect among all of the fractional owners.	1049
(e) Multi-year program agreements are in effect regarding	1050
the fractional ownership, management services, and dry-lease	1051
aircraft interchange arrangement aspects of the program.	1052
(2) As used in division (KKK) (1) of this section:	1053
(a) "Affiliated group" has the same meaning as in division	1054
(B) (3) (e) of this section.	1055
(b) "Fractional owner" means a person that owns or	1056
possesses at least a one-sixteenth interest in a program	1057
aircraft and has entered into the agreements described in	1058
division (KKK) (1) (e) of this section.	1059
(c) "Fractional ownership program aircraft" or "program	1060
aircraft" means a turbojet aircraft that is owned or possessed	1061
by a fractional owner and that has been included in a dry-lease	1062
aircraft interchange arrangement and agreement under divisions	1063
(KKK) (1) (d) and (e) of this section, or an aircraft a program	1064
manager owns or possesses primarily for use in a fractional	1065

aircraft ownership program. 1066

(d) "Management services" means administrative and 1067  
aviation support services furnished under a fractional aircraft 1068  
ownership program in accordance with a management services 1069  
agreement under division (KKK) (1) (e) of this section, and 1070  
offered by the program manager to the fractional owners, 1071  
including, at a minimum, the establishment and implementation of 1072  
safety guidelines; the coordination of the scheduling of the 1073  
program aircraft and crews; program aircraft maintenance; 1074  
program aircraft insurance; crew training for crews employed, 1075  
furnished, or contracted by the program manager or the 1076  
fractional owner; the satisfaction of record-keeping 1077  
requirements; and the development and use of an operations 1078  
manual and a maintenance manual for the fractional aircraft 1079  
ownership program. 1080

(e) "Program manager" means the person that offers 1081  
management services to fractional owners pursuant to a 1082  
management services agreement under division (KKK) (1) (e) of this 1083  
section. 1084

(LLL) "Electronic publishing" means providing access to 1085  
one or more of the following primarily for business customers, 1086  
including the federal government or a state government or a 1087  
political subdivision thereof, to conduct research: news; 1088  
business, financial, legal, consumer, or credit materials; 1089  
editorials, columns, reader commentary, or features; photos or 1090  
images; archival or research material; legal notices, identity 1091  
verification, or public records; scientific, educational, 1092  
instructional, technical, professional, trade, or other literary 1093  
materials; or other similar information which has been gathered 1094  
and made available by the provider to the consumer in an 1095

electronic format. Providing electronic publishing includes the 1096  
functions necessary for the acquisition, formatting, editing, 1097  
storage, and dissemination of data or information that is the 1098  
subject of a sale. 1099

(MMM) "Medicaid health insuring corporation" means a 1100  
health insuring corporation that holds a certificate of 1101  
authority under Chapter 1751. of the Revised Code and is under 1102  
contract with the department of medicaid pursuant to section 1103  
5167.10 of the Revised Code. 1104

(NNN) "Managed care premium" means any premium, 1105  
capitation, or other payment a medicaid health insuring 1106  
corporation receives for providing or arranging for the 1107  
provision of health care services to its members or enrollees 1108  
residing in this state. 1109

(OOO) "Captive deer" means deer and other cervidae that 1110  
have been legally acquired, or their offspring, that are 1111  
privately owned for agricultural or farming purposes. 1112

(PPP) "Gift card" means a document, card, certificate, or 1113  
other record, whether tangible or intangible, that may be 1114  
redeemed by a consumer for a dollar value when making a purchase 1115  
of tangible personal property or services. 1116

(QQQ) "Specified digital product" means an electronically 1117  
transferred digital audiovisual work, digital audio work, or 1118  
digital book. 1119

As used in division (QQQ) of this section: 1120

(1) "Digital audiovisual work" means a series of related 1121  
images that, when shown in succession, impart an impression of 1122  
motion, together with accompanying sounds, if any. 1123

(2) "Digital audio work" means a work that results from 1124  
the fixation of a series of musical, spoken, or other sounds, 1125  
including digitized sound files that are downloaded onto a 1126  
device and that may be used to alert the customer with respect 1127  
to a communication. 1128

(3) "Digital book" means a work that is generally 1129  
recognized in the ordinary and usual sense as a book. 1130

(4) "Electronically transferred" means obtained by the 1131  
purchaser by means other than tangible storage media. 1132

(RRR) "Digital advertising services" means providing 1133  
access, by means of telecommunications equipment, to computer 1134  
equipment that is used to enter, upload, download, review, 1135  
manipulate, store, add, or delete data for the purpose of 1136  
electronically displaying, delivering, placing, or transferring 1137  
promotional advertisements to potential customers about products 1138  
or services or about industry or business brands. 1139

(SSS) "Peer-to-peer car sharing program" has the same 1140  
meaning as in section 4516.01 of the Revised Code. 1141

**Sec. 5739.012.** (A) As used in this section: 1142

(1) "Bundled transaction" means the retail sale of two or 1143  
more products, except real property and services to real 1144  
property, where the products are otherwise distinct and 1145  
identifiable products and are sold for one non-itemized price. 1146  
"Bundled transaction" does not include the sale of any products 1147  
in which the sales price varies, or is negotiable, based on the 1148  
selection by the consumer of the products included in the 1149  
transaction. 1150

As used in division (A) (1) of this section: 1151



(a) "Distinct and identifiable products" does not include 1152  
any of the following: 1153

(i) Packaging, including containers, boxes, sacks, bags, 1154  
and bottles, and packaging materials, including wrapping, 1155  
labels, tags, and instruction guides that accompany the retail 1156  
sale of the products and are incidental or immaterial to the 1157  
retail sale thereof; 1158

(ii) A product provided free of charge with the required 1159  
purchase of another product. A product is provided free of 1160  
charge if the sales price of the product purchased does not vary 1161  
depending on the inclusion of the product provided free of 1162  
charge. 1163

(iii) Items included in the definition of "price" under 1164  
division (H) of section 5739.01 of the Revised Code. 1165

(b) "One non-itemized price" does not include a price that 1166  
is separately identified by product on binding sales or other 1167  
supporting sales-related documents made available to the 1168  
consumer in paper or electronic form, including, but not limited 1169  
to, an invoice, bill of sale, receipt, contract, service 1170  
agreement, lease agreement, periodic notice of rates and 1171  
services, rate card, or price list. 1172

(2) "De minimis" means the vendor's or seller's purchase 1173  
price or sales price of taxable products is ten per cent or less 1174  
of the total purchase price or sales price of bundled products. 1175  
Vendors and sellers shall use either the purchase price or the 1176  
sales price of the products to determine if the taxable products 1177  
are de minimis, and shall use the full term of a service 1178  
contract to determine if the taxable products are de minimis. 1179  
Vendors and sellers shall not use a combination of the purchase 1180

price and sales price of the products to determine if the 1181  
taxable products are de minimis. 1182

~~(3) "Over-the-counter drug" means a drug that contains a 1183  
label that identifies the product as a drug as required by 21- 1184  
C.F.R. 201.66, and the label includes either a "Drug Facts"- 1185  
panel or a statement of the active ingredients with a list of- 1186  
those ingredients contained in the drug. 1187~~

(B) A transaction that otherwise meets the definition of a 1188  
bundled transaction is not a bundled transaction if it is any of 1189  
the following: 1190

(1) A retail sale of tangible personal property and a 1191  
service where the tangible personal property is essential to the 1192  
use of the service, and is provided exclusively in connection 1193  
with the service, and the true object of the transaction is the 1194  
service; 1195

(2) A retail sale of services where one service is 1196  
provided that is essential to the use or receipt of a second 1197  
service, the first service is provided exclusively in connection 1198  
with the second service, and the true object of the transaction 1199  
is the second service; 1200

(3) A transaction that includes taxable products and 1201  
nontaxable products, and the purchase price or sales price of 1202  
the taxable products is de minimis; 1203

(4) A retail sale of exempt tangible personal property and 1204  
taxable tangible personal property where the transaction 1205  
includes food and food ingredients, drugs, durable medical 1206  
equipment, mobility enhancing equipment, over-the-counter drugs, 1207  
prosthetic devices, or medical supplies, and the vendor's or 1208  
seller's purchase price or sales price of the taxable tangible 1209

personal property is fifty per cent or less of the total 1210  
purchase price or sales price of the bundled tangible personal 1211  
property. Vendors and sellers may not use a combination of the 1212  
purchase price and sales price of the tangible personal property 1213  
when making the fifty per cent determination for a transaction. 1214

(C) In the case of a bundled transaction that includes 1215  
telecommunications service, ancillary service, internet access, 1216  
or audio or video programming service: 1217

(1) If the price is attributable to products that are 1218  
taxable and products that are nontaxable, the portion of the 1219  
price attributable to the nontaxable products shall be subject 1220  
to tax unless the provider, by reasonable and verifiable 1221  
standards, can identify the portion from its books and records 1222  
that are kept in the regular course of business for other 1223  
purposes, including, but not limited to, non-tax purposes. 1224

(2) If the price is attributable to products that are 1225  
subject to tax at different tax rates, the total price shall be 1226  
treated as attributable to the products subject to tax at the 1227  
highest tax rate unless the provider can identify by reasonable 1228  
and verifiable standards the portion of the price attributable 1229  
to the products subject to tax at the lower rate from its books 1230  
and records that are kept in the regular course of business for 1231  
other purposes, including, but not limited to, non-tax purposes. 1232

(D) In all other cases of bundled transactions, the 1233  
taxability of the transaction shall be determined by the true 1234  
object of the consumer entering into the transaction. 1235

**Sec. 5739.02.** For the purpose of providing revenue with 1236  
which to meet the needs of the state, for the use of the general 1237  
revenue fund of the state, for the purpose of securing a 1238

thorough and efficient system of common schools throughout the 1239  
state, for the purpose of affording revenues, in addition to 1240  
those from general property taxes, permitted under 1241  
constitutional limitations, and from other sources, for the 1242  
support of local governmental functions, and for the purpose of 1243  
reimbursing the state for the expense of administering this 1244  
chapter, an excise tax is hereby levied on each retail sale made 1245  
in this state. 1246

(A) (1) The tax shall be collected as provided in section 1247  
5739.025 of the Revised Code. The rate of the tax shall be five 1248  
and three-fourths per cent. The tax applies and is collectible 1249  
when the sale is made, regardless of the time when the price is 1250  
paid or delivered. 1251

(2) In the case of the lease or rental, with a fixed term 1252  
of more than thirty days or an indefinite term with a minimum 1253  
period of more than thirty days, of any motor vehicles designed 1254  
by the manufacturer to carry a load of not more than one ton, 1255  
watercraft, outboard motor, or aircraft, or of any tangible 1256  
personal property, other than motor vehicles designed by the 1257  
manufacturer to carry a load of more than one ton, to be used by 1258  
the lessee or renter primarily for business purposes, the tax 1259  
shall be collected by the vendor at the time the lease or rental 1260  
is consummated and shall be calculated by the vendor on the 1261  
basis of the total amount to be paid by the lessee or renter 1262  
under the lease agreement. If the total amount of the 1263  
consideration for the lease or rental includes amounts that are 1264  
not calculated at the time the lease or rental is executed, the 1265  
tax shall be calculated and collected by the vendor at the time 1266  
such amounts are billed to the lessee or renter. In the case of 1267  
an open-end lease or rental, the tax shall be calculated by the 1268  
vendor on the basis of the total amount to be paid during the 1269

initial fixed term of the lease or rental, and for each 1270  
subsequent renewal period as it comes due. As used in this 1271  
division, "motor vehicle" has the same meaning as in section 1272  
4501.01 of the Revised Code, and "watercraft" includes an 1273  
outride unit attached to the watercraft. 1274

A lease with a renewal clause and a termination penalty or 1275  
similar provision that applies if the renewal clause is not 1276  
exercised is presumed to be a sham transaction. In such a case, 1277  
the tax shall be calculated and paid on the basis of the entire 1278  
length of the lease period, including any renewal periods, until 1279  
the termination penalty or similar provision no longer applies. 1280  
The taxpayer shall bear the burden, by a preponderance of the 1281  
evidence, that the transaction or series of transactions is not 1282  
a sham transaction. 1283

(3) Except as provided in division (A) (2) of this section, 1284  
in the case of a sale, the price of which consists in whole or 1285  
in part of the lease or rental of tangible personal property, 1286  
the tax shall be measured by the installments of that lease or 1287  
rental. 1288

(4) In the case of a sale of a physical fitness facility 1289  
service or recreation and sports club service, the price of 1290  
which consists in whole or in part of a membership for the 1291  
receipt of the benefit of the service, the tax applicable to the 1292  
sale shall be measured by the installments thereof. 1293

(B) The tax does not apply to the following: 1294

(1) Sales to the state or any of its political 1295  
subdivisions, or to any other state or its political 1296  
subdivisions if the laws of that state exempt from taxation 1297  
sales made to this state and its political subdivisions; 1298

(2) Sales of food for human consumption off the premises	1299
where sold;	1300
(3) Sales of food sold to students only in a cafeteria,	1301
dormitory, fraternity, or sorority maintained in a private,	1302
public, or parochial school, college, or university;	1303
(4) Sales of newspapers and sales or transfers of	1304
magazines distributed as controlled circulation publications;	1305
(5) The furnishing, preparing, or serving of meals without	1306
charge by an employer to an employee provided the employer	1307
records the meals as part compensation for services performed or	1308
work done;	1309
(6) (a) Sales of motor fuel upon receipt, use,	1310
distribution, or sale of which in this state a tax is imposed by	1311
the law of this state, but this exemption shall not apply to the	1312
sale of motor fuel on which a refund of the tax is allowable	1313
under division (A) of section 5735.14 of the Revised Code; and	1314
the tax commissioner may deduct the amount of tax levied by this	1315
section applicable to the price of motor fuel when granting a	1316
refund of motor fuel tax pursuant to division (A) of section	1317
5735.14 of the Revised Code and shall cause the amount deducted	1318
to be paid into the general revenue fund of this state;	1319
(b) Sales of motor fuel other than that described in	1320
division (B) (6) (a) of this section and used for powering a	1321
refrigeration unit on a vehicle other than one used primarily to	1322
provide comfort to the operator or occupants of the vehicle.	1323
(7) Sales of natural gas by a natural gas company or	1324
municipal gas utility, of water by a water-works company, or of	1325
steam by a heating company, if in each case the thing sold is	1326
delivered to consumers through pipes or conduits, and all sales	1327

of communications services by a telegraph company, all terms as 1328  
defined in section 5727.01 of the Revised Code, and sales of 1329  
electricity delivered through wires; 1330

(8) Casual sales by a person, or auctioneer employed 1331  
directly by the person to conduct such sales, except as to such 1332  
sales of motor vehicles, watercraft or outboard motors required 1333  
to be titled under section 1548.06 of the Revised Code, 1334  
watercraft documented with the United States coast guard, 1335  
snowmobiles, and all-purpose vehicles as defined in section 1336  
4519.01 of the Revised Code; 1337

(9) (a) Sales of services or tangible personal property, 1338  
other than motor vehicles, mobile homes, and manufactured homes, 1339  
by churches, organizations exempt from taxation under section 1340  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 1341  
organizations operated exclusively for charitable purposes as 1342  
defined in division (B) (12) of this section, provided that the 1343  
number of days on which such tangible personal property or 1344  
services, other than items never subject to the tax, are sold 1345  
does not exceed six in any calendar year, except as otherwise 1346  
provided in division (B) (9) (b) of this section. If the number of 1347  
days on which such sales are made exceeds six in any calendar 1348  
year, the church or organization shall be considered to be 1349  
engaged in business and all subsequent sales by it shall be 1350  
subject to the tax. In counting the number of days, all sales by 1351  
groups within a church or within an organization shall be 1352  
considered to be sales of that church or organization. 1353

(b) The limitation on the number of days on which tax- 1354  
exempt sales may be made by a church or organization under 1355  
division (B) (9) (a) of this section does not apply to sales made 1356  
by student clubs and other groups of students of a primary or 1357

secondary school, or a parent-teacher association, booster 1358  
group, or similar organization that raises money to support or 1359  
fund curricular or extracurricular activities of a primary or 1360  
secondary school. 1361

