

Am. Sub. H.B. 166
As Passed by the Senate
TAXCD47, TAXCD49,
TAXCD55, TAXCD64,
TAXCD74

_____ moved to amend as follows:

In line 20 of the title, after "991.02," insert "1346.04," 1

In line 129 of the title, after "5743.025," insert "5743.03," 2

In line 196 of the title, delete "5747.031," 3

In line 236, after "991.02," insert "1346.04," 4

In line 316, after "5743.025," insert "5743.03," 5

After line 15714, insert: 6

"**Sec. 1346.04.** As used in this section and sections 1346.05 7
to 1346.10 of the Revised Code: 8

(A) "Brand family" means all styles of cigarettes sold under 9
the same trademark and differentiated from one another by means of 10
additional modifiers or descriptors, including, but not limited 11
to, "menthol," "lights," "kings," and "100s." "Brand family" 12
includes cigarettes sold under any brand name (whether that name 13
is used alone or in conjunction with any other word), trademark, 14
logo, symbol, motto, selling message, recognizable pattern of 15
colors, or other indicia of product identification identical or 16

similar to, or identifiable with, a previous brand of cigarettes. 17

(B) "Cigarette," "Master Settlement Agreement," "qualified 18
escrow fund," "tobacco product manufacturer," and "units sold" 19
have the same meanings as in section 1346.01 of the Revised Code. 20

(C) "Nonparticipating manufacturer" means any tobacco product 21
manufacturer that is not a participating manufacturer. 22

(D) "Participating manufacturer" means a participating 23
manufacturer as that term is defined in section II(jj) of the 24
Master Settlement Agreement and all amendments to that agreement. 25

(E) "Stamping agent" means a person who is authorized to 26
affix tax stamps to packages or other containers of cigarettes 27
under section 5743.03 of the Revised Code or a person who is 28
required to pay the excise tax imposed on cigarettes and other 29
tobacco products under sections 5743.03 and 5743.51 of the Revised 30
Code, except for a vapor distributor licensed to engage solely in 31
the distribution of vapor products under section 5743.61 of the 32
Revised Code." 33

In line 73962, strike through everything after "(54)" 34

Strike through lines 73963 through 73967 35

In line 73968, strike through "(55)" 36

In line 73974, strike through "(55)" and insert "(54)" 37

In line 73977, strike through "(56)" and insert "(55)" 38

In line 73986, strike through "(56)" and insert "(55)" 39

In line 74712, strike through "(56)" and insert "(55)" 40

In line 74863, strike through "(56)" and insert "(55)" 41

In line 76860, delete "Vapor" and insert "Electronic 42
smoking"; after "includes" insert ", but is not limited to," 43

In line 76870, delete "or" 44

In line 76871, delete "or" 45

In line 76874, after "paid" insert ";" 46

(5) Is a wholesale dealer located outside this state that 47
sells vapor products to a wholesale dealer in this state" 48

After line 76905, insert: 49

"**Sec. 5743.03.** (A) Except as provided in section 5743.04 of 50
the Revised Code, the taxes imposed under sections 5743.02, 51
5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid 52
by the purchase of tax stamps. A tax stamp shall be affixed to 53
each package of an aggregate denomination not less than the amount 54
of the tax upon the contents thereof. The tax stamp, so affixed, 55
shall be prima-facie evidence of payment of the tax. 56

Except as is provided in the rules prescribed by the tax 57
commissioner under authority of sections 5743.01 to 5743.20 of the 58
Revised Code, and unless tax stamps have been previously affixed, 59
they shall be so affixed by each wholesale dealer, and canceled by 60
writing or stamping across the face thereof the number assigned to 61
such wholesale dealer by the tax commissioner for that purpose, 62
prior to the delivery of any cigarettes to any person in this 63
state, or in the case of a tax levied pursuant to section 64
5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the 65
delivery of cigarettes to any person in the county in which the 66
tax is levied. 67

(B) Except as provided in the rules prescribed by the 68
commissioner under authority of sections 5743.01 to 5743.20 of the 69
Revised Code, each retail dealer, within twenty-four hours after 70
the receipt of any cigarettes at the retail dealer's place of 71

business, shall inspect the cigarettes to ensure that tax stamps
are affixed. The inspection shall be completed before the
cigarettes are delivered to any person in this state, or, in the
case of a tax levied pursuant to section 5743.021, 5743.024, or
5743.026 of the Revised Code, before the cigarettes are delivered
to any person in the county in which the tax is levied.

(C) Whenever any cigarettes are found in the place of
business of any retail dealer without proper tax stamps affixed
thereto and canceled, it is presumed that such cigarettes are kept
therein in violation of sections 5743.01 to 5743.20 of the Revised
Code.

