

**As Passed by the House**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 133**

**Representative Ryan**

**Cosponsors: Representatives Hambley, Hill, Carfagna, Goodman, Seitz, Schaffer, Lipps, Arndt, Green, Ginter, Slaby, Cupp, Dean, Reineke, Miller, Anielski, Antani, Antonio, Ashford, Barnes, Blessing, Brown, Craig, Duffey, Fedor, Galonski, Gavarone, Greenspan, Holmes, Howse, Hughes, Johnson, Kent, Kick, Koehler, Lanese, Lang, LaTourette, Leland, Lepore-Hagan, Manning, McColley, Merrin, O'Brien, Patterson, Patton, Pelanda, Perales, Rezabek, Riedel, Roegner, Rogers, Schuring, Sheehy, Smith, R., Sprague, Stein, Sweeney, West, Wiggam, Young**

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**A BILL**

To amend sections 111.16, 718.01, 718.05, 1329.01, 1  
4123.01, 4141.42, 5741.02, 5747.01, and 5751.01 2  
and to enact sections 1701.041, 4799.04, and 3  
5703.94 of the Revised Code to create the 4  
Disaster Relief Act to exempt out-of-state 5  
disaster businesses and qualifying out-of-state 6  
employees from certain taxes and laws with 7  
respect to disaster work on critical 8  
infrastructure performed in this state during a 9  
declared disaster. 10

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

**Section 1.** That sections 111.16, 718.01, 718.05, 1329.01, 11  
4123.01, 4141.42, 5741.02, 5747.01, and 5751.01 be amended and 12  
sections 1701.041, 4799.04, and 5703.94 of the Revised Code be 13  
enacted to read as follows: 14

**Sec. 111.16.** ~~The~~ Except as provided in section 1701.041 of 15  
the Revised Code, the secretary of state shall charge and 16  
collect, for the benefit of the state, the following fees: 17

(A) For filing and recording articles of incorporation of 18  
a domestic corporation, including designation of agent: 19

(1) Wherein the corporation shall not be authorized to 20  
issue any shares of capital stock, ninety-nine dollars; 21

(2) Wherein the corporation shall be authorized to issue 22  
shares of capital stock, with or without par value: 23

(a) Ten cents for each share authorized up to and 24  
including one thousand shares; 25

(b) Five cents for each share authorized in excess of one 26  
thousand shares up to and including ten thousand shares; 27

(c) Two cents for each share authorized in excess of ten 28  
thousand shares up to and including fifty thousand shares; 29

(d) One cent for each share authorized in excess of fifty 30  
thousand shares up to and including one hundred thousand shares; 31

(e) One-half cent for each share authorized in excess of 32  
one hundred thousand shares up to and including five hundred 33  
thousand shares; 34

(f) One-quarter cent for each share authorized in excess 35  
of five hundred thousand shares; provided no fee shall be less 36  
than ninety-nine dollars or greater than one hundred thousand 37  
dollars. 38

(B) For filing and recording a certificate of amendment to 39  
or amended articles of incorporation of a domestic corporation, 40  
or for filing and recording a certificate of reorganization, a 41

certificate of dissolution, or an amendment to a foreign license application: 42  
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(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars; 44  
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(2) If the domestic corporation is authorized to issue shares of capital stock, fifty dollars, and in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division (A) (2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued by the corporation; provided no fee under division (B) (2) of this section shall be greater than one hundred thousand dollars; 46  
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(3) If the foreign corporation is not authorized to issue any shares of capital stock, fifty dollars; 55  
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(4) If the foreign corporation is authorized to issue shares of capital stock, fifty dollars. 57  
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(C) For filing and recording articles of incorporation of a savings and loan association, ninety-nine dollars; and for filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association, fifty dollars; 59  
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(D) For filing and recording a certificate of conversion, including a designation of agent, a certificate of merger, or a certificate of consolidation, ninety-nine dollars and, in the case of any new corporation resulting from a consolidation or any surviving corporation that has an increased number of shares authorized to be issued resulting from a merger, an additional sum computed in accordance with the schedule set forth in 64  
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division (A) (2) of this section less a credit computed in the 71  
same manner for the number of shares previously authorized to be 72  
issued or represented in this state by each of the corporations 73  
for which a consolidation or merger is effected by the 74  
certificate; 75

(E) For filing and recording articles of incorporation of 76  
a credit union or the American credit union guaranty 77  
association, ninety-nine dollars, and for filing and recording a 78  
certificate of increase in capital stock or any other amendment 79  
of the articles of incorporation of a credit union or the 80  
association, fifty dollars; 81