(c) Divisions (B) (9) (a) and (b) of this section do not 1362  
apply to sales by a noncommercial educational radio or 1363  
television broadcasting station. 1364

(10) Sales not within the taxing power of this state under 1365  
the Constitution or laws of the United States or the 1366  
Constitution of this state; 1367

(11) Except for transactions that are sales under division 1368  
(B) (3) (r) of section 5739.01 of the Revised Code, the 1369  
transportation of persons or property, unless the transportation 1370  
is by a private investigation and security service; 1371

(12) Sales of tangible personal property or services to 1372  
churches, to organizations exempt from taxation under section 1373  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 1374  
nonprofit organizations operated exclusively for charitable 1375  
purposes in this state, no part of the net income of which 1376  
inures to the benefit of any private shareholder or individual, 1377  
and no substantial part of the activities of which consists of 1378  
carrying on propaganda or otherwise attempting to influence 1379  
legislation; sales to offices administering one or more homes 1380  
for the aged or one or more hospital facilities exempt under 1381  
section 140.08 of the Revised Code; and sales to organizations 1382  
described in division (D) of section 5709.12 of the Revised 1383  
Code. 1384

"Charitable purposes" means the relief of poverty; the 1385  
improvement of health through the alleviation of illness, 1386



disease, or injury; the operation of an organization exclusively 1387  
for the provision of professional, laundry, printing, and 1388  
purchasing services to hospitals or charitable institutions; the 1389  
operation of a home for the aged, as defined in section 5701.13 1390  
of the Revised Code; the operation of a radio or television 1391  
broadcasting station that is licensed by the federal 1392  
communications commission as a noncommercial educational radio 1393  
or television station; the operation of a nonprofit animal 1394  
adoption service or a county humane society; the promotion of 1395  
education by an institution of learning that maintains a faculty 1396  
of qualified instructors, teaches regular continuous courses of 1397  
study, and confers a recognized diploma upon completion of a 1398  
specific curriculum; the operation of a parent-teacher 1399  
association, booster group, or similar organization primarily 1400  
engaged in the promotion and support of the curricular or 1401  
extracurricular activities of a primary or secondary school; the 1402  
operation of a community or area center in which presentations 1403  
in music, dramatics, the arts, and related fields are made in 1404  
order to foster public interest and education therein; the 1405  
production of performances in music, dramatics, and the arts; or 1406  
the promotion of education by an organization engaged in 1407  
carrying on research in, or the dissemination of, scientific and 1408  
technological knowledge and information primarily for the 1409  
public. 1410

Nothing in this division shall be deemed to exempt sales 1411  
to any organization for use in the operation or carrying on of a 1412  
trade or business, or sales to a home for the aged for use in 1413  
the operation of independent living facilities as defined in 1414  
division (A) of section 5709.12 of the Revised Code. 1415

(13) Building and construction materials and services sold 1416  
to construction contractors for incorporation into a structure 1417

or improvement to real property under a construction contract 1418  
with this state or a political subdivision of this state, or 1419  
with the United States government or any of its agencies; 1420  
building and construction materials and services sold to 1421  
construction contractors for incorporation into a structure or 1422  
improvement to real property that are accepted for ownership by 1423  
this state or any of its political subdivisions, or by the 1424  
United States government or any of its agencies at the time of 1425  
completion of the structures or improvements; building and 1426  
construction materials sold to construction contractors for 1427  
incorporation into a horticulture structure or livestock 1428  
structure for a person engaged in the business of horticulture 1429  
or producing livestock; building materials and services sold to 1430  
a construction contractor for incorporation into a house of 1431  
public worship or religious education, or a building used 1432  
exclusively for charitable purposes under a construction 1433  
contract with an organization whose purpose is as described in 1434  
division (B) (12) of this section; building materials and 1435  
services sold to a construction contractor for incorporation 1436  
into a building under a construction contract with an 1437  
organization exempt from taxation under section 501(c) (3) of the 1438  
Internal Revenue Code of 1986 when the building is to be used 1439  
exclusively for the organization's exempt purposes; building and 1440  
construction materials sold for incorporation into the original 1441  
construction of a sports facility under section 307.696 of the 1442  
Revised Code; building and construction materials and services 1443  
sold to a construction contractor for incorporation into real 1444  
property outside this state if such materials and services, when 1445  
sold to a construction contractor in the state in which the real 1446  
property is located for incorporation into real property in that 1447  
state, would be exempt from a tax on sales levied by that state; 1448  
building and construction materials for incorporation into a 1449

transportation facility pursuant to a public-private agreement 1450  
entered into under sections 5501.70 to 5501.83 of the Revised 1451  
Code; and, until one calendar year after the construction of a 1452  
convention center that qualifies for property tax exemption 1453  
under section 5709.084 of the Revised Code is completed, 1454  
building and construction materials and services sold to a 1455  
construction contractor for incorporation into the real property 1456  
comprising that convention center; 1457

(14) Sales of ships or vessels or rail rolling stock used 1458  
or to be used principally in interstate or foreign commerce, and 1459  
repairs, alterations, fuel, and lubricants for such ships or 1460  
vessels or rail rolling stock; 1461

(15) Sales to persons primarily engaged in any of the 1462  
activities mentioned in division (B) (42) (a), (g), or (h) of this 1463  
section, to persons engaged in making retail sales, or to 1464  
persons who purchase for sale from a manufacturer tangible 1465  
personal property that was produced by the manufacturer in 1466  
accordance with specific designs provided by the purchaser, of 1467  
packages, including material, labels, and parts for packages, 1468  
and of machinery, equipment, and material for use primarily in 1469  
packaging tangible personal property produced for sale, 1470  
including any machinery, equipment, and supplies used to make 1471  
labels or packages, to prepare packages or products for 1472  
labeling, or to label packages or products, by or on the order 1473  
of the person doing the packaging, or sold at retail. "Packages" 1474  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1475  
bindings, wrappings, and other similar devices and containers, 1476  
but does not include motor vehicles or bulk tanks, trailers, or 1477  
similar devices attached to motor vehicles. "Packaging" means 1478  
placing in a package. Division (B) (15) of this section does not 1479  
apply to persons engaged in highway transportation for hire. 1480

(16) Sales of food to persons using supplemental nutrition 1481  
assistance program benefits to purchase the food. As used in 1482  
this division, "food" has the same meaning as in 7 U.S.C. 2012 1483  
and federal regulations adopted pursuant to the Food and 1484  
Nutrition Act of 2008. 1485

(17) Sales to persons engaged in farming, agriculture, 1486  
horticulture, or floriculture, of tangible personal property for 1487  
use or consumption primarily in the production by farming, 1488  
agriculture, horticulture, or floriculture of other tangible 1489  
personal property for use or consumption primarily in the 1490  
production of tangible personal property for sale by farming, 1491  
agriculture, horticulture, or floriculture; or material and 1492  
parts for incorporation into any such tangible personal property 1493  
for use or consumption in production; and of tangible personal 1494  
property for such use or consumption in the conditioning or 1495  
holding of products produced by and for such use, consumption, 1496  
or sale by persons engaged in farming, agriculture, 1497  
horticulture, or floriculture, except where such property is 1498  
incorporated into real property; 1499

(18) Sales of drugs for a human being that may be 1500  
dispensed only pursuant to a prescription; insulin as recognized 1501  
in the official United States pharmacopoeia; urine and blood 1502  
testing materials when used by diabetics or persons with 1503  
hypoglycemia to test for glucose or acetone; hypodermic syringes 1504  
and needles when used by diabetics for insulin injections; 1505  
epoetin alfa when purchased for use in the treatment of persons 1506  
with medical disease; hospital beds when purchased by hospitals, 1507  
nursing homes, or other medical facilities; and medical oxygen 1508  
and medical oxygen-dispensing equipment when purchased by 1509  
hospitals, nursing homes, or other medical facilities; 1510

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.	1511 1512 1513 1514
(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;	1515 1516 1517 1518 1519
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	1520 1521 1522 1523 1524 1525 1526
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	1527 1528 1529 1530 1531
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	1532 1533 1534
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for	1535 1536 1537 1538 1539

packages, and machinery, equipment, and material for use in	1540
packaging eggs for sale; and handling and transportation	1541
equipment and parts therefor, except motor vehicles licensed to	1542
operate on public highways, used in intraplant or interplant	1543
transfers or shipment of eggs in the process of preparation for	1544
sale, when the plant or plants within or between which such	1545
transfers or shipments occur are operated by the same person.	1546
"Packages" includes containers, cases, baskets, flats, fillers,	1547
filler flats, cartons, closure materials, labels, and labeling	1548
materials, and "packaging" means placing therein.	1549
(25) (a) Sales of water to a consumer for residential use;	1550
(b) Sales of water by a nonprofit corporation engaged	1551
exclusively in the treatment, distribution, and sale of water to	1552
consumers, if such water is delivered to consumers through pipes	1553
or tubing.	1554
(26) Fees charged for inspection or reinspection of motor	1555
vehicles under section 3704.14 of the Revised Code;	1556
(27) Sales to persons licensed to conduct a food service	1557
operation pursuant to section 3717.43 of the Revised Code, of	1558
tangible personal property primarily used directly for the	1559
following:	1560
(a) To prepare food for human consumption for sale;	1561
(b) To preserve food that has been or will be prepared for	1562
human consumption for sale by the food service operator, not	1563
including tangible personal property used to display food for	1564
selection by the consumer;	1565
(c) To clean tangible personal property used to prepare or	1566
serve food for human consumption for sale.	1567

(28) Sales of animals by nonprofit animal adoption	1568
services or county humane societies;	1569
(29) Sales of services to a corporation described in	1570
division (A) of section 5709.72 of the Revised Code, and sales	1571
of tangible personal property that qualifies for exemption from	1572
taxation under section 5709.72 of the Revised Code;	1573
(30) Sales and installation of agricultural land tile, as	1574
defined in division (B) (5) (a) of section 5739.01 of the Revised	1575
Code;	1576
(31) Sales and erection or installation of portable grain	1577
bins, as defined in division (B) (5) (b) of section 5739.01 of the	1578
Revised Code;	1579
(32) The sale, lease, repair, and maintenance of, parts	1580
for, or items attached to or incorporated in, motor vehicles	1581
that are primarily used for transporting tangible personal	1582
property belonging to others by a person engaged in highway	1583
transportation for hire, except for packages and packaging used	1584
for the transportation of tangible personal property;	1585
(33) Sales to the state headquarters of any veterans'	1586
organization in this state that is either incorporated and	1587
issued a charter by the congress of the United States or is	1588
recognized by the United States veterans administration, for use	1589
by the headquarters;	1590
(34) Sales to a telecommunications service vendor, mobile	1591
telecommunications service vendor, or satellite broadcasting	1592
service vendor of tangible personal property and services used	1593
directly and primarily in transmitting, receiving, switching, or	1594
recording any interactive, one- or two-way electromagnetic	1595
communications, including voice, image, data, and information,	1596

through the use of any medium, including, but not limited to, 1597  
poles, wires, cables, switching equipment, computers, and record 1598  
storage devices and media, and component parts for the tangible 1599  
personal property. The exemption provided in this division shall 1600  
be in lieu of all other exemptions under division (B) (42) (a) or 1601  
(n) of this section to which the vendor may otherwise be 1602  
entitled, based upon the use of the thing purchased in providing 1603  
the telecommunications, mobile telecommunications, or satellite 1604  
broadcasting service. 1605

(35) (a) Sales where the purpose of the consumer is to use 1606  
or consume the things transferred in making retail sales and 1607  
consisting of newspaper inserts, catalogues, coupons, flyers, 1608  
gift certificates, or other advertising material that prices and 1609  
describes tangible personal property offered for retail sale. 1610

(b) Sales to direct marketing vendors of preliminary 1611  
materials such as photographs, artwork, and typesetting that 1612  
will be used in printing advertising material; and of printed 1613  
matter that offers free merchandise or chances to win sweepstake 1614  
prizes and that is mailed to potential customers with 1615  
advertising material described in division (B) (35) (a) of this 1616  
section; 1617

(c) Sales of equipment such as telephones, computers, 1618  
facsimile machines, and similar tangible personal property 1619  
primarily used to accept orders for direct marketing retail 1620  
sales. 1621

(d) Sales of automatic food vending machines that preserve 1622  
food with a shelf life of forty-five days or less by 1623  
refrigeration and dispense it to the consumer. 1624

For purposes of division (B) (35) of this section, "direct 1625



marketing" means the method of selling where consumers order 1626  
tangible personal property by United States mail, delivery 1627  
service, or telecommunication and the vendor delivers or ships 1628  
the tangible personal property sold to the consumer from a 1629  
warehouse, catalogue distribution center, or similar fulfillment 1630  
facility by means of the United States mail, delivery service, 1631  
or common carrier. 1632

(36) Sales to a person engaged in the business of 1633  
horticulture or producing livestock of materials to be 1634  
incorporated into a horticulture structure or livestock 1635  
structure; 1636

(37) Sales of personal computers, computer monitors, 1637  
computer keyboards, modems, and other peripheral computer 1638  
equipment to an individual who is licensed or certified to teach 1639  
in an elementary or a secondary school in this state for use by 1640  
that individual in preparation for teaching elementary or 1641  
secondary school students; 1642

(38) Sales of tangible personal property that is not 1643  
required to be registered or licensed under the laws of this 1644  
state to a citizen of a foreign nation that is not a citizen of 1645  
the United States, provided the property is delivered to a 1646  
person in this state that is not a related member of the 1647  
purchaser, is physically present in this state for the sole 1648  
purpose of temporary storage and package consolidation, and is 1649  
subsequently delivered to the purchaser at a delivery address in 1650  
a foreign nation. As used in division (B)(38) of this section, 1651  
"related member" has the same meaning as in section 5733.042 of 1652  
the Revised Code, and "temporary storage" means the storage of 1653  
tangible personal property for a period of not more than sixty 1654  
days. 1655

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

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

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

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

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale

by manufacturing, assembling, processing, or refining; or to use 1686  
or consume the thing transferred directly in producing tangible 1687  
personal property for sale by mining, including, without 1688  
limitation, the extraction from the earth of all substances that 1689  
are classed geologically as minerals, or directly in the 1690  
rendition of a public utility service, except that the sales tax 1691  
levied by this section shall be collected upon all meals, 1692  
drinks, and food for human consumption sold when transporting 1693  
persons. This paragraph does not exempt from "retail sale" or 1694  
"sales at retail" the sale of tangible personal property that is 1695  
to be incorporated into a structure or improvement to real 1696  
property. 1697

(b) To hold the thing transferred as security for the 1698  
performance of an obligation of the vendor; 1699

(c) To resell, hold, use, or consume the thing transferred 1700  
as evidence of a contract of insurance; 1701

(d) To use or consume the thing directly in commercial 1702  
fishing; 1703

(e) To incorporate the thing transferred as a material or 1704  
a part into, or to use or consume the thing transferred directly 1705  
in the production of, magazines distributed as controlled 1706  
circulation publications; 1707

(f) To use or consume the thing transferred in the 1708  
production and preparation in suitable condition for market and 1709  
sale of printed, imprinted, overprinted, lithographic, 1710  
multilithic, blueprinted, photostatic, or other productions or 1711  
reproductions of written or graphic matter; 1712

(g) To use the thing transferred, as described in section 1713  
5739.011 of the Revised Code, primarily in a manufacturing 1714

operation to produce tangible personal property for sale; 1715

(h) To use the benefit of a warranty, maintenance or 1716  
service contract, or similar agreement, as described in division 1717  
(B) (7) of section 5739.01 of the Revised Code, to repair or 1718  
maintain tangible personal property, if all of the property that 1719  
is the subject of the warranty, contract, or agreement would not 1720  
be subject to the tax imposed by this section; 1721

(i) To use the thing transferred as qualified research and 1722  
development equipment; 1723