(D) Each wholesale dealer who purchases cigarettes without
proper tax stamps affixed thereto shall, on or before the last day
of each month, make and file a return for the preceding calendar
month, on such form as is prescribed by the tax commissioner,
showing the dealer's entire purchases and sales of cigarettes and
stamps for such month and accurate inventories as of the beginning
and end of each month of cigarettes, stamped or unstamped;
cigarette tax stamps affixed or unaffixed; and such other
information as the commissioner finds necessary to the proper
administration of sections 5743.01 to 5743.20 of the Revised Code.
The commissioner may extend the time for making and filing returns
and may remit all or any part of amounts of penalties that may
become due under sections 5743.01 to 5743.20 of the Revised Code.
The wholesale dealer shall deliver the return together with a
remittance of the tax deficiency reported thereon to the
commissioner.

(E) Any wholesale dealer who fails to file a return under
this section and the rules of the commissioner, other than a
report required pursuant to division (F) of this section, may be

required, for each day the dealer so fails, to forfeit and pay
into the state treasury the sum of one dollar as revenue arising
from the tax imposed by sections 5743.01 to 5743.20 of the Revised
Code and such sum may be collected by assessment in the manner
provided in section 5743.081 of the Revised Code. If the
commissioner finds it necessary in order to insure the payment of
the tax imposed by sections 5743.01 to 5743.20 of the Revised
Code, the commissioner may require returns and payments to be made
other than monthly. The returns shall be signed by the wholesale
dealer or an authorized agent thereof.

(F) ~~Each~~ Except as otherwise provided in this division, each
person required to file a tax return under section 5743.03,
5743.52, or 5743.62 of the Revised Code shall report to the
commissioner the quantity of all cigarettes and roll-your-own
cigarette tobacco sold in Ohio for each brand not covered by the
tobacco master settlement agreement for which the person is liable
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of
the Revised Code. A vapor distributor licensed to engage solely in
the distribution of vapor products under section 5743.61 of the
Revised Code is not required to file the report.

As used in this division, "tobacco master settlement
agreement" has the same meaning as in section 183.01 of the
Revised Code.

(G) The report required by division (F) of this section shall
be made on a form prescribed by the commissioner and shall be
filed not later than the last day of each month for the previous
month, except that if the commissioner determines that the
quantity reported by a person does not warrant monthly reporting,
the commissioner may authorize reporting at less frequent
intervals. The commissioner may assess a penalty of not more than

two hundred fifty dollars for each month or portion thereof that a
 person fails to timely file a required report, and such sum may be
 collected by assessment in the manner provided in section 5743.081
 of the Revised Code. All money collected under this division shall
 be considered as revenue arising from the taxes imposed by
 sections 5743.01 to 5743.20 of the Revised Code.

(H) The commissioner may sell tax stamps only to a licensed
 wholesale dealer, except as otherwise authorized by the
 commissioner. The commissioner may charge the costs associated
 with the shipment of tax stamps to the licensed wholesale dealer.
 Amounts collected from such charges shall be credited to the
 cigarette tax enforcement fund created under section 5743.15 of
 the Revised Code."

In line 76944, delete "or vapor"

In line 76945, delete "products"

In line 76946, delete "or vapor products"

In line 76947, delete "or"

In line 76948, delete "vapor products"

In line 76949, delete "or"

In line 76950, delete "vapor products"; after "and" insert
 "if"

In line 76951, delete "or vapor products"

In line 76952, delete "or"

In line 76953, delete "vapor products, as applicable"

After line 76953, insert:

"A retail dealer may purchase vapor products only from a
 licensed vapor distributor. A licensed vapor distributor may sell

vapor products only to a retail dealer, except a licensed vapor 159
dealer may sell vapor products (A) to a consumer if the licensed 160
vapor distributor is a retail dealer or (B) to another licensed 161
vapor distributor if the tax commissioner has authorized the sale 162
of the vapor products between those distributors and if the 163
distributor that sells the vapor products received them directly 164
from a manufacturer or importer of vapor products." 165

In line 76955, after "distributors" insert "or vapor 166
distributors" 167

In line 76962, delete "A licensed vapor distributor may sell 168
vapor" 169

Delete lines 76963 through 76966 170

In line 77059, after "products" insert "or vapor products" 171

In line 77222, delete "or the first invoice" 172

In line 77223, delete "price of the vapor products"; after 173
"dollars" insert ", or when the vapor volume of the vapor products 174
exceeds five hundred milliliters or five hundred grams, as 175
applicable," 176

Delete lines 77225 through 77228 177

In line 77414, strike through the comma 178

In line 77415, delete "or vapor products" 179

In line 77416, after the comma insert "or vapor products with 180
a vapor volume in excess of five hundred milliliters or five 181
hundred grams, as applicable," 182