(F) For filing and recording articles of organization of a 82  
limited liability company, for filing and recording an 83  
application to become a registered foreign limited liability 84  
company, for filing and recording a registration application to 85  
become a domestic limited liability partnership, or for filing 86  
and recording an application to become a registered foreign 87  
limited liability partnership, ninety-nine dollars; 88

(G) For filing and recording a certificate of limited 89  
partnership or an application for registration as a foreign 90  
limited partnership, or for filing an initial statement of 91  
partnership authority pursuant to section 1776.33 of the Revised 92  
Code, ninety-nine dollars; 93

(H) For filing a copy of papers evidencing the 94  
incorporation of a municipal corporation or of annexation of 95  
territory by a municipal corporation, five dollars, to be paid 96  
by the municipal corporation, the petitioners therefor, or their 97  
agent; 98

(I) For filing and recording any of the following: 99

(1) A license to transact business in this state by a foreign corporation for profit pursuant to section 1703.04 of the Revised Code or a foreign nonprofit corporation pursuant to section 1703.27 of the Revised Code, ninety-nine dollars;

(2) A biennial report or biennial statement pursuant to section 1775.63, 1776.83, or 1785.06 of the Revised Code, twenty-five dollars;

(3) Except as otherwise provided in this section or any other section of the Revised Code, any other certificate or paper that is required to be filed and recorded or is permitted to be filed and recorded by any provision of the Revised Code with the secretary of state, twenty-five dollars.

(J) For filing any certificate or paper not required to be recorded, five dollars;

(K) (1) For making copies of any certificate or other paper filed in the office of the secretary of state, a fee not to exceed one dollar per page, except as otherwise provided in the Revised Code, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars. For copies of certificates or papers required by state officers for official purpose, no charge shall be made.

(2) For creating and affixing the seal of the office of the secretary of state to the certificates described in division (E) of section 1701.81, division (E) of section 1701.811, division (E) of section 1705.38, division (E) of section 1705.381, division (D) of section 1702.43, division (E) of section 1775.47, division (E) of section 1775.55, division (E) of section 1776.70, division (E) of section 1776.74, division

(E) of section 1782.433, or division (E) of section 1782.4310 of the Revised Code, twenty-five dollars.	129 130
(L) For a minister's license to solemnize marriages, ten dollars;	131 132
(M) For examining documents to be filed at a later date for the purpose of advising as to the acceptability of the proposed filing, fifty dollars;	133 134 135
(N) Fifty dollars for filing and recording any of the following:	136 137
(1) A certificate of dissolution and accompanying documents, or a certificate of cancellation, under section 1701.86, 1702.47, 1705.43, 1776.65, or 1782.10 of the Revised Code;	138 139 140 141
(2) A notice of dissolution of a foreign licensed corporation or a certificate of surrender of license by a foreign licensed corporation under section 1703.17 of the Revised Code;	142 143 144 145
(3) The withdrawal of registration of a foreign or domestic limited liability partnership under section 1775.61, 1775.64, 1776.81, or 1776.86 of the Revised Code, or the certificate of cancellation of registration of a foreign limited liability company under section 1705.57 of the Revised Code;	146 147 148 149 150
(4) The filing of a statement of denial under section 1776.34 of the Revised Code, a statement of dissociation under section 1776.57 of the Revised Code, a statement of disclaimer of general partner status under Chapter 1782. of the Revised Code, or a cancellation of disclaimer of general partner status under Chapter 1782. of the Revised Code.	151 152 153 154 155 156

(O) For filing a statement of continued existence by a nonprofit corporation, twenty-five dollars;	157 158
(P) For filing a restatement under section 1705.08 or 1782.09 of the Revised Code, an amendment to a certificate of cancellation under section 1782.10 of the Revised Code, an amendment under section 1705.08 or 1782.09 of the Revised Code, or a correction under section 1705.55, 1775.61, 1775.64, 1776.12, or 1782.52 of the Revised Code, fifty dollars;	159 160 161 162 163 164
(Q) For filing for reinstatement of an entity cancelled by operation of law, by the secretary of state, by order of the department of taxation, or by order of a court, twenty-five dollars;	165 166 167 168
(R) For filing and recording any of the following:	169
(1) A change of agent, resignation of agent, or change of agent's address under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, twenty-five dollars;	170 171 172 173
(2) A multiple change of agent name or address, standardization of agent address, or resignation of agent under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one hundred twenty-five dollars, plus three dollars per entity record being changed, by the multiple agent update.	174 175 176 177 178 179
(S) For filing and recording any of the following:	180
(1) An application for the exclusive right to use a name or an application to reserve a name for future use under section 1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised Code, thirty-nine dollars;	181 182 183 184