(j) To use or consume the thing transferred primarily in 1724  
storing, transporting, mailing, or otherwise handling purchased 1725  
sales inventory in a warehouse, distribution center, or similar 1726  
facility when the inventory is primarily distributed outside 1727  
this state to retail stores of the person who owns or controls 1728  
the warehouse, distribution center, or similar facility, to 1729  
retail stores of an affiliated group of which that person is a 1730  
member, or by means of direct marketing. This division does not 1731  
apply to motor vehicles registered for operation on the public 1732  
highways. As used in this division, "affiliated group" has the 1733  
same meaning as in division (B) (3) (e) of section 5739.01 of the 1734  
Revised Code and "direct marketing" has the same meaning as in 1735  
division (B) (35) of this section. 1736

(k) To use or consume the thing transferred to fulfill a 1737  
contractual obligation incurred by a warrantor pursuant to a 1738  
warranty provided as a part of the price of the tangible 1739  
personal property sold or by a vendor of a warranty, maintenance 1740  
or service contract, or similar agreement the provision of which 1741  
is defined as a sale under division (B) (7) of section 5739.01 of 1742  
the Revised Code; 1743

(l) To use or consume the thing transferred in the	1744
production of a newspaper for distribution to the public;	1745
(m) To use tangible personal property to perform a service	1746
listed in division (B)(3) of section 5739.01 of the Revised	1747
Code, if the property is or is to be permanently transferred to	1748
the consumer of the service as an integral part of the	1749
performance of the service;	1750
(n) To use or consume the thing transferred primarily in	1751
producing tangible personal property for sale by farming,	1752
agriculture, horticulture, or floriculture. Persons engaged in	1753
rendering farming, agriculture, horticulture, or floriculture	1754
services for others are deemed engaged primarily in farming,	1755
agriculture, horticulture, or floriculture. This paragraph does	1756
not exempt from "retail sale" or "sales at retail" the sale of	1757
tangible personal property that is to be incorporated into a	1758
structure or improvement to real property.	1759
(o) To use or consume the thing transferred in acquiring,	1760
formatting, editing, storing, and disseminating data or	1761
information by electronic publishing;	1762
(p) To provide the thing transferred to the owner or	1763
lessee of a motor vehicle that is being repaired or serviced, if	1764
the thing transferred is a rented motor vehicle and the	1765
purchaser is reimbursed for the cost of the rented motor vehicle	1766
by a manufacturer, warrantor, or provider of a maintenance,	1767
service, or other similar contract or agreement, with respect to	1768
the motor vehicle that is being repaired or serviced;	1769
(q) To use or consume the thing transferred directly in	1770
production of crude oil and natural gas for sale. Persons	1771
engaged in rendering production services for others are deemed	1772

engaged in production. 1773

As used in division (B) (42) (q) of this section, 1774  
"production" means operations and tangible personal property 1775  
directly used to expose and evaluate an underground reservoir 1776  
that may contain hydrocarbon resources, prepare the wellbore for 1777  
production, and lift and control all substances yielded by the 1778  
reservoir to the surface of the earth. 1779

(i) For the purposes of division (B) (42) (q) of this 1780  
section, the "thing transferred" includes, but is not limited 1781  
to, any of the following: 1782

(I) Services provided in the construction of permanent 1783  
access roads, services provided in the construction of the well 1784  
site, and services provided in the construction of temporary 1785  
impoundments; 1786

(II) Equipment and rigging used for the specific purpose 1787  
of creating with integrity a wellbore pathway to underground 1788  
reservoirs; 1789

(III) Drilling and workover services used to work within a 1790  
subsurface wellbore, and tangible personal property directly 1791  
used in providing such services; 1792

(IV) Casing, tubulars, and float and centralizing 1793  
equipment; 1794

(V) Trailers to which production equipment is attached; 1795

(VI) Well completion services, including cementing of 1796  
casing, and tangible personal property directly used in 1797  
providing such services; 1798

(VII) Wireline evaluation, mud logging, and perforation 1799  
services, and tangible personal property directly used in 1800

providing such services;	1801
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	1802 1803 1804 1805
(IX) Pressure pumping equipment;	1806
(X) Artificial lift systems equipment;	1807
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	1808 1809 1810
(XII) Tangible personal property directly used to control production equipment.	1811 1812
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	1813 1814 1815
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	1816 1817 1818
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	1819 1820 1821
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	1822 1823 1824
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well	1825 1826 1827

site;	1828
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	1829 1830 1831 1832
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	1833 1834
(VII) Well site fencing, lighting, or security systems;	1835
(VIII) Communication devices or services;	1836
(IX) Office supplies;	1837
(X) Trailers used as offices or lodging;	1838
(XI) Motor vehicles of any kind;	1839
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	1840 1841
(XIII) Tangible personal property used primarily as a safety device;	1842 1843
(XIV) Data collection or monitoring devices;	1844
(XV) Access ladders, stairs, or platforms attached to storage tanks.	1845 1846
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	1847 1848 1849 1850 1851
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the	1852 1853



commissioner deems necessary to administer division (B) (42) (q) 1854  
of this section. 1855

As used in division (B) (42) of this section, "thing" 1856  
includes all transactions included in divisions (B) (3) (a), (b), 1857  
and (e) of section 5739.01 of the Revised Code. 1858

(43) Sales conducted through a coin operated device that 1859  
activates vacuum equipment or equipment that dispenses water, 1860  
whether or not in combination with soap or other cleaning agents 1861  
or wax, to the consumer for the consumer's use on the premises 1862  
in washing, cleaning, or waxing a motor vehicle, provided no 1863  
other personal property or personal service is provided as part 1864  
of the transaction. 1865

(44) Sales of replacement and modification parts for 1866  
engines, airframes, instruments, and interiors in, and paint 1867  
for, aircraft used primarily in a fractional aircraft ownership 1868  
program, and sales of services for the repair, modification, and 1869  
maintenance of such aircraft, and machinery, equipment, and 1870  
supplies primarily used to provide those services. 1871

(45) Sales of telecommunications service that is used 1872  
directly and primarily to perform the functions of a call 1873  
center. As used in this division, "call center" means any 1874  
physical location where telephone calls are placed or received 1875  
in high volume for the purpose of making sales, marketing, 1876  
customer service, technical support, or other specialized 1877  
business activity, and that employs at least fifty individuals 1878  
that engage in call center activities on a full-time basis, or 1879  
sufficient individuals to fill fifty full-time equivalent 1880  
positions. 1881

(46) Sales by a telecommunications service vendor of 900 1882

service to a subscriber. This division does not apply to 1883  
information services, as defined in division (FF) of section 1884  
5739.01 of the Revised Code. 1885

(47) Sales of value-added non-voice data service. This 1886  
division does not apply to any similar service that is not 1887  
otherwise a telecommunications service. 1888

(48) (a) Sales of machinery, equipment, and software to a 1889  
qualified direct selling entity for use in a warehouse or 1890  
distribution center primarily for storing, transporting, or 1891  
otherwise handling inventory that is held for sale to 1892  
independent salespersons who operate as direct sellers and that 1893  
is held primarily for distribution outside this state; 1894

(b) As used in division (B) (48) (a) of this section: 1895

(i) "Direct seller" means a person selling consumer 1896  
products to individuals for personal or household use and not 1897  
from a fixed retail location, including selling such product at 1898  
in-home product demonstrations, parties, and other one-on-one 1899  
selling. 1900

(ii) "Qualified direct selling entity" means an entity 1901  
selling to direct sellers at the time the entity enters into a 1902  
tax credit agreement with the tax credit authority pursuant to 1903  
section 122.17 of the Revised Code, provided that the agreement 1904  
was entered into on or after January 1, 2007. Neither 1905  
contingencies relevant to the granting of, nor later 1906  
developments with respect to, the tax credit shall impair the 1907  
status of the qualified direct selling entity under division (B) 1908  
(48) of this section after execution of the tax credit agreement 1909  
by the tax credit authority. 1910

(c) Division (B) (48) of this section is limited to 1911

machinery, equipment, and software first stored, used, or 1912  
consumed in this state within the period commencing June 24, 1913  
2008, and ending on the date that is five years after that date. 1914

(49) Sales of materials, parts, equipment, or engines used 1915  
in the repair or maintenance of aircraft or avionics systems of 1916  
such aircraft, and sales of repair, remodeling, replacement, or 1917  
maintenance services in this state performed on aircraft or on 1918  
an aircraft's avionics, engine, or component materials or parts. 1919  
As used in division (B) (49) of this section, "aircraft" means 1920  
aircraft of more than six thousand pounds maximum certified 1921  
takeoff weight or used exclusively in general aviation. 1922

(50) Sales of full flight simulators that are used for 1923  
pilot or flight-crew training, sales of repair or replacement 1924  
parts or components, and sales of repair or maintenance services 1925  
for such full flight simulators. "Full flight simulator" means a 1926  
replica of a specific type, or make, model, and series of 1927  
aircraft cockpit. It includes the assemblage of equipment and 1928  
computer programs necessary to represent aircraft operations in 1929  
ground and flight conditions, a visual system providing an out- 1930  
of-the-cockpit view, and a system that provides cues at least 1931  
equivalent to those of a three-degree-of-freedom motion system, 1932  
and has the full range of capabilities of the systems installed 1933  
in the device as described in appendices A and B of part 60 of 1934  
chapter 1 of title 14 of the Code of Federal Regulations. 1935

(51) Any transfer or lease of tangible personal property 1936  
between the state and JobsOhio in accordance with section 1937  
4313.02 of the Revised Code. 1938

(52) (a) Sales to a qualifying corporation. 1939

(b) As used in division (B) (52) of this section: 1940

(i) "Qualifying corporation" means a nonprofit corporation 1941  
organized in this state that leases from an eligible county 1942  
land, buildings, structures, fixtures, and improvements to the 1943  
land that are part of or used in a public recreational facility 1944  
used by a major league professional athletic team or a class A 1945  
to class AAA minor league affiliate of a major league 1946  
professional athletic team for a significant portion of the 1947  
team's home schedule, provided the following apply: 1948

(I) The facility is leased from the eligible county 1949  
pursuant to a lease that requires substantially all of the 1950  
revenue from the operation of the business or activity conducted 1951  
by the nonprofit corporation at the facility in excess of 1952  
operating costs, capital expenditures, and reserves to be paid 1953  
to the eligible county at least once per calendar year. 1954

(II) Upon dissolution and liquidation of the nonprofit 1955  
corporation, all of its net assets are distributable to the 1956  
board of commissioners of the eligible county from which the 1957  
corporation leases the facility. 1958

(ii) "Eligible county" has the same meaning as in section 1959  
307.695 of the Revised Code. 1960

(53) Sales to or by a cable service provider, video 1961  
service provider, or radio or television broadcast station 1962  
regulated by the federal government of cable service or 1963  
programming, video service or programming, audio service or 1964  
programming, or electronically transferred digital audiovisual 1965  
or audio work. As used in division (B) (53) of this section, 1966  
"cable service" and "cable service provider" have the same 1967  
meanings as in section 1332.01 of the Revised Code, and "video 1968  
service," "video service provider," and "video programming" have 1969  
the same meanings as in section 1332.21 of the Revised Code. 1970

(54) Sales of a digital audio work electronically	1971
transferred for delivery through use of a machine, such as a	1972
juke box, that does all of the following:	1973
(a) Accepts direct payments to operate;	1974
(b) Automatically plays a selected digital audio work for	1975
a single play upon receipt of a payment described in division	1976
(B) (54) (a) of this section;	1977
(c) Operates exclusively for the purpose of playing	1978
digital audio works in a commercial establishment.	1979
(55) (a) Sales of the following occurring on the first	1980
Friday of August and the following Saturday and Sunday of each	1981
year, beginning in 2018:	1982
(i) An item of clothing, the price of which is seventy-	1983
five dollars or less;	1984
(ii) An item of school supplies, the price of which is	1985
twenty dollars or less;	1986
(iii) An item of school instructional material, the price	1987
of which is twenty dollars or less.	1988
(b) As used in division (B) (55) of this section:	1989
(i) "Clothing" means all human wearing apparel suitable	1990
for general use. "Clothing" includes, but is not limited to,	1991
aprons, household and shop; athletic supporters; baby receiving	1992
blankets; bathing suits and caps; beach capes and coats; belts	1993
and suspenders; boots; coats and jackets; costumes; diapers,	1994
children and adult, including disposable diapers; earmuffs;	1995
footlets; formal wear; garters and garter belts; girdles; gloves	1996
and mittens for general use; hats and caps; hosiery; insoles for	1997
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	1998

rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1999  
sneakers; socks and stockings; steel-toed shoes; underwear; 2000  
uniforms, athletic and nonathletic; and wedding apparel. 2001  
"Clothing" does not include items purchased for use in a trade 2002  
or business; clothing accessories or equipment; protective 2003  
equipment; sports or recreational equipment; belt buckles sold 2004  
separately; costume masks sold separately; patches and emblems 2005  
sold separately; sewing equipment and supplies including, but 2006  
not limited to, knitting needles, patterns, pins, scissors, 2007  
sewing machines, sewing needles, tape measures, and thimbles; 2008  
and sewing materials that become part of "clothing" including, 2009  
but not limited to, buttons, fabric, lace, thread, yarn, and 2010  
zippers. 2011

(ii) "School supplies" means items commonly used by a 2012  
student in a course of study. "School supplies" includes only 2013  
the following items: binders; book bags; calculators; cellophane 2014  
tape; blackboard chalk; compasses; composition books; crayons; 2015  
erasers; folders, expandable, pocket, plastic, and manila; glue, 2016  
paste, and paste sticks; highlighters; index cards; index card 2017  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 2018  
loose-leaf ruled notebook paper, copy paper, graph paper, 2019  
tracing paper, manila paper, colored paper, poster board, and 2020  
construction paper; pencil boxes and other school supply boxes; 2021  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 2022  
and writing tablets. "School supplies" does not include any item 2023  
purchased for use in a trade or business. 2024

(iii) "School instructional material" means written 2025  
material commonly used by a student in a course of study as a 2026  
reference and to learn the subject being taught. "School 2027  
instructional material" includes only the following items: 2028  
reference books, reference maps and globes, textbooks, and 2029

workbooks. "School instructional material" does not include any 2030  
material purchased for use in a trade or business. 2031

(56) (a) Sales of diapers or incontinence underpads sold 2032  
pursuant to a prescription for the benefit of a medicaid 2033  
recipient with a diagnosis of incontinence, provided that the 2034  
medicaid program covers diapers or incontinence underpads as an 2035  
incontinence garment. 2036

(b) As used in division (B) (56) (a) of this section: 2037

(i) "Diaper" means an absorbent garment worn by humans who 2038  
are incapable of, or have difficulty, controlling their bladder 2039  
or bowel movements. 2040

(ii) "Incontinence underpad" means an absorbent product, 2041  
not worn on the body, designed to protect furniture or other 2042  
tangible personal property from soiling or damage due to human 2043  
incontinence. 2044

(57) Sales of feminine hygiene products. 2045

(C) For the purpose of the proper administration of this 2046  
chapter, and to prevent the evasion of the tax, it is presumed 2047  
that all sales made in this state are subject to the tax until 2048  
the contrary is established. 2049

(D) The levy of this tax on retail sales of recreation and 2050  
sports club service shall not prevent a municipal corporation 2051  
from levying any tax on recreation and sports club dues or on 2052  
any income generated by recreation and sports club dues. 2053

(E) The tax collected by the vendor from the consumer 2054  
under this chapter is not part of the price, but is a tax 2055  
collection for the benefit of the state, and of counties levying 2056  
an additional sales tax pursuant to section 5739.021 or 5739.026 2057

of the Revised Code and of transit authorities levying an 2058  
additional sales tax pursuant to section 5739.023 of the Revised 2059  
Code. Except for the discount authorized under section 5739.12 2060  
of the Revised Code and the effects of any rounding pursuant to 2061  
section 5703.055 of the Revised Code, no person other than the 2062  
state or such a county or transit authority shall derive any 2063  
benefit from the collection or payment of the tax levied by this 2064  
section or section 5739.021, 5739.023, or 5739.026 of the 2065  
Revised Code. 2066