In line 77910, after "individual's" insert "federal" 183

In line 77911, after "is" insert "eligible" 184

Delete lines 77943 through 77956 185

In line 77957, after "(B)" insert " <u>(1)</u> "	186
After line 77966, insert:	187
<u>"(2) "Eligible business income" means business income</u>	188
<u>excluding income from a trade or business that performs either or</u>	189
<u>both of the following:</u>	190
<u>(a) Legal services provided by an active attorney admitted to</u>	191
<u>the practice of law in this state or by an attorney registered for</u>	192
<u>corporate counsel status under section 6 of rule VI of the Ohio</u>	193
<u>supreme court rules for the government of the bar of Ohio;</u>	194
<u>(b) Executive agency lobbying activity, retirement system</u>	195
<u>lobbying activity, or actively advocating by a person required to</u>	196
<u>register with the joint legislative ethics committee under section</u>	197
<u>101.78, 101.92, or 121.62 of the Revised Code. Terms used in</u>	198
<u>division (B)(2) of this section have the same meaning as in</u>	199
<u>section 101.70, 101.92, or 121.60 of the Revised Code."</u>	200
In line 78529, reinsert everything after "(HH)"	201
In line 78530, reinsert "individual's"; after the reinserted	202
"individual's" insert " <u>eligible</u> "; reinsert the balance of the line	203
In line 78531, reinsert everything before "business"; after	204
the reinserted "of" insert " <u>eligible</u> "; reinsert the balance of the	205
line	206
Reinsert lines 78532 and 78533	207
In line 78534, reinsert "(II)"	208
In line 78544, delete " <u>(II)</u> " and insert " <u>(JJ)</u> "	209
In line 78559, reinsert "(4)"; delete " <u>(3)</u> "	210
In line 78568, reinsert "rate of"	211
In line 78569, after " ten thousandths " insert " <u>one and</u>	212

<u>forty-two thousand seven hundred forty-four hundred-thousandths</u> ;	213
reinsert "per cent for"; delete " <u>following rates on</u> "	214
In line 78571, reinsert "and, for"; delete " <u>: for taxable</u>	215
<u>years beginning in 2019, one and</u> "	216
Delete lines 78572 and 78573	217
In line 78574, delete everything before "income"	218
In line 78579, reinsert "on income"	219
In line 78580, reinsert "other than taxable business income"	220
In line 78581, reinsert ", less taxable business income and"	221
Delete lines 78589 through 78601	222
Reinsert line 78602a	223
In line 78612, delete " <u>297.54</u> " and insert " <u>310.47</u> "; delete	224
" <u>2.731</u> " and insert " <u>2.850</u> "	225
In line 78613, delete " <u>890.17</u> " and insert " <u>928.92</u> "; delete	226
" <u>3.188</u> " and insert " <u>3.326</u> "	227
In line 78614, delete " <u>2,275.36</u> " and insert " <u>2,374.07</u> "	228
In line 78614a, delete " <u>3.643</u> " and insert " <u>3.802</u> "	229
In line 78615, delete " <u>3,069.53</u> " and insert " <u>3,202.91</u> "	230
In line 78615a, delete " <u>4.229</u> " and insert " <u>4.413</u> "	231
In line 78616, delete " <u>7,666.45</u> " and insert " <u>7,999.84</u> "	232
In line 78616a, delete " <u>4.597</u> " and insert " <u>4.797</u> "	233
In line 78617, reinsert "(a) In the case of individuals,"	234
In line 78618, reinsert "the tax imposed by this section"	235
Reinsert lines 78619 through 78627	236
In line 78628, reinsert "(5)"	237

In line 78709, reinsert "taxable"	238
In line 78710, reinsert "business income and"	239
In line 78750, delete " <u>2021</u> " and insert " <u>2020</u> "	240
In line 78926, reinsert "combined"	241
In line 78927, reinsert "and business income"	242
In line 78942, reinsert "combined"	243
In line 78943, reinsert "and business income"	244
In line 78949, reinsert "combined"	245
In line 78950, reinsert "and business income"	246
In line 78956, reinsert "combined"	247
In line 78957, reinsert "and business income"	248
In line 80165, strike through "Ohio" and insert " <u>modified</u> "	249
In line 80168, strike through "Ohio" and insert " <u>modified</u> "	250
In line 82826, after "991.02," insert "1346.04,"	251
In line 82907, after "5743.025," insert "5743.03,"	252
In line 82924, delete "5747.031,"	253
In line 97373, delete "divisions" and insert "division";	254
delete "and (D)"	255
In line 97375, delete "5747.031,"	256
In line 97379, delete "enactment" and insert "amendment";	257
delete "division (A)(34)" and insert "divisions (A)(31), (B), and	258
(HH)"	259
Delete lines 97382 through 97389	260
In line 97391, delete "or 2020"	261
In line 97393, delete "(4)" and insert "(5)"; delete ", as	262

amended" 263

In line 97394, delete "by this act," 264

In line 97508, after "sections" insert "1346.04,"; after 265
 "5743.025," insert "5743.03," 266

The motion was _____ agreed to.