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 2067  
section 5739.051 of the Revised Code, the tax imposed by or 2068  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 2069  
the Revised Code shall be paid by the consumer to the vendor, 2070  
and each vendor shall collect from the consumer, as a trustee 2071  
for the state of Ohio, the full and exact amount of the tax 2072  
payable on each taxable sale, in the manner and at the times 2073  
provided as follows: 2074

(1) If the price is, at or prior to the provision of the 2075  
service or the delivery of possession of the thing sold to the 2076  
consumer, paid in currency passed from hand to hand by the 2077  
consumer or the consumer's agent to the vendor or the vendor's 2078  
agent, the vendor or the vendor's agent shall collect the tax 2079  
with and at the same time as the price; 2080

(2) If the price is otherwise paid or to be paid, the 2081  
vendor or the vendor's agent shall, at or prior to the provision 2082  
of the service or the delivery of possession of the thing sold 2083  
to the consumer, charge the tax imposed by or pursuant to 2084  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 2085  
Code to the account of the consumer, which amount shall be 2086  
collected by the vendor from the consumer in addition to the 2087



price. Such sale shall be reported on and the amount of the tax 2088  
applicable thereto shall be remitted with the return for the 2089  
period in which the sale is made, and the amount of the tax 2090  
shall become a legal charge in favor of the vendor and against 2091  
the consumer. 2092

(B) (1) (a) If any sale is claimed to be exempt under 2093  
division (E) of section 5739.01 of the Revised Code or under 2094  
section 5739.02 of the Revised Code, with the exception of 2095  
divisions (B) (1) to (11), (28), ~~or (55)~~, or (57) of section 2096  
5739.02 of the Revised Code, or if the consumer claims the 2097  
transaction is not a taxable sale due to one or more of the 2098  
exclusions provided under divisions (JJ) (1) to (5) of section 2099  
5739.01 of the Revised Code, the consumer must provide to the 2100  
vendor, and the vendor must obtain from the consumer, a 2101  
certificate specifying the reason that the sale is not legally 2102  
subject to the tax. The certificate shall be in such form, and 2103  
shall be provided either in a hard copy form or electronic form, 2104  
as the tax commissioner prescribes. 2105

(b) A vendor that obtains a fully completed exemption 2106  
certificate from a consumer is relieved of liability for 2107  
collecting and remitting tax on any sale covered by that 2108  
certificate. If it is determined the exemption was improperly 2109  
claimed, the consumer shall be liable for any tax due on that 2110  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 2111  
Chapter 5741. of the Revised Code. Relief under this division 2112  
from liability does not apply to any of the following: 2113

(i) A vendor that fraudulently fails to collect tax; 2114

(ii) A vendor that solicits consumers to participate in 2115  
the unlawful claim of an exemption; 2116

(iii) A vendor that accepts an exemption certificate from 2117  
a consumer that claims an exemption based on who purchases or 2118  
who sells property or a service, when the subject of the 2119  
transaction sought to be covered by the exemption certificate is 2120  
actually received by the consumer at a location operated by the 2121  
vendor in this state, and this state has posted to its web site 2122  
an exemption certificate form that clearly and affirmatively 2123  
indicates that the claimed exemption is not available in this 2124  
state; 2125

(iv) A vendor that accepts an exemption certificate from a 2126  
consumer who claims a multiple points of use exemption under 2127  
division (D) of section 5739.033 of the Revised Code, if the 2128  
item purchased is tangible personal property, other than 2129  
prewritten computer software. 2130

(2) The vendor shall maintain records, including exemption 2131  
certificates, of all sales on which a consumer has claimed an 2132  
exemption, and provide them to the tax commissioner on request. 2133

(3) The tax commissioner may establish an identification 2134  
system whereby the commissioner issues an identification number 2135  
to a consumer that is exempt from payment of the tax. The 2136  
consumer must present the number to the vendor, if any sale is 2137  
claimed to be exempt as provided in this section. 2138

(4) If no certificate is provided or obtained within 2139  
ninety days after the date on which such sale is consummated, it 2140  
shall be presumed that the tax applies. Failure to have so 2141  
provided or obtained a certificate shall not preclude a vendor, 2142  
within one hundred twenty days after the tax commissioner gives 2143  
written notice of intent to levy an assessment, from either 2144  
establishing that the sale is not subject to the tax, or 2145  
obtaining, in good faith, a fully completed exemption 2146

certificate. 2147

(5) Certificates need not be obtained nor provided where 2148  
the identity of the consumer is such that the transaction is 2149  
never subject to the tax imposed or where the item of tangible 2150  
personal property sold or the service provided is never subject 2151  
to the tax imposed, regardless of use, or when the sale is in 2152  
interstate commerce. 2153

(6) If a transaction is claimed to be exempt under 2154  
division (B) (13) of section 5739.02 of the Revised Code, the 2155  
contractor shall obtain certification of the claimed exemption 2156  
from the contractee. This certification shall be in addition to 2157  
an exemption certificate provided by the contractor to the 2158  
vendor. A contractee that provides a certification under this 2159  
division shall be deemed to be the consumer of all items 2160  
purchased by the contractor under the claim of exemption, if it 2161  
is subsequently determined that the exemption is not properly 2162  
claimed. The certification shall be in such form as the tax 2163  
commissioner prescribes. 2164

(C) As used in this division, "contractee" means a person 2165  
who seeks to enter or enters into a contract or agreement with a 2166  
contractor or vendor for the construction of real property or 2167  
for the sale and installation onto real property of tangible 2168  
personal property. 2169

Any contractor or vendor may request from any contractee a 2170  
certification of what portion of the property to be transferred 2171  
under such contract or agreement is to be incorporated into the 2172  
realty and what portion will retain its status as tangible 2173  
personal property after installation is completed. The 2174  
contractor or vendor shall request the certification by 2175  
certified mail delivered to the contractee, return receipt 2176

requested. Upon receipt of such request and prior to entering 2177  
into the contract or agreement, the contractee shall provide to 2178  
the contractor or vendor a certification sufficiently detailed 2179  
to enable the contractor or vendor to ascertain the resulting 2180  
classification of all materials purchased or fabricated by the 2181  
contractor or vendor and transferred to the contractee. This 2182  
requirement applies to a contractee regardless of whether the 2183  
contractee holds a direct payment permit under section 5739.031 2184  
of the Revised Code or provides to the contractor or vendor an 2185  
exemption certificate as provided under this section. 2186

For the purposes of the taxes levied by this chapter and 2187  
Chapter 5741. of the Revised Code, the contractor or vendor may 2188  
in good faith rely on the contractee's certification. 2189  
Notwithstanding division (B) of section 5739.01 of the Revised 2190  
Code, if the tax commissioner determines that certain property 2191  
certified by the contractee as tangible personal property 2192  
pursuant to this division is, in fact, real property, the 2193  
contractee shall be considered to be the consumer of all 2194  
materials so incorporated into that real property and shall be 2195  
liable for the applicable tax, and the contractor or vendor 2196  
shall be excused from any liability on those materials. 2197

If a contractee fails to provide such certification upon 2198  
the request of the contractor or vendor, the contractor or 2199  
vendor shall comply with the provisions of this chapter and 2200  
Chapter 5741. of the Revised Code without the certification. If 2201  
the tax commissioner determines that such compliance has been 2202  
performed in good faith and that certain property treated as 2203  
tangible personal property by the contractor or vendor is, in 2204  
fact, real property, the contractee shall be considered to be 2205  
the consumer of all materials so incorporated into that real 2206  
property and shall be liable for the applicable tax, and the 2207

construction contractor or vendor shall be excused from any 2208  
liability on those materials. 2209

This division does not apply to any contract or agreement 2210  
where the tax commissioner determines as a fact that a 2211  
certification under this division was made solely on the 2212  
decision or advice of the contractor or vendor. 2213

(D) Notwithstanding division (B) of section 5739.01 of the 2214  
Revised Code, whenever the total rate of tax imposed under this 2215  
chapter is increased after the date after a construction 2216  
contract is entered into, the contractee shall reimburse the 2217  
construction contractor for any additional tax paid on tangible 2218  
property consumed or services received pursuant to the contract. 2219

(E) A vendor who files a petition for reassessment 2220  
contesting the assessment of tax on sales for which the vendor 2221  
obtained no valid exemption certificates and for which the 2222  
vendor failed to establish that the sales were properly not 2223  
subject to the tax during the one-hundred-twenty-day period 2224  
allowed under division (B) of this section, may present to the 2225  
tax commissioner additional evidence to prove that the sales 2226  
were properly subject to a claim of exception or exemption. The 2227  
vendor shall file such evidence within ninety days of the 2228  
receipt by the vendor of the notice of assessment, except that, 2229  
upon application and for reasonable cause, the period for 2230  
submitting such evidence shall be extended thirty days. 2231

The commissioner shall consider such additional evidence 2232  
in reaching the final determination on the assessment and 2233  
petition for reassessment. 2234

(F) Whenever a vendor refunds the price, minus any 2235  
separately stated delivery charge, of an item of tangible 2236

personal property on which the tax imposed under this chapter 2237  
has been paid, the vendor shall also refund the amount of tax 2238  
paid, minus the amount of tax attributable to the delivery 2239  
charge. 2240

**Sec. 5747.01.** Except as otherwise expressly provided or 2241  
clearly appearing from the context, any term used in this 2242  
chapter that is not otherwise defined in this section has the 2243  
same meaning as when used in a comparable context in the laws of 2244  
the United States relating to federal income taxes or if not 2245  
used in a comparable context in those laws, has the same meaning 2246  
as in section 5733.40 of the Revised Code. Any reference in this 2247  
chapter to the Internal Revenue Code includes other laws of the 2248  
United States relating to federal income taxes. 2249

As used in this chapter: 2250

(A) "Adjusted gross income" or "Ohio adjusted gross 2251  
income" means federal adjusted gross income, as defined and used 2252  
in the Internal Revenue Code, adjusted as provided in this 2253  
section: 2254

(1) Add interest or dividends on obligations or securities 2255  
of any state or of any political subdivision or authority of any 2256  
state, other than this state and its subdivisions and 2257  
authorities. 2258

(2) Add interest or dividends on obligations of any 2259  
authority, commission, instrumentality, territory, or possession 2260  
of the United States to the extent that the interest or 2261  
dividends are exempt from federal income taxes but not from 2262  
state income taxes. 2263

(3) Deduct interest or dividends on obligations of the 2264  
United States and its territories and possessions or of any 2265

authority, commission, or instrumentality of the United States 2266  
to the extent that the interest or dividends are included in 2267  
federal adjusted gross income but exempt from state income taxes 2268  
under the laws of the United States. 2269

(4) Deduct disability and survivor's benefits to the 2270  
extent included in federal adjusted gross income. 2271

(5) Deduct benefits under Title II of the Social Security 2272  
Act and tier 1 railroad retirement benefits to the extent 2273  
included in federal adjusted gross income under section 86 of 2274  
the Internal Revenue Code. 2275

(6) In the case of a taxpayer who is a beneficiary of a 2276  
trust that makes an accumulation distribution as defined in 2277  
section 665 of the Internal Revenue Code, add, for the 2278  
beneficiary's taxable years beginning before 2002, the portion, 2279  
if any, of such distribution that does not exceed the 2280  
undistributed net income of the trust for the three taxable 2281  
years preceding the taxable year in which the distribution is 2282  
made to the extent that the portion was not included in the 2283  
trust's taxable income for any of the trust's taxable years 2284  
beginning in 2002 or thereafter. "Undistributed net income of a 2285  
trust" means the taxable income of the trust increased by (a) (i) 2286  
the additions to adjusted gross income required under division 2287  
(A) of this section and (ii) the personal exemptions allowed to 2288  
the trust pursuant to section 642(b) of the Internal Revenue 2289  
Code, and decreased by (b) (i) the deductions to adjusted gross 2290  
income required under division (A) of this section, (ii) the 2291  
amount of federal income taxes attributable to such income, and 2292  
(iii) the amount of taxable income that has been included in the 2293  
adjusted gross income of a beneficiary by reason of a prior 2294  
accumulation distribution. Any undistributed net income included 2295

in the adjusted gross income of a beneficiary shall reduce the 2296  
undistributed net income of the trust commencing with the 2297  
earliest years of the accumulation period. 2298

(7) Deduct the amount of wages and salaries, if any, not 2299  
otherwise allowable as a deduction but that would have been 2300  
allowable as a deduction in computing federal adjusted gross 2301  
income for the taxable year, had the targeted jobs credit 2302  
allowed and determined under sections 38, 51, and 52 of the 2303  
Internal Revenue Code not been in effect. 2304

(8) Deduct any interest or interest equivalent on public 2305  
obligations and purchase obligations to the extent that the 2306  
interest or interest equivalent is included in federal adjusted 2307  
gross income. 2308

(9) Add any loss or deduct any gain resulting from the 2309  
sale, exchange, or other disposition of public obligations to 2310  
the extent that the loss has been deducted or the gain has been 2311  
included in computing federal adjusted gross income. 2312

(10) Deduct or add amounts, as provided under section 2313  
5747.70 of the Revised Code, related to contributions to 2314  
variable college savings program accounts made or tuition units 2315  
purchased pursuant to Chapter 3334. of the Revised Code. 2316

(11) (a) Deduct, to the extent not otherwise allowable as a 2317  
deduction or exclusion in computing federal or Ohio adjusted 2318  
gross income for the taxable year, the amount the taxpayer paid 2319  
during the taxable year for medical care insurance and qualified 2320  
long-term care insurance for the taxpayer, the taxpayer's 2321  
spouse, and dependents. No deduction for medical care insurance 2322  
under division (A) (11) (a) of this section shall be allowed 2323  
either to any taxpayer who is eligible to participate in any 2324



subsidized health plan maintained by any employer of the 2325  
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 2326  
entitled to, or on application would be entitled to, benefits 2327  
under part A of Title XVIII of the "Social Security Act," 49 2328  
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 2329  
division (A)(11)(a) of this section, "subsidized health plan" 2330  
means a health plan for which the employer pays any portion of 2331  
the plan's cost. The deduction allowed under division (A)(11)(a) 2332  
of this section shall be the net of any related premium refunds, 2333  
related premium reimbursements, or related insurance premium 2334  
dividends received during the taxable year. 2335

(b) Deduct, to the extent not otherwise deducted or 2336  
excluded in computing federal or Ohio adjusted gross income 2337  
during the taxable year, the amount the taxpayer paid during the 2338  
taxable year, not compensated for by any insurance or otherwise, 2339  
for medical care of the taxpayer, the taxpayer's spouse, and 2340  
dependents, to the extent the expenses exceed seven and one-half 2341  
per cent of the taxpayer's federal adjusted gross income. 2342

(c) Deduct, to the extent not otherwise deducted or 2343  
excluded in computing federal or Ohio adjusted gross income, any 2344  
amount included in federal adjusted gross income under section 2345  
105 or not excluded under section 106 of the Internal Revenue 2346  
Code solely because it relates to an accident and health plan 2347  
for a person who otherwise would be a "qualifying relative" and 2348  
thus a "dependent" under section 152 of the Internal Revenue 2349  
Code but for the fact that the person fails to meet the income 2350  
and support limitations under section 152(d)(1)(B) and (C) of 2351  
the Internal Revenue Code. 2352

(d) For purposes of division (A)(11) of this section, 2353  
"medical care" has the meaning given in section 213 of the 2354

Internal Revenue Code, subject to the special rules, 2355  
limitations, and exclusions set forth therein, and "qualified 2356  
long-term care" has the same meaning given in section 7702B(c) 2357  
of the Internal Revenue Code. Solely for purposes of divisions 2358  
(A)(11)(a) and (c) of this section, "dependent" includes a 2359  
person who otherwise would be a "qualifying relative" and thus a 2360  
"dependent" under section 152 of the Internal Revenue Code but 2361  
for the fact that the person fails to meet the income and 2362  
support limitations under section 152(d)(1)(B) and (C) of the 2363  
Internal Revenue Code. 2364

(12)(a) Deduct any amount included in federal adjusted 2365  
gross income solely because the amount represents a 2366  
reimbursement or refund of expenses that in any year the 2367  
taxpayer had deducted as an itemized deduction pursuant to 2368  
section 63 of the Internal Revenue Code and applicable United 2369  
States department of the treasury regulations. The deduction 2370  
otherwise allowed under division (A)(12)(a) of this section 2371  
shall be reduced to the extent the reimbursement is attributable 2372  
to an amount the taxpayer deducted under this section in any 2373  
taxable year. 2374

(b) Add any amount not otherwise included in Ohio adjusted 2375  
gross income for any taxable year to the extent that the amount 2376  
is attributable to the recovery during the taxable year of any 2377  
amount deducted or excluded in computing federal or Ohio 2378  
adjusted gross income in any taxable year. 2379

(13) Deduct any portion of the deduction described in 2380  
section 1341(a)(2) of the Internal Revenue Code, for repaying 2381  
previously reported income received under a claim of right, that 2382  
meets both of the following requirements: 2383

(a) It is allowable for repayment of an item that was 2384

included in the taxpayer's adjusted gross income for a prior 2385  
taxable year and did not qualify for a credit under division (A) 2386  
or (B) of section 5747.05 of the Revised Code for that year; 2387

(b) It does not otherwise reduce the taxpayer's adjusted 2388  
gross income for the current or any other taxable year. 2389

(14) Deduct an amount equal to the deposits made to, and 2390  
net investment earnings of, a medical savings account during the 2391  
taxable year, in accordance with section 3924.66 of the Revised 2392  
Code. The deduction allowed by division (A)(14) of this section 2393  
does not apply to medical savings account deposits and earnings 2394  
otherwise deducted or excluded for the current or any other 2395  
taxable year from the taxpayer's federal adjusted gross income. 2396

(15) (a) Add an amount equal to the funds withdrawn from a 2397  
medical savings account during the taxable year, and the net 2398  
investment earnings on those funds, when the funds withdrawn 2399  
were used for any purpose other than to reimburse an account 2400  
holder for, or to pay, eligible medical expenses, in accordance 2401  
with section 3924.66 of the Revised Code; 2402

(b) Add the amounts distributed from a medical savings 2403  
account under division (A)(2) of section 3924.68 of the Revised 2404  
Code during the taxable year. 2405

(16) Add any amount claimed as a credit under section 2406  
5747.059 of the Revised Code to the extent that such amount 2407  
satisfies either of the following: 2408

(a) The amount was deducted or excluded from the 2409  
computation of the taxpayer's federal adjusted gross income as 2410  
required to be reported for the taxpayer's taxable year under 2411  
the Internal Revenue Code; 2412

(b) The amount resulted in a reduction of the taxpayer's 2413

federal adjusted gross income as required to be reported for any 2414  
of the taxpayer's taxable years under the Internal Revenue Code. 2415

(17) Deduct the amount contributed by the taxpayer to an 2416  
individual development account program established by a county 2417  
department of job and family services pursuant to sections 2418  
329.11 to 329.14 of the Revised Code for the purpose of matching 2419  
funds deposited by program participants. On request of the tax 2420  
commissioner, the taxpayer shall provide any information that, 2421  
in the tax commissioner's opinion, is necessary to establish the 2422  
amount deducted under division (A) (17) of this section. 2423

(18) Beginning in taxable year 2001 but not for any 2424  
taxable year beginning after December 31, 2005, if the taxpayer 2425  
is married and files a joint return and the combined federal 2426  
adjusted gross income of the taxpayer and the taxpayer's spouse 2427  
for the taxable year does not exceed one hundred thousand 2428  
dollars, or if the taxpayer is single and has a federal adjusted 2429  
gross income for the taxable year not exceeding fifty thousand 2430  
dollars, deduct amounts paid during the taxable year for 2431  
qualified tuition and fees paid to an eligible institution for 2432  
the taxpayer, the taxpayer's spouse, or any dependent of the 2433  
taxpayer, who is a resident of this state and is enrolled in or 2434  
attending a program that culminates in a degree or diploma at an 2435  
eligible institution. The deduction may be claimed only to the 2436  
extent that qualified tuition and fees are not otherwise 2437  
deducted or excluded for any taxable year from federal or Ohio 2438  
adjusted gross income. The deduction may not be claimed for 2439  
educational expenses for which the taxpayer claims a credit 2440  
under section 5747.27 of the Revised Code. 2441

(19) Add any reimbursement received during the taxable 2442  
year of any amount the taxpayer deducted under division (A) (18) 2443

of this section in any previous taxable year to the extent the 2444  
amount is not otherwise included in Ohio adjusted gross income. 2445

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 2446  
(v) of this section, add five-sixths of the amount of 2447  
depreciation expense allowed by subsection (k) of section 168 of 2448  
the Internal Revenue Code, including the taxpayer's 2449  
proportionate or distributive share of the amount of 2450  
depreciation expense allowed by that subsection to a pass- 2451  
through entity in which the taxpayer has a direct or indirect 2452  
ownership interest. 2453

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 2454  
of this section, add five-sixths of the amount of qualifying 2455  
section 179 depreciation expense, including the taxpayer's 2456  
proportionate or distributive share of the amount of qualifying 2457  
section 179 depreciation expense allowed to any pass-through 2458  
entity in which the taxpayer has a direct or indirect ownership 2459  
interest. 2460

(iii) Subject to division (A) (20) (a) (v) of this section, 2461  
for taxable years beginning in 2012 or thereafter, if the 2462  
increase in income taxes withheld by the taxpayer is equal to or 2463  
greater than ten per cent of income taxes withheld by the 2464  
taxpayer during the taxpayer's immediately preceding taxable 2465  
year, "two-thirds" shall be substituted for "five-sixths" for 2466  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2467

(iv) Subject to division (A) (20) (a) (v) of this section, 2468  
for taxable years beginning in 2012 or thereafter, a taxpayer is 2469  
not required to add an amount under division (A) (20) of this 2470  
section if the increase in income taxes withheld by the taxpayer 2471  
and by any pass-through entity in which the taxpayer has a 2472  
direct or indirect ownership interest is equal to or greater 2473

than the sum of (I) the amount of qualifying section 179 2474  
depreciation expense and (II) the amount of depreciation expense 2475  
allowed to the taxpayer by subsection (k) of section 168 of the 2476  
Internal Revenue Code, and including the taxpayer's 2477  
proportionate or distributive shares of such amounts allowed to 2478  
any such pass-through entities. 2479

(v) If a taxpayer directly or indirectly incurs a net 2480  
operating loss for the taxable year for federal income tax 2481  
purposes, to the extent such loss resulted from depreciation 2482  
expense allowed by subsection (k) of section 168 of the Internal 2483  
Revenue Code and by qualifying section 179 depreciation expense, 2484  
"the entire" shall be substituted for "five-sixths of the" for 2485  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2486

The tax commissioner, under procedures established by the 2487  
commissioner, may waive the add-backs related to a pass-through 2488  
entity if the taxpayer owns, directly or indirectly, less than 2489  
five per cent of the pass-through entity. 2490

(b) Nothing in division (A) (20) of this section shall be 2491  
construed to adjust or modify the adjusted basis of any asset. 2492

(c) To the extent the add-back required under division (A) 2493  
(20) (a) of this section is attributable to property generating 2494  
nonbusiness income or loss allocated under section 5747.20 of 2495  
the Revised Code, the add-back shall be situated to the same 2496  
location as the nonbusiness income or loss generated by the 2497  
property for the purpose of determining the credit under 2498  
division (A) of section 5747.05 of the Revised Code. Otherwise, 2499  
the add-back shall be apportioned, subject to one or more of the 2500  
four alternative methods of apportionment enumerated in section 2501  
5747.21 of the Revised Code. 2502

(d) For the purposes of division (A) (20) (a) (v) of this 2503  
section, net operating loss carryback and carryforward shall not 2504  
include the allowance of any net operating loss deduction 2505  
carryback or carryforward to the taxable year to the extent such 2506  
loss resulted from depreciation allowed by section 168(k) of the 2507  
Internal Revenue Code and by the qualifying section 179 2508  
depreciation expense amount. 2509

(e) For the purposes of divisions (A) (20) and (21) of this 2510  
section: 2511

(i) "Income taxes withheld" means the total amount 2512  
withheld and remitted under sections 5747.06 and 5747.07 of the 2513  
Revised Code by an employer during the employer's taxable year. 2514

(ii) "Increase in income taxes withheld" means the amount 2515  
by which the amount of income taxes withheld by an employer 2516  
during the employer's current taxable year exceeds the amount of 2517  
income taxes withheld by that employer during the employer's 2518  
immediately preceding taxable year. 2519

(iii) "Qualifying section 179 depreciation expense" means 2520  
the difference between (I) the amount of depreciation expense 2521  
directly or indirectly allowed to a taxpayer under section 179 2522  
of the Internal Revised Code, and (II) the amount of 2523  
depreciation expense directly or indirectly allowed to the 2524  
taxpayer under section 179 of the Internal Revenue Code as that 2525  
section existed on December 31, 2002. 2526

(21) (a) If the taxpayer was required to add an amount 2527  
under division (A) (20) (a) of this section for a taxable year, 2528  
deduct one of the following: 2529

(i) One-fifth of the amount so added for each of the five 2530  
succeeding taxable years if the amount so added was five-sixths 2531

of qualifying section 179 depreciation expense or depreciation 2532  
expense allowed by subsection (k) of section 168 of the Internal 2533  
Revenue Code; 2534

(ii) One-half of the amount so added for each of the two 2535  
succeeding taxable years if the amount so added was two-thirds 2536  
of such depreciation expense; 2537

(iii) One-sixth of the amount so added for each of the six 2538  
succeeding taxable years if the entire amount of such 2539  
depreciation expense was so added. 2540

(b) If the amount deducted under division (A) (21) (a) of 2541  
this section is attributable to an add-back allocated under 2542  
division (A) (20) (c) of this section, the amount deducted shall 2543  
be situated to the same location. Otherwise, the add-back shall 2544  
be apportioned using the apportionment factors for the taxable 2545  
year in which the deduction is taken, subject to one or more of 2546  
the four alternative methods of apportionment enumerated in 2547  
section 5747.21 of the Revised Code. 2548

(c) No deduction is available under division (A) (21) (a) of 2549  
this section with regard to any depreciation allowed by section 2550  
168(k) of the Internal Revenue Code and by the qualifying 2551  
section 179 depreciation expense amount to the extent that such 2552  
depreciation results in or increases a federal net operating 2553  
loss carryback or carryforward. If no such deduction is 2554  
available for a taxable year, the taxpayer may carry forward the 2555  
amount not deducted in such taxable year to the next taxable 2556  
year and add that amount to any deduction otherwise available 2557  
under division (A) (21) (a) of this section for that next taxable 2558  
year. The carryforward of amounts not so deducted shall continue 2559  
until the entire addition required by division (A) (20) (a) of 2560  
this section has been deducted. 2561



(d) No refund shall be allowed as a result of adjustments 2562  
made by division (A) (21) of this section. 2563

(22) Deduct, to the extent not otherwise deducted or 2564  
excluded in computing federal or Ohio adjusted gross income for 2565  
the taxable year, the amount the taxpayer received during the 2566  
taxable year as reimbursement for life insurance premiums under 2567  
section 5919.31 of the Revised Code. 2568

(23) Deduct, to the extent not otherwise deducted or 2569  
excluded in computing federal or Ohio adjusted gross income for 2570  
the taxable year, the amount the taxpayer received during the 2571  
taxable year as a death benefit paid by the adjutant general 2572  
under section 5919.33 of the Revised Code. 2573

(24) Deduct, to the extent included in federal adjusted 2574  
gross income and not otherwise allowable as a deduction or 2575  
exclusion in computing federal or Ohio adjusted gross income for 2576  
the taxable year, military pay and allowances received by the 2577  
taxpayer during the taxable year for active duty service in the 2578  
United States army, air force, navy, marine corps, or coast 2579  
guard or reserve components thereof or the national guard. The 2580  
deduction may not be claimed for military pay and allowances 2581  
received by the taxpayer while the taxpayer is stationed in this 2582  
state. 2583

(25) Deduct, to the extent not otherwise allowable as a 2584  
deduction or exclusion in computing federal or Ohio adjusted 2585  
gross income for the taxable year and not otherwise compensated 2586  
for by any other source, the amount of qualified organ donation 2587  
expenses incurred by the taxpayer during the taxable year, not 2588  
to exceed ten thousand dollars. A taxpayer may deduct qualified 2589  
organ donation expenses only once for all taxable years 2590  
beginning with taxable years beginning in 2007. 2591

For the purposes of division (A) (25) of this section:	2592
(a) "Human organ" means all or any portion of a human	2593
liver, pancreas, kidney, intestine, or lung, and any portion of	2594
human bone marrow.	2595
(b) "Qualified organ donation expenses" means travel	2596
expenses, lodging expenses, and wages and salary forgone by a	2597
taxpayer in connection with the taxpayer's donation, while	2598
living, of one or more of the taxpayer's human organs to another	2599
human being.	2600
(26) Deduct, to the extent not otherwise deducted or	2601
excluded in computing federal or Ohio adjusted gross income for	2602
the taxable year, amounts received by the taxpayer as retired	2603
personnel pay for service in the uniformed services or reserve	2604
components thereof, or the national guard, or received by the	2605
surviving spouse or former spouse of such a taxpayer under the	2606
survivor benefit plan on account of such a taxpayer's death. If	2607
the taxpayer receives income on account of retirement paid under	2608
the federal civil service retirement system or federal employees	2609
retirement system, or under any successor retirement program	2610
enacted by the congress of the United States that is established	2611
and maintained for retired employees of the United States	2612
government, and such retirement income is based, in whole or in	2613
part, on credit for the taxpayer's uniformed service, the	2614
deduction allowed under this division shall include only that	2615
portion of such retirement income that is attributable to the	2616
taxpayer's uniformed service, to the extent that portion of such	2617
retirement income is otherwise included in federal adjusted	2618
gross income and is not otherwise deducted under this section.	2619
Any amount deducted under division (A) (26) of this section is	2620
not included in a taxpayer's adjusted gross income for the	2621

purposes of section 5747.055 of the Revised Code. No amount may 2622  
be deducted under division (A) (26) of this section on the basis 2623  
of which a credit was claimed under section 5747.055 of the 2624  
Revised Code. 2625

(27) Deduct, to the extent not otherwise deducted or 2626  
excluded in computing federal or Ohio adjusted gross income for 2627  
the taxable year, the amount the taxpayer received during the 2628  
taxable year from the military injury relief fund created in 2629  
section 5902.05 of the Revised Code. 2630

(28) Deduct, to the extent not otherwise deducted or 2631  
excluded in computing federal or Ohio adjusted gross income for 2632  
the taxable year, the amount the taxpayer received as a veterans 2633  
bonus during the taxable year from the Ohio department of 2634  
veterans services as authorized by Section 2r of Article VIII, 2635  
Ohio Constitution. 2636

(29) Deduct, to the extent not otherwise deducted or 2637  
excluded in computing federal or Ohio adjusted gross income for 2638  
the taxable year, any income derived from a transfer agreement 2639  
or from the enterprise transferred under that agreement under 2640  
section 4313.02 of the Revised Code. 2641

(30) Deduct, to the extent not otherwise deducted or 2642  
excluded in computing federal or Ohio adjusted gross income for 2643  
the taxable year, Ohio college opportunity or federal Pell grant 2644  
amounts received by the taxpayer or the taxpayer's spouse or 2645  
dependent pursuant to section 3333.122 of the Revised Code or 20 2646  
U.S.C. 1070a, et seq., and used to pay room or board furnished 2647  
by the educational institution for which the grant was awarded 2648  
at the institution's facilities, including meal plans 2649  
administered by the institution. For the purposes of this 2650  
division, receipt of a grant includes the distribution of a 2651

grant directly to an educational institution and the crediting 2652  
of the grant to the enrollee's account with the institution. 2653

(31) Deduct from the portion of an individual's federal 2654  
adjusted gross income that is ~~eligible~~-business income, to the 2655  
extent not otherwise deducted or excluded in computing federal 2656  
adjusted gross income for the taxable year, one hundred twenty- 2657  
five thousand dollars for each spouse if spouses file separate 2658  
returns under section 5747.08 of the Revised Code or two hundred 2659  
fifty thousand dollars for all other individuals. 2660