SYNOPSIS

Income tax: Business income deduction 267

R.C. 5747.01; Section 757.150 268

Retains current law's business income deduction of up to 269
 \$250,000 and restores current law's permanent 3% flat tax rate on 270
 business income above that threshold for most taxpayers. The House 271
 bill would have reduced the threshold to \$100,000 and eliminated 272
 the 3% flat rate beginning in 2019. The Senate bill would have 273
 retained the \$250,000 threshold and eliminated the 3% flat rate 274
 beginning in 2020. 275

Disallows the business income deduction and the 3% tax rate 276
 on business income greater than \$250,000 if the business income 277
 arises from either (1) the practice of law by an attorney or (2) 278
 lobbying by a person required to register with JLEC (i.e., 279
 legislative and executive agency lobbyists and retirement system 280
 lobbyists). Disallowance applies to taxable years beginning in 281
 2020. 282

Income tax: Rates on nonbusiness income 283

R.C. 5747.02; Section 757.150 284

Reduces tax rates on nonbusiness income and on the income of 285

estates and trusts by 4% compared to current law rates beginning 286
in 2019. The House bill would have reduced rates by 6.6% in 2019, 287
and the Senate bill would have reduced rates by 4% in 2019 and 288
another 4% beginning in 2020 for a total rate reduction of 8% 289
after 2019. 290

Retains both the Senate and House proposal to eliminate the 291
lowest two income brackets (below \$21,750). 292

Income tax: Educator expense deduction 293

R.C. 5747.01(A)(34); Section 757.150 294

Removes a proposed income tax deduction for educators' 295
out-of-pocket expenses for professional development and classroom 296
supplies. The Senate added the deduction to the bill. 297

Sales tax: Repeal investment coin/metals exemption 298

R.C. 5739.02(B)(54), 5739.03, and 5739.05 299

Repeals the existing sales and use tax exemption for 300
investment coins and bullion. The House bill would have repealed 301
the exemption; the Senate bill would have preserved the exemption. 302

School district income tax base 303

R.C. 5748.01 304

Reinserts a provision, added by the House and removed by the 305
Senate, requiring that, for purposes of school district income 306
taxes that use "earned income" as the tax base, self-employment 307
income or other earnings deducted under the business income 308
deduction must be added back when computing a taxpayer's taxable 309
income. 310

Currently, such amounts must be added back when computing the 311
taxable income of taxpayers in school districts that use the 312
broader state income tax base as a base, but not in districts that 313

have an earned-income tax base. 314

Vapor products tax modifications 315

R.C. 1346.04, 5743.01, 5743.03, 5743.20, 5743.51, 5743.60, 316
5743.64; Section 757.270 317

Makes the following modifications to a provision added by the 318
Senate that would impose an excise tax on nicotine vapor products: 319

(1) Requires a vapor distributor to obtain the Tax 320
Commissioner's authorization before selling vapor products to 321
another vapor distributor, and allows such a transfer only if the 322
selling distributor obtained the vapor products directly from a 323
manufacturer or importer. (A similar requirement exists for 324
transfers of tobacco products other than tobacco.) 325

(2) Authorizes a manufacturer of vapor products to avoid 326
payment of the tax if it submits to the Tax Commissioner a 327
statement from the retailer asserting that the retailer will pay 328
the tax. 329

(3) Prohibits a person from distributing vapor products with 330
the intent to avoid the new tax if the products' volume or weight 331
exceed 500 milliliters (mLs) or grams during a 12-month period. 332
The Senate bill prohibits such distribution if the invoice price 333
of the vapor products exceeds \$300 during that period. 334

(4) Prohibits a person from transporting vapor products with 335
a volume or weight in excess of 500 mLs or grams without the 336
permission of the Tax Commissioner. The Senate bill prohibits 337
transporting vapor products with a wholesale value of \$300 or 338
more. 339

(5) Excuses vapor distributors licensed solely to distribute 340
vapor products from the requirement under continuing law for 341
tobacco product excise taxpayers to report their sales of certain 342

tobacco products, i.e., "roll-your-own" cigarettes, to the Tax
Commissioner for the purpose of complying with and enforcing the
Tobacco Master Settlement Agreement.

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(6) Specifies that a wholesale dealer of vapor products
located outside Ohio that sells products to an Ohio wholesaler is
a vapor distributor required to register with the Tax Commissioner
and remit the new excise tax.

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