(32) Deduct, as provided under section 5747.78 of the 2661  
Revised Code, contributions to ABLE savings accounts made in 2662  
accordance with sections 113.50 to 113.56 of the Revised Code. 2663

(33) (a) Deduct, to the extent not otherwise deducted or 2664  
excluded in computing federal or Ohio adjusted gross income 2665  
during the taxable year, all of the following: 2666

(i) Compensation paid to a qualifying employee described 2667  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 2668  
the extent such compensation is for disaster work conducted in 2669  
this state during a disaster response period pursuant to a 2670  
qualifying solicitation received by the employee's employer; 2671

(ii) Compensation paid to a qualifying employee described 2672  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 2673  
the extent such compensation is for disaster work conducted in 2674  
this state by the employee during the disaster response period 2675  
on critical infrastructure owned or used by the employee's 2676  
employer; 2677

(iii) Income received by an out-of-state disaster business 2678  
for disaster work conducted in this state during a disaster 2679  
response period, or, if the out-of-state disaster business is a 2680

pass-through entity, a taxpayer's distributive share of the 2681  
pass-through entity's income from the business conducting 2682  
disaster work in this state during a disaster response period, 2683  
if, in either case, the disaster work is conducted pursuant to a 2684  
qualifying solicitation received by the business. 2685

(b) All terms used in division (A) (33) of this section 2686  
have the same meanings as in section 5703.94 of the Revised 2687  
Code. 2688

(34) For a taxpayer who is a qualifying Ohio educator, 2689  
deduct, to the extent not otherwise deducted or excluded in 2690  
computing federal or Ohio adjusted gross income for the taxable 2691  
year, the lesser of two hundred fifty dollars or the amount of 2692  
expenses described in subsections (a) (2) (D) (i) and (ii) of 2693  
section 62 of the Internal Revenue Code paid or incurred by the 2694  
taxpayer during the taxpayer's taxable year in excess of the 2695  
amount the taxpayer is authorized to deduct for that taxable 2696  
year under subsection (a) (2) (D) of that section. 2697

(B) ~~(1)~~—"Business income" means income, including gain or 2698  
loss, arising from transactions, activities, and sources in the 2699  
regular course of a trade or business and includes income, gain, 2700  
or loss from real property, tangible property, and intangible 2701  
property if the acquisition, rental, management, and disposition 2702  
of the property constitute integral parts of the regular course 2703  
of a trade or business operation. "Business income" includes 2704  
income, including gain or loss, from a partial or complete 2705  
liquidation of a business, including, but not limited to, gain 2706  
or loss from the sale or other disposition of goodwill. 2707

~~(2) "Eligible business income" means business income~~ 2708  
~~excluding income from a trade or business that performs either~~ 2709  
~~or both of the following:—~~ 2710

~~(a) Legal services provided by an active attorney admitted to the practice of law in this state or by an attorney registered for corporate counsel status under section 6 of rule VI of the Ohio supreme court rules for the government of the bar of Ohio;~~

~~(b) Executive agency lobbying activity, retirement system lobbying activity, or actively advocating by a person required to register with the joint legislative ethics committee under section 101.78, 101.92, or 121.62 of the Revised Code. Terms used in division (B) (2) of this section have the same meaning as in section 101.70, 101.92, or 121.60 of the Revised Code.~~

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

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

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

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

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that

division (I) (3) of this section applies only to taxable years of	2739
a trust beginning in 2002 or thereafter:	2740
(1) An individual who is domiciled in this state, subject	2741
to section 5747.24 of the Revised Code;	2742
(2) The estate of a decedent who at the time of death was	2743
domiciled in this state. The domicile tests of section 5747.24	2744
of the Revised Code are not controlling for purposes of division	2745
(I) (2) of this section.	2746
(3) A trust that, in whole or part, resides in this state.	2747
If only part of a trust resides in this state, the trust is a	2748
resident only with respect to that part.	2749
For the purposes of division (I) (3) of this section:	2750
(a) A trust resides in this state for the trust's current	2751
taxable year to the extent, as described in division (I) (3) (d)	2752
of this section, that the trust consists directly or indirectly,	2753
in whole or in part, of assets, net of any related liabilities,	2754
that were transferred, or caused to be transferred, directly or	2755
indirectly, to the trust by any of the following:	2756
(i) A person, a court, or a governmental entity or	2757
instrumentality on account of the death of a decedent, but only	2758
if the trust is described in division (I) (3) (e) (i) or (ii) of	2759
this section;	2760
(ii) A person who was domiciled in this state for the	2761
purposes of this chapter when the person directly or indirectly	2762
transferred assets to an irrevocable trust, but only if at least	2763
one of the trust's qualifying beneficiaries is domiciled in this	2764
state for the purposes of this chapter during all or some	2765
portion of the trust's current taxable year;	2766

(iii) A person who was domiciled in this state for the 2767  
purposes of this chapter when the trust document or instrument 2768  
or part of the trust document or instrument became irrevocable, 2769  
but only if at least one of the trust's qualifying beneficiaries 2770  
is a resident domiciled in this state for the purposes of this 2771  
chapter during all or some portion of the trust's current 2772  
taxable year. If a trust document or instrument became 2773  
irrevocable upon the death of a person who at the time of death 2774  
was domiciled in this state for purposes of this chapter, that 2775  
person is a person described in division (I) (3) (a) (iii) of this 2776  
section. 2777

(b) A trust is irrevocable to the extent that the 2778  
transferor is not considered to be the owner of the net assets 2779  
of the trust under sections 671 to 678 of the Internal Revenue 2780  
Code. 2781

(c) With respect to a trust other than a charitable lead 2782  
trust, "qualifying beneficiary" has the same meaning as 2783  
"potential current beneficiary" as defined in section 1361(e) (2) 2784  
of the Internal Revenue Code, and with respect to a charitable 2785  
lead trust "qualifying beneficiary" is any current, future, or 2786  
contingent beneficiary, but with respect to any trust 2787  
"qualifying beneficiary" excludes a person or a governmental 2788  
entity or instrumentality to any of which a contribution would 2789  
qualify for the charitable deduction under section 170 of the 2790  
Internal Revenue Code. 2791

(d) For the purposes of division (I) (3) (a) of this 2792  
section, the extent to which a trust consists directly or 2793  
indirectly, in whole or in part, of assets, net of any related 2794  
liabilities, that were transferred directly or indirectly, in 2795  
whole or part, to the trust by any of the sources enumerated in 2796



that division shall be ascertained by multiplying the fair 2797  
market value of the trust's assets, net of related liabilities, 2798  
by the qualifying ratio, which shall be computed as follows: 2799

(i) The first time the trust receives assets, the 2800  
numerator of the qualifying ratio is the fair market value of 2801  
those assets at that time, net of any related liabilities, from 2802  
sources enumerated in division (I) (3) (a) of this section. The 2803  
denominator of the qualifying ratio is the fair market value of 2804  
all the trust's assets at that time, net of any related 2805  
liabilities. 2806

(ii) Each subsequent time the trust receives assets, a 2807  
revised qualifying ratio shall be computed. The numerator of the 2808  
revised qualifying ratio is the sum of (1) the fair market value 2809  
of the trust's assets immediately prior to the subsequent 2810  
transfer, net of any related liabilities, multiplied by the 2811  
qualifying ratio last computed without regard to the subsequent 2812  
transfer, and (2) the fair market value of the subsequently 2813  
transferred assets at the time transferred, net of any related 2814  
liabilities, from sources enumerated in division (I) (3) (a) of 2815  
this section. The denominator of the revised qualifying ratio is 2816  
the fair market value of all the trust's assets immediately 2817  
after the subsequent transfer, net of any related liabilities. 2818

(iii) Whether a transfer to the trust is by or from any of 2819  
the sources enumerated in division (I) (3) (a) of this section 2820  
shall be ascertained without regard to the domicile of the 2821  
trust's beneficiaries. 2822

(e) For the purposes of division (I) (3) (a) (i) of this 2823  
section: 2824

(i) A trust is described in division (I) (3) (e) (i) of this 2825

section if the trust is a testamentary trust and the testator of 2826  
that testamentary trust was domiciled in this state at the time 2827  
of the testator's death for purposes of the taxes levied under 2828  
Chapter 5731. of the Revised Code. 2829

(ii) A trust is described in division (I)(3)(e)(ii) of 2830  
this section if the transfer is a qualifying transfer described 2831  
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 2832  
trust is an irrevocable inter vivos trust, and at least one of 2833  
the trust's qualifying beneficiaries is domiciled in this state 2834  
for purposes of this chapter during all or some portion of the 2835  
trust's current taxable year. 2836

(f) For the purposes of division (I)(3)(e)(ii) of this 2837  
section, a "qualifying transfer" is a transfer of assets, net of 2838  
any related liabilities, directly or indirectly to a trust, if 2839  
the transfer is described in any of the following: 2840

(i) The transfer is made to a trust, created by the 2841  
decedent before the decedent's death and while the decedent was 2842  
domiciled in this state for the purposes of this chapter, and, 2843  
prior to the death of the decedent, the trust became irrevocable 2844  
while the decedent was domiciled in this state for the purposes 2845  
of this chapter. 2846

(ii) The transfer is made to a trust to which the 2847  
decedent, prior to the decedent's death, had directly or 2848  
indirectly transferred assets, net of any related liabilities, 2849  
while the decedent was domiciled in this state for the purposes 2850  
of this chapter, and prior to the death of the decedent the 2851  
trust became irrevocable while the decedent was domiciled in 2852  
this state for the purposes of this chapter. 2853

(iii) The transfer is made on account of a contractual 2854

relationship existing directly or indirectly between the 2855  
transferor and either the decedent or the estate of the decedent 2856  
at any time prior to the date of the decedent's death, and the 2857  
decedent was domiciled in this state at the time of death for 2858  
purposes of the taxes levied under Chapter 5731. of the Revised 2859  
Code. 2860

(iv) The transfer is made to a trust on account of a 2861  
contractual relationship existing directly or indirectly between 2862  
the transferor and another person who at the time of the 2863  
decedent's death was domiciled in this state for purposes of 2864  
this chapter. 2865

(v) The transfer is made to a trust on account of the will 2866  
of a testator who was domiciled in this state at the time of the 2867  
testator's death for purposes of the taxes levied under Chapter 2868  
5731. of the Revised Code. 2869

(vi) The transfer is made to a trust created by or caused 2870  
to be created by a court, and the trust was directly or 2871  
indirectly created in connection with or as a result of the 2872  
death of an individual who, for purposes of the taxes levied 2873  
under Chapter 5731. of the Revised Code, was domiciled in this 2874  
state at the time of the individual's death. 2875

(g) The tax commissioner may adopt rules to ascertain the 2876  
part of a trust residing in this state. 2877

(J) "Nonresident" means an individual or estate that is 2878  
not a resident. An individual who is a resident for only part of 2879  
a taxable year is a nonresident for the remainder of that 2880  
taxable year. 2881

(K) "Pass-through entity" has the same meaning as in 2882  
section 5733.04 of the Revised Code. 2883

(L) "Return" means the notifications and reports required 2884  
to be filed pursuant to this chapter for the purpose of 2885  
reporting the tax due and includes declarations of estimated tax 2886  
when so required. 2887

(M) "Taxable year" means the calendar year or the 2888  
taxpayer's fiscal year ending during the calendar year, or 2889  
fractional part thereof, upon which the adjusted gross income is 2890  
calculated pursuant to this chapter. 2891

(N) "Taxpayer" means any person subject to the tax imposed 2892  
by section 5747.02 of the Revised Code or any pass-through 2893  
entity that makes the election under division (D) of section 2894  
5747.08 of the Revised Code. 2895

(O) "Dependents" means one of the following: 2896

(1) For taxable years beginning on or after January 1, 2897  
2018, and before January 1, 2026, dependents as defined in the 2898  
Internal Revenue Code; 2899

(2) For all other taxable years, dependents as defined in 2900  
the Internal Revenue Code and as claimed in the taxpayer's 2901  
federal income tax return for the taxable year or which the 2902  
taxpayer would have been permitted to claim had the taxpayer 2903  
filed a federal income tax return. 2904

(P) "Principal county of employment" means, in the case of 2905  
a nonresident, the county within the state in which a taxpayer 2906  
performs services for an employer or, if those services are 2907  
performed in more than one county, the county in which the major 2908  
portion of the services are performed. 2909

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2910  
Code: 2911

(1) "Subdivision" means any county, municipal corporation,	2912
park district, or township.	2913
(2) "Essential local government purposes" includes all	2914
functions that any subdivision is required by general law to	2915
exercise, including like functions that are exercised under a	2916
charter adopted pursuant to the Ohio Constitution.	2917
(R) "Overpayment" means any amount already paid that	2918
exceeds the figure determined to be the correct amount of the	2919
tax.	2920
(S) "Taxable income" or "Ohio taxable income" applies only	2921
to estates and trusts, and means federal taxable income, as	2922
defined and used in the Internal Revenue Code, adjusted as	2923
follows:	2924
(1) Add interest or dividends, net of ordinary, necessary,	2925
and reasonable expenses not deducted in computing federal	2926
taxable income, on obligations or securities of any state or of	2927
any political subdivision or authority of any state, other than	2928
this state and its subdivisions and authorities, but only to the	2929
extent that such net amount is not otherwise includible in Ohio	2930
taxable income and is described in either division (S) (1) (a) or	2931
(b) of this section:	2932
(a) The net amount is not attributable to the S portion of	2933
an electing small business trust and has not been distributed to	2934
beneficiaries for the taxable year;	2935
(b) The net amount is attributable to the S portion of an	2936
electing small business trust for the taxable year.	2937
(2) Add interest or dividends, net of ordinary, necessary,	2938
and reasonable expenses not deducted in computing federal	2939
taxable income, on obligations of any authority, commission,	2940

instrumentality, territory, or possession of the United States 2941  
to the extent that the interest or dividends are exempt from 2942  
federal income taxes but not from state income taxes, but only 2943  
to the extent that such net amount is not otherwise includible 2944  
in Ohio taxable income and is described in either division (S) 2945  
(1) (a) or (b) of this section; 2946

(3) Add the amount of personal exemption allowed to the 2947  
estate pursuant to section 642(b) of the Internal Revenue Code; 2948

(4) Deduct interest or dividends, net of related expenses 2949  
deducted in computing federal taxable income, on obligations of 2950  
the United States and its territories and possessions or of any 2951  
authority, commission, or instrumentality of the United States 2952  
to the extent that the interest or dividends are exempt from 2953  
state taxes under the laws of the United States, but only to the 2954  
extent that such amount is included in federal taxable income 2955  
and is described in either division (S) (1) (a) or (b) of this 2956  
section; 2957

(5) Deduct the amount of wages and salaries, if any, not 2958  
otherwise allowable as a deduction but that would have been 2959  
allowable as a deduction in computing federal taxable income for 2960  
the taxable year, had the targeted jobs credit allowed under 2961  
sections 38, 51, and 52 of the Internal Revenue Code not been in 2962  
effect, but only to the extent such amount relates either to 2963  
income included in federal taxable income for the taxable year 2964  
or to income of the S portion of an electing small business 2965  
trust for the taxable year; 2966

(6) Deduct any interest or interest equivalent, net of 2967  
related expenses deducted in computing federal taxable income, 2968  
on public obligations and purchase obligations, but only to the 2969  
extent that such net amount relates either to income included in 2970

federal taxable income for the taxable year or to income of the 2971  
S portion of an electing small business trust for the taxable 2972  
year; 2973

(7) Add any loss or deduct any gain resulting from sale, 2974  
exchange, or other disposition of public obligations to the 2975  
extent that such loss has been deducted or such gain has been 2976  
included in computing either federal taxable income or income of 2977  
the S portion of an electing small business trust for the 2978  
taxable year; 2979

(8) Except in the case of the final return of an estate, 2980  
add any amount deducted by the taxpayer on both its Ohio estate 2981  
tax return pursuant to section 5731.14 of the Revised Code, and 2982  
on its federal income tax return in determining federal taxable 2983  
income; 2984

(9) (a) Deduct any amount included in federal taxable 2985  
income solely because the amount represents a reimbursement or 2986  
refund of expenses that in a previous year the decedent had 2987  
deducted as an itemized deduction pursuant to section 63 of the 2988  
Internal Revenue Code and applicable treasury regulations. The 2989  
deduction otherwise allowed under division (S) (9) (a) of this 2990  
section shall be reduced to the extent the reimbursement is 2991  
attributable to an amount the taxpayer or decedent deducted 2992  
under this section in any taxable year. 2993

(b) Add any amount not otherwise included in Ohio taxable 2994  
income for any taxable year to the extent that the amount is 2995  
attributable to the recovery during the taxable year of any 2996  
amount deducted or excluded in computing federal or Ohio taxable 2997  
income in any taxable year, but only to the extent such amount 2998  
has not been distributed to beneficiaries for the taxable year. 2999

(10) Deduct any portion of the deduction described in 3000  
section 1341(a) (2) of the Internal Revenue Code, for repaying 3001  
previously reported income received under a claim of right, that 3002  
meets both of the following requirements: 3003

(a) It is allowable for repayment of an item that was 3004  
included in the taxpayer's taxable income or the decedent's 3005  
adjusted gross income for a prior taxable year and did not 3006  
qualify for a credit under division (A) or (B) of section 3007  
5747.05 of the Revised Code for that year. 3008

(b) It does not otherwise reduce the taxpayer's taxable 3009  
income or the decedent's adjusted gross income for the current 3010  
or any other taxable year. 3011

(11) Add any amount claimed as a credit under section 3012  
5747.059 of the Revised Code to the extent that the amount 3013  
satisfies either of the following: 3014

(a) The amount was deducted or excluded from the 3015  
computation of the taxpayer's federal taxable income as required 3016  
to be reported for the taxpayer's taxable year under the 3017  
Internal Revenue Code; 3018

(b) The amount resulted in a reduction in the taxpayer's 3019  
federal taxable income as required to be reported for any of the 3020  
taxpayer's taxable years under the Internal Revenue Code. 3021

(12) Deduct any amount, net of related expenses deducted 3022  
in computing federal taxable income, that a trust is required to 3023  
report as farm income on its federal income tax return, but only 3024  
if the assets of the trust include at least ten acres of land 3025  
satisfying the definition of "land devoted exclusively to 3026  
agricultural use" under section 5713.30 of the Revised Code, 3027  
regardless of whether the land is valued for tax purposes as 3028



such land under sections 5713.30 to 5713.38 of the Revised Code. 3029  
If the trust is a pass-through entity investor, section 5747.231 3030  
of the Revised Code applies in ascertaining if the trust is 3031  
eligible to claim the deduction provided by division (S)(12) of 3032  
this section in connection with the pass-through entity's farm 3033  
income. 3034

Except for farm income attributable to the S portion of an 3035  
electing small business trust, the deduction provided by 3036  
division (S)(12) of this section is allowed only to the extent 3037  
that the trust has not distributed such farm income. Division 3038  
(S)(12) of this section applies only to taxable years of a trust 3039  
beginning in 2002 or thereafter. 3040

(13) Add the net amount of income described in section 3041  
641(c) of the Internal Revenue Code to the extent that amount is 3042  
not included in federal taxable income. 3043

(14) Add or deduct the amount the taxpayer would be 3044  
required to add or deduct under division (A)(20) or (21) of this 3045  
section if the taxpayer's Ohio taxable income were computed in 3046  
the same manner as an individual's Ohio adjusted gross income is 3047  
computed under this section. In the case of a trust, division 3048  
(S)(14) of this section applies only to any of the trust's 3049  
taxable years beginning in 2002 or thereafter. 3050

(T) "School district income" and "school district income 3051  
tax" have the same meanings as in section 5748.01 of the Revised 3052  
Code. 3053

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S) 3054  
(7) of this section, "public obligations," "purchase 3055  
obligations," and "interest or interest equivalent" have the 3056  
same meanings as in section 5709.76 of the Revised Code. 3057

(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.

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

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary

education during a maximum of five taxable years, not exceeding 3087  
a total of five thousand dollars. "Qualified tuition and fees" 3088  
does not include: 3089

(a) Expenses for any course or activity involving sports, 3090  
games, or hobbies unless the course or activity is part of the 3091  
individual's degree or diploma program; 3092

(b) The cost of books, room and board, student activity 3093  
fees, athletic fees, insurance expenses, or other expenses 3094  
unrelated to the individual's academic course of instruction; 3095

(c) Tuition, fees, or other expenses paid or reimbursed 3096  
through an employer, scholarship, grant in aid, or other 3097  
educational benefit program. 3098

(BB) (1) "Modified business income" means the business 3099  
income included in a trust's Ohio taxable income after such 3100  
taxable income is first reduced by the qualifying trust amount, 3101  
if any. 3102

(2) "Qualifying trust amount" of a trust means capital 3103  
gains and losses from the sale, exchange, or other disposition 3104  
of equity or ownership interests in, or debt obligations of, a 3105  
qualifying investee to the extent included in the trust's Ohio 3106  
taxable income, but only if the following requirements are 3107  
satisfied: 3108

(a) The book value of the qualifying investee's physical 3109  
assets in this state and everywhere, as of the last day of the 3110  
qualifying investee's fiscal or calendar year ending immediately 3111  
prior to the date on which the trust recognizes the gain or 3112  
loss, is available to the trust. 3113

(b) The requirements of section 5747.011 of the Revised 3114  
Code are satisfied for the trust's taxable year in which the 3115

trust recognizes the gain or loss. 3116

Any gain or loss that is not a qualifying trust amount is 3117  
modified business income, qualifying investment income, or 3118  
modified nonbusiness income, as the case may be. 3119

(3) "Modified nonbusiness income" means a trust's Ohio 3120  
taxable income other than modified business income, other than 3121  
the qualifying trust amount, and other than qualifying 3122  
investment income, as defined in section 5747.012 of the Revised 3123  
Code, to the extent such qualifying investment income is not 3124  
otherwise part of modified business income. 3125

(4) "Modified Ohio taxable income" applies only to trusts, 3126  
and means the sum of the amounts described in divisions (BB) (4) 3127  
(a) to (c) of this section: 3128

(a) The fraction, calculated under section 5747.013, and 3129  
applying section 5747.231 of the Revised Code, multiplied by the 3130  
sum of the following amounts: 3131

(i) The trust's modified business income; 3132

(ii) The trust's qualifying investment income, as defined 3133  
in section 5747.012 of the Revised Code, but only to the extent 3134  
the qualifying investment income does not otherwise constitute 3135  
modified business income and does not otherwise constitute a 3136  
qualifying trust amount. 3137

(b) The qualifying trust amount multiplied by a fraction, 3138  
the numerator of which is the sum of the book value of the 3139  
qualifying investee's physical assets in this state on the last 3140  
day of the qualifying investee's fiscal or calendar year ending 3141  
immediately prior to the day on which the trust recognizes the 3142  
qualifying trust amount, and the denominator of which is the sum 3143  
of the book value of the qualifying investee's total physical 3144

assets everywhere on the last day of the qualifying investee's 3145  
fiscal or calendar year ending immediately prior to the day on 3146  
which the trust recognizes the qualifying trust amount. If, for 3147  
a taxable year, the trust recognizes a qualifying trust amount 3148  
with respect to more than one qualifying investee, the amount 3149  
described in division (BB) (4) (b) of this section shall equal the 3150  
sum of the products so computed for each such qualifying 3151  
investee. 3152

(c) (i) With respect to a trust or portion of a trust that 3153  
is a resident as ascertained in accordance with division (I) (3) 3154  
(d) of this section, its modified nonbusiness income. 3155

(ii) With respect to a trust or portion of a trust that is 3156  
not a resident as ascertained in accordance with division (I) (3) 3157  
(d) of this section, the amount of its modified nonbusiness 3158  
income satisfying the descriptions in divisions (B) (2) to (5) of 3159  
section 5747.20 of the Revised Code, except as otherwise 3160  
provided in division (BB) (4) (c) (ii) of this section. With 3161  
respect to a trust or portion of a trust that is not a resident 3162  
as ascertained in accordance with division (I) (3) (d) of this 3163  
section, the trust's portion of modified nonbusiness income 3164  
recognized from the sale, exchange, or other disposition of a 3165  
debt interest in or equity interest in a section 5747.212 3166  
entity, as defined in section 5747.212 of the Revised Code, 3167  
without regard to division (A) of that section, shall not be 3168  
allocated to this state in accordance with section 5747.20 of 3169  
the Revised Code but shall be apportioned to this state in 3170  
accordance with division (B) of section 5747.212 of the Revised 3171  
Code without regard to division (A) of that section. 3172

If the allocation and apportionment of a trust's income 3173  
under divisions (BB) (4) (a) and (c) of this section do not fairly 3174

represent the modified Ohio taxable income of the trust in this 3175  
state, the alternative methods described in division (C) of 3176  
section 5747.21 of the Revised Code may be applied in the manner 3177  
and to the same extent provided in that section. 3178

(5) (a) Except as set forth in division (BB) (5) (b) of this 3179  
section, "qualifying investee" means a person in which a trust 3180  
has an equity or ownership interest, or a person or unit of 3181  
government the debt obligations of either of which are owned by 3182  
a trust. For the purposes of division (BB) (2) (a) of this section 3183  
and for the purpose of computing the fraction described in 3184  
division (BB) (4) (b) of this section, all of the following apply: 3185

(i) If the qualifying investee is a member of a qualifying 3186  
controlled group on the last day of the qualifying investee's 3187  
fiscal or calendar year ending immediately prior to the date on 3188  
which the trust recognizes the gain or loss, then "qualifying 3189  
investee" includes all persons in the qualifying controlled 3190  
group on such last day. 3191

(ii) If the qualifying investee, or if the qualifying 3192  
investee and any members of the qualifying controlled group of 3193  
which the qualifying investee is a member on the last day of the 3194  
qualifying investee's fiscal or calendar year ending immediately 3195  
prior to the date on which the trust recognizes the gain or 3196  
loss, separately or cumulatively own, directly or indirectly, on 3197  
the last day of the qualifying investee's fiscal or calendar 3198  
year ending immediately prior to the date on which the trust 3199  
recognizes the qualifying trust amount, more than fifty per cent 3200  
of the equity of a pass-through entity, then the qualifying 3201  
investee and the other members are deemed to own the 3202  
proportionate share of the pass-through entity's physical assets 3203  
which the pass-through entity directly or indirectly owns on the 3204

last day of the pass-through entity's calendar or fiscal year 3205  
ending within or with the last day of the qualifying investee's 3206  
fiscal or calendar year ending immediately prior to the date on 3207  
which the trust recognizes the qualifying trust amount. 3208

(iii) For the purposes of division (BB)(5)(a)(iii) of this 3209  
section, "upper level pass-through entity" means a pass-through 3210  
entity directly or indirectly owning any equity of another pass- 3211  
through entity, and "lower level pass-through entity" means that 3212  
other pass-through entity. 3213

An upper level pass-through entity, whether or not it is 3214  
also a qualifying investee, is deemed to own, on the last day of 3215  
the upper level pass-through entity's calendar or fiscal year, 3216  
the proportionate share of the lower level pass-through entity's 3217  
physical assets that the lower level pass-through entity 3218  
directly or indirectly owns on the last day of the lower level 3219  
pass-through entity's calendar or fiscal year ending within or 3220  
with the last day of the upper level pass-through entity's 3221  
fiscal or calendar year. If the upper level pass-through entity 3222  
directly and indirectly owns less than fifty per cent of the 3223  
equity of the lower level pass-through entity on each day of the 3224  
upper level pass-through entity's calendar or fiscal year in 3225  
which or with which ends the calendar or fiscal year of the 3226  
lower level pass-through entity and if, based upon clear and 3227  
convincing evidence, complete information about the location and 3228  
cost of the physical assets of the lower pass-through entity is 3229  
not available to the upper level pass-through entity, then 3230  
solely for purposes of ascertaining if a gain or loss 3231  
constitutes a qualifying trust amount, the upper level pass- 3232  
through entity shall be deemed as owning no equity of the lower 3233  
level pass-through entity for each day during the upper level 3234  
pass-through entity's calendar or fiscal year in which or with 3235

which ends the lower level pass-through entity's calendar or 3236  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 3237  
shall be construed to provide for any deduction or exclusion in 3238  
computing any trust's Ohio taxable income. 3239

(b) With respect to a trust that is not a resident for the 3240  
taxable year and with respect to a part of a trust that is not a 3241  
resident for the taxable year, "qualifying investee" for that 3242  
taxable year does not include a C corporation if both of the 3243  
following apply: 3244

(i) During the taxable year the trust or part of the trust 3245  
recognizes a gain or loss from the sale, exchange, or other 3246  
disposition of equity or ownership interests in, or debt 3247  
obligations of, the C corporation. 3248

(ii) Such gain or loss constitutes nonbusiness income. 3249

(6) "Available" means information is such that a person is 3250  
able to learn of the information by the due date plus 3251  
extensions, if any, for filing the return for the taxable year 3252  
in which the trust recognizes the gain or loss. 3253

(CC) "Qualifying controlled group" has the same meaning as 3254  
in section 5733.04 of the Revised Code. 3255

(DD) "Related member" has the same meaning as in section 3256  
5733.042 of the Revised Code. 3257

(EE) (1) For the purposes of division (EE) of this section: 3258

(a) "Qualifying person" means any person other than a 3259  
qualifying corporation. 3260

(b) "Qualifying corporation" means any person classified 3261  
for federal income tax purposes as an association taxable as a 3262  
corporation, except either of the following: 3263



(i) A corporation that has made an election under	3264
subchapter S, chapter one, subtitle A, of the Internal Revenue	3265
Code for its taxable year ending within, or on the last day of,	3266
the investor's taxable year;	3267
(ii) A subsidiary that is wholly owned by any corporation	3268
that has made an election under subchapter S, chapter one,	3269
subtitle A of the Internal Revenue Code for its taxable year	3270
ending within, or on the last day of, the investor's taxable	3271
year.	3272
(2) For the purposes of this chapter, unless expressly	3273
stated otherwise, no qualifying person indirectly owns any asset	3274
directly or indirectly owned by any qualifying corporation.	3275
(FF) For purposes of this chapter and Chapter 5751. of the	3276
Revised Code:	3277
(1) "Trust" does not include a qualified pre-income tax	3278
trust.	3279
(2) A "qualified pre-income tax trust" is any pre-income	3280
tax trust that makes a qualifying pre-income tax trust election	3281
as described in division (FF)(3) of this section.	3282
(3) A "qualifying pre-income tax trust election" is an	3283
election by a pre-income tax trust to subject to the tax imposed	3284
by section 5751.02 of the Revised Code the pre-income tax trust	3285
and all pass-through entities of which the trust owns or	3286
controls, directly, indirectly, or constructively through	3287
related interests, five per cent or more of the ownership or	3288
equity interests. The trustee shall notify the tax commissioner	3289
in writing of the election on or before April 15, 2006. The	3290
election, if timely made, shall be effective on and after	3291
January 1, 2006, and shall apply for all tax periods and tax	3292

years until revoked by the trustee of the trust.	3293
(4) A "pre-income tax trust" is a trust that satisfies all	3294
of the following requirements:	3295
(a) The document or instrument creating the trust was	3296
executed by the grantor before January 1, 1972;	3297
(b) The trust became irrevocable upon the creation of the	3298
trust; and	3299
(c) The grantor was domiciled in this state at the time	3300
the trust was created.	3301
(GG) "Uniformed services" has the same meaning as in 10	3302
U.S.C. 101.	3303
(HH) "Taxable business income" means the amount by which	3304
an individual's <del>eligible</del> -business income that is included in	3305
federal adjusted gross income exceeds the amount of <del>eligible</del> -	3306
business income the individual is authorized to deduct under	3307
division (A) (31) of this section for the taxable year.	3308
(II) "Employer" does not include a franchisor with respect	3309
to the franchisor's relationship with a franchisee or an	3310
employee of a franchisee, unless the franchisor agrees to assume	3311
that role in writing or a court of competent jurisdiction	3312
determines that the franchisor exercises a type or degree of	3313
control over the franchisee or the franchisee's employees that	3314
is not customarily exercised by a franchisor for the purpose of	3315
protecting the franchisor's trademark, brand, or both. For	3316
purposes of this division, "franchisor" and "franchisee" have	3317
the same meanings as in 16 C.F.R. 436.1.	3318
(JJ) "Modified adjusted gross income" means Ohio adjusted	3319
gross income plus any amount deducted under division (A) (31) of	3320

this section for the taxable year. 3321

(KK) "Qualifying Ohio educator" means an individual who, 3322  
for a taxable year, qualifies as an eligible educator, as that 3323  
term is defined in section 62 of the Internal Revenue Code, and 3324  
who holds a certificate, license, or permit described in Chapter 3325  
3319. or section 3301.071 of the Revised Code. 3326

**Sec. 5747.08.** An annual return with respect to the tax 3327  
imposed by section 5747.02 of the Revised Code and each tax 3328  
imposed under Chapter 5748. of the Revised Code shall be made by 3329  
every taxpayer for any taxable year for which the taxpayer is 3330  
liable for the tax imposed by that section or under that 3331  
chapter, unless the total credits allowed under division (E) of 3332  
section 5747.05 and divisions (F) and (G) of section 5747.055 of 3333  
the Revised Code for the year are equal to or exceed the tax 3334  
imposed by section 5747.02 of the Revised Code, in which case no 3335  
return shall be required unless the taxpayer is liable for a tax 3336  
imposed pursuant to Chapter 5748. of the Revised Code. 3337

(A) If an individual is deceased, any return or notice 3338  
required of that individual under this chapter shall be made and 3339  
filed by that decedent's executor, administrator, or other 3340  
person charged with the property of that decedent. 3341

(B) If an individual is unable to make a return or notice 3342  
required by this chapter, the return or notice required of that 3343  
individual shall be made and filed by the individual's duly 3344  
authorized agent, guardian, conservator, fiduciary, or other 3345  
person charged with the care of the person or property of that 3346  
individual. 3347

(C) Returns or notices required of an estate or a trust 3348  
shall be made and filed by the fiduciary of the estate or trust. 3349

(D) (1) (a) Except as otherwise provided in division (D) (1) 3350  
(b) of this section, any pass-through entity may file a single 3351  
return on behalf of one or more of the entity's investors other 3352  
than an investor that is a person subject to the tax imposed 3353  
under section 5733.06 of the Revised Code. The single return 3354  
shall set forth the name, address, and social security number or 3355  
other identifying number of each of those pass-through entity 3356  
investors and shall indicate the distributive share of each of 3357  
those pass-through entity investor's income taxable in this 3358  
state in accordance with sections 5747.20 to 5747.231 of the 3359  
Revised Code. Such pass-through entity investors for whom the 3360  
pass-through entity elects to file a single return are not 3361  
entitled to the exemption or credit provided for by sections 3362  
5747.02 and 5747.022 of the Revised Code; shall calculate the 3363  
tax before business credits at the highest rate of tax set forth 3364  
in section 5747.02 of the Revised Code for the taxable year for 3365  
which the return is filed; and are entitled to only their 3366  
distributive share of the business credits as defined in 3367  
division (D) (2) of this section. A single check drawn by the 3368  
pass-through entity shall accompany the return in full payment 3369  
of the tax due, as shown on the single return, for such 3370  
investors, other than investors who are persons subject to the 3371  
tax imposed under section 5733.06 of the Revised Code. 3372

(b) (i) A pass-through entity shall not include in such a 3373  
single return any investor that is a trust to the extent that 3374  
any direct or indirect current, future, or contingent 3375  
beneficiary of the trust is a person subject to the tax imposed 3376  
under section 5733.06 of the Revised Code. 3377

(ii) A pass-through entity shall not include in such a 3378  
single return any investor that is itself a pass-through entity 3379  
to the extent that any direct or indirect investor in the second 3380

pass-through entity is a person subject to the tax imposed under 3381  
section 5733.06 of the Revised Code. 3382

(c) Nothing in division (D) of this section precludes the 3383  
tax commissioner from requiring such investors to file the 3384  
return and make the payment of taxes and related interest, 3385  
penalty, and interest penalty required by this section or 3386  
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 3387  
Nothing in division (D) of this section precludes such an 3388  
investor from filing the annual return under this section, 3389  
utilizing the refundable credit equal to the investor's 3390  
proportionate share of the tax paid by the pass-through entity 3391  
on behalf of the investor under division (I) of this section, 3392  
and making the payment of taxes imposed under section 5747.02 of 3393  
the Revised Code. Nothing in division (D) of this section shall 3394  
be construed to provide to such an investor or pass-through 3395  
entity any additional deduction or credit, other than the credit 3396  
provided by division (I) of this section, solely on account of 3397  
the entity's filing a return in accordance with this section. 3398  
Such a pass-through entity also shall make the filing and 3399  
payment of estimated taxes on behalf of the pass-through entity 3400  
investors other than an investor that is a person subject to the 3401  
tax imposed under section 5733.06 of the Revised Code. 3402

(2) For the purposes of this section, "business credits" 3403  
means the credits listed in section 5747.98 of the Revised Code 3404  
excluding the following credits: 3405

(a) The retirement income credit under division (B) of 3406  
section 5747.055 of the Revised Code; 3407

(b) The senior citizen credit under division (F) of 3408  
section 5747.055 of the Revised Code; 3409

(c) The lump sum distribution credit under division (G) of section 5747.055 of the Revised Code;	3410 3411
(d) The dependent care credit under section 5747.054 of the Revised Code;	3412 3413
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	3414 3415
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	3416 3417
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	3418 3419
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	3420 3421
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	3422 3423
(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	3424 3425
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	3426 3427
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	3428 3429
(m) The earned income tax credit under section 5747.71 of the Revised Code;	3430 3431
(n) The lead abatement credit under section 5747.26 of the Revised Code.	3432 3433
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner	3434 3435 3436

provides otherwise, this election, once made, is binding and 3437  
irrevocable for the taxable year for which the election is made. 3438  
Nothing in this division shall be construed to provide for any 3439  
deduction or credit that would not be allowable if a nonresident 3440  
pass-through entity investor were to file an annual return. 3441

(4) If a pass-through entity makes the election provided 3442  
for under division (D) of this section, the pass-through entity 3443  
shall be liable for any additional taxes, interest, interest 3444  
penalty, or penalties imposed by this chapter if the tax 3445  
commissioner finds that the single return does not reflect the 3446  
correct tax due by the pass-through entity investors covered by 3447  
that return. Nothing in this division shall be construed to 3448  
limit or alter the liability, if any, imposed on pass-through 3449  
entity investors for unpaid or underpaid taxes, interest, 3450  
interest penalty, or penalties as a result of the pass-through 3451  
entity's making the election provided for under division (D) of 3452  
this section. For the purposes of division (D) of this section, 3453  
"correct tax due" means the tax that would have been paid by the 3454  
pass-through entity had the single return been filed in a manner 3455  
reflecting the commissioner's findings. Nothing in division (D) 3456  
of this section shall be construed to make or hold a pass- 3457  
through entity liable for tax attributable to a pass-through 3458  
entity investor's income from a source other than the pass- 3459  
through entity electing to file the single return. 3460

(E) If a husband and wife file a joint federal income tax 3461  
return for a taxable year, they shall file a joint return under 3462  
this section for that taxable year, and their liabilities are 3463  
joint and several, but, if the federal income tax liability of 3464  
either spouse is determined on a separate federal income tax 3465  
return, they shall file separate returns under this section. 3466

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each return or notice required to be filed under this section shall be made and filed as required by section 5747.04 of the Revised Code, on or before the fifteenth day of April of each year, on forms that the tax commissioner shall prescribe, together with remittance made payable to the treasurer of state in the combined amount of the state and all school district income taxes shown to be due on the form.

Upon good cause shown, the commissioner may extend the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions. If the extension results in an extension of time for the payment of any state or school district income tax liability with respect to which the return is filed, the taxpayer shall pay at



the time the tax liability is paid an amount of interest 3497  
computed at the rate per annum prescribed by section 5703.47 of 3498  
the Revised Code on that liability from the time that payment is 3499  
due without extension to the time of actual payment. Except as 3500  
provided in section 5747.132 of the Revised Code, in addition to 3501  
all other interest charges and penalties, all taxes imposed 3502  
under this chapter or Chapter 5748. of the Revised Code and 3503  
remaining unpaid after they become due, except combined amounts 3504  
due of one dollar or less, bear interest at the rate per annum 3505  
prescribed by section 5703.47 of the Revised Code until paid or 3506  
until the day an assessment is issued under section 5747.13 of 3507  
the Revised Code, whichever occurs first. 3508

If the commissioner considers it necessary in order to 3509  
ensure the payment of the tax imposed by section 5747.02 of the 3510  
Revised Code or any tax imposed under Chapter 5748. of the 3511  
Revised Code, the commissioner may require returns and payments 3512  
to be made otherwise than as provided in this section. 3513

To the extent that any provision in this division 3514  
conflicts with any provision in section 5747.026 of the Revised 3515  
Code, the provision in that section prevails. 3516

(H) The amounts withheld by an employer pursuant to 3517  
section 5747.06 of the Revised Code, a casino operator pursuant 3518  
to section 5747.063 of the Revised Code, or a lottery sales 3519  
agent pursuant to section 5747.064 of the Revised Code shall be 3520  
allowed to the recipient of the compensation casino winnings, or 3521  
lottery prize award as credits against payment of the 3522  
appropriate taxes imposed on the recipient by section 5747.02 3523  
and under Chapter 5748. of the Revised Code. 3524

(I) If a pass-through entity elects to file a single 3525  
return under division (D) of this section and if any investor is 3526

required to file the annual return and make the payment of taxes 3527  
required by this chapter on account of the investor's other 3528  
income that is not included in a single return filed by a pass- 3529  
through entity or any other investor elects to file the annual 3530  
return, the investor is entitled to a refundable credit equal to 3531  
the investor's proportionate share of the tax paid by the pass- 3532  
through entity on behalf of the investor. The investor shall 3533  
claim the credit for the investor's taxable year in which or 3534  
with which ends the taxable year of the pass-through entity. 3535  
Nothing in this chapter shall be construed to allow any credit 3536  
provided in this chapter to be claimed more than once. For the 3537  
purpose of computing any interest, penalty, or interest penalty, 3538  
the investor shall be deemed to have paid the refundable credit 3539  
provided by this division on the day that the pass-through 3540  
entity paid the estimated tax or the tax giving rise to the 3541  
credit. 3542

(J) The tax commissioner shall ensure that each return 3543  
required to be filed under this section includes a box that the 3544  
taxpayer may check to authorize a paid tax preparer who prepared 3545  
the return to communicate with the department of taxation about 3546  
matters pertaining to the return. The return or instructions 3547  
accompanying the return shall indicate that by checking the box 3548  
the taxpayer authorizes the department of taxation to contact 3549  
the preparer concerning questions that arise during the 3550  
processing of the return and authorizes the preparer only to 3551  
provide the department with information that is missing from the 3552  
return, to contact the department for information about the 3553  
processing of the return or the status of the taxpayer's refund 3554  
or payments, and to respond to notices about mathematical 3555  
errors, offsets, or return preparation that the taxpayer has 3556  
received from the department and has shown to the preparer. 3557

(K) The tax commissioner shall permit individual taxpayers 3558  
to instruct the department of taxation to cause any refund of 3559  
overpaid taxes to be deposited directly into a checking account, 3560  
savings account, or an individual retirement account or 3561  
individual retirement annuity, or preexisting college savings 3562  
plan or program account offered by the Ohio tuition trust 3563  
authority under Chapter 3334. of the Revised Code, as designated 3564  
by the taxpayer, when the taxpayer files the annual return 3565  
required by this section electronically. 3566

(L) A taxpayer claiming the deduction under division (A) 3567  
(31) of section 5747.01 of the Revised Code for a taxable year 3568  
shall indicate on the taxpayer's return the north American 3569  
industry classification system code of each business or 3570  
professional activity from which the taxpayer's business income 3571  
was derived. The tax commissioner shall provide space on the 3572  
return for this purpose and shall prescribe, by rule adopted in 3573  
accordance with Chapter 119. of the Revised Code, the manner by 3574  
which such a taxpayer shall determine the taxpayer's proper 3575  
classification codes and business or professional activities 3576  
from which the taxpayer derives business income. 3577

(M) The tax commissioner may adopt rules to administer 3578  
this section. 3579

**Section 2.** That existing sections 5739.01, 5739.012, 3580  
5739.02, 5739.03, 5747.01, and 5747.08 of the Revised Code are 3581  
hereby repealed. 3582

**Section 3.** That section 101.61 of the Revised Code is 3583  
hereby repealed. 3584

**Section 4.** That Sections 333.83 and 757.150 of H.B. 166 of 3585  
the 133rd General Assembly be amended to read as follows: 3586

**Sec. 333.83.** FOOD FARMACY PILOT PROJECT 3587

The foregoing appropriation item 651533, Food Farmacy 3588  
Pilot Project, shall be distributed to a hospital system in a 3589  
county with a charter form of government and with a total 3590  
population between 500,000 persons and 1,000,000 persons to 3591  
provide comprehensive medical, nutrition, and lifestyle support 3592  
for food-insecure patients with ~~type 2 diabetes~~ chronic diseases 3593  
and their families. 3594

**Sec. 757.150.** (A) The amendment by ~~this act~~ H.B. 166 of 3595  
the 133rd General Assembly of section 323.151 of the Revised 3596  
Code applies to section 323.152 of the Revised Code for tax year 3597  
2020 and every tax year thereafter and to section 4503.065 of 3598  
the Revised Code for tax year 2021 and every tax year 3599  
thereafter. 3600

(B) Except as provided in division (C) of this section, 3601  
the amendment ~~or repeal by this act~~ H.B. 166 of the 133rd 3602  
General Assembly of sections 5747.01, 5747.02, 5747.022, 3603  
5747.025, 5747.05, 5747.054, 5747.055, 5747.06, ~~5747.29,~~ 3604  
~~5747.65,~~ and 5748.01 of the Revised Code applies to taxable 3605  
years beginning on or after January 1, 2019. 3606

(C) The amendment ~~or repeal by this act~~ H.B. 166 of the 3607  
133rd General Assembly of sections 5747.29 and 5747.65 and of 3608  
divisions (A) (31), (B), and (HH) of section 5747.01 of the 3609  
Revised Code applies to taxable years beginning on or after 3610  
January 1, 2020. 3611

**Section 5.** That existing Sections 333.83 and 757.150 of 3612  
H.B. 166 of the 133rd General Assembly are hereby repealed. 3613

**Section 6.** (A) The amendment by this act of section 3614  
5747.01 of the Revised Code applies to taxable years beginning 3615

on or after January 1, 2020. 3616

(B) For the purpose of making estimated tax payments 3617  
required by section 5747.09 of the Revised Code for taxable 3618  
years that begin in 2020, the tax liability for such a taxable 3619  
year shall be computed on the basis of the amendment by this act 3620  
of divisions (A) (31) and (B) of section 5747.01 of the Revised 3621  
Code. 3622

(C) The amendment by this act of sections 5739.01, 3623  
5739.012, 5739.02, and 5739.03 of the Revised Code applies on 3624  
and after the first day of the first month that begins at least 3625  
thirty days after the effective date of this act. 3626

**Section 7.** Section 5747.01 of the Revised Code is 3627  
presented in this act as a composite of the section as amended 3628  
by H.B. 166 of the 133rd General Assembly and H.B. 24 and S.B. 3629  
22, both of the 132nd General Assembly. The General Assembly, 3630  
applying the principle stated in division (B) of section 1.52 of 3631  
the Revised Code that amendments are to be harmonized if 3632  
reasonably capable of simultaneous operation, finds that the 3633  
composite is the resulting version of the section in effect 3634  
prior to the effective date of the section as presented in this 3635  
act. 3636