(2) A trade name or fictitious name registration or report, thirty-nine dollars;	185 186
(3) An application to renew any item covered by division (S) (1) or (2) of this section that is permitted to be renewed, twenty-five dollars;	187 188 189
(4) An assignment of rights for use of a name covered by division (S) (1), (2), or (3) of this section, the cancellation of a name registration or name reservation that is so covered, or notice of a change of address of the registrant of a name that is so covered, twenty-five dollars.	190 191 192 193 194
(T) For filing and recording a report to operate a business trust or a real estate investment trust, either foreign or domestic, ninety-nine dollars; and for filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate investment trust, fifty dollars;	195 196 197 198 199 200
(U) (1) For filing and recording the registration of a trademark, service mark, or mark of ownership, one hundred twenty-five dollars;	201 202 203
(2) For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership, twenty-five dollars.	204 205 206 207 208
(V) For filing a service of process with the secretary of state, five dollars, except as otherwise provided in any section of the Revised Code.	209 210 211
Fees specified in this section may be paid by cash, check, or money order, by credit card in accordance with section 113.40	212 213



of the Revised Code, or by an alternative payment program in 214  
accordance with division (B) of section 111.18 of the Revised 215  
Code. Any credit card number or the expiration date of any 216  
credit card is not subject to disclosure under Chapter 149. of 217  
the Revised Code. 218

**Sec. 718.01.** Any term used in this chapter that is not 219  
otherwise defined in this chapter has the same meaning as when 220  
used in a comparable context in laws of the United States 221  
relating to federal income taxation or in Title LVII of the 222  
Revised Code, unless a different meaning is clearly required. If 223  
a term used in this chapter that is not otherwise defined in 224  
this chapter is used in a comparable context in both the laws of 225  
the United States relating to federal income tax and in Title 226  
LVII of the Revised Code and the use is not consistent, then the 227  
use of the term in the laws of the United States relating to 228  
federal income tax shall control over the use of the term in 229  
Title LVII of the Revised Code. 230

As used in this chapter: 231

(A) (1) "Municipal taxable income" means the following: 232

(a) For a person other than an individual, income reduced 233  
by exempt income to the extent otherwise included in income and 234  
then, as applicable, apportioned or situated to the municipal 235  
corporation under section 718.02 of the Revised Code, and 236  
further reduced by any pre-2017 net operating loss carryforward 237  
available to the person for the municipal corporation. 238

(b) (i) For an individual who is a resident of a municipal 239  
corporation other than a qualified municipal corporation, income 240  
reduced by exempt income to the extent otherwise included in 241  
income, then reduced as provided in division (A) (2) of this 242

section, and further reduced by any pre-2017 net operating loss 243  
carryforward available to the individual for the municipal 244  
corporation. 245

(ii) For an individual who is a resident of a qualified 246  
municipal corporation, Ohio adjusted gross income reduced by 247  
income exempted, and increased by deductions excluded, by the 248  
qualified municipal corporation from the qualified municipal 249  
corporation's tax. If a qualified municipal corporation, on or 250  
before December 31, 2013, exempts income earned by individuals 251  
who are not residents of the qualified municipal corporation and 252  
net profit of persons that are not wholly located within the 253  
qualified municipal corporation, such individual or person shall 254  
have no municipal taxable income for the purposes of the tax 255  
levied by the qualified municipal corporation and may be 256  
exempted by the qualified municipal corporation from the 257  
requirements of section 718.03 of the Revised Code. 258

(c) For an individual who is a nonresident of a municipal 259  
corporation, income reduced by exempt income to the extent 260  
otherwise included in income and then, as applicable, 261  
apportioned or situated to the municipal corporation under 262  
section 718.02 of the Revised Code, then reduced as provided in 263  
division (A)(2) of this section, and further reduced by any pre- 264  
2017 net operating loss carryforward available to the individual 265  
for the municipal corporation. 266

(2) In computing the municipal taxable income of a 267  
taxpayer who is an individual, the taxpayer may subtract, as 268  
provided in division (A)(1)(b)(i) or (c) of this section, the 269  
amount of the individual's employee business expenses reported 270  
on the individual's form 2106 that the individual deducted for 271  
federal income tax purposes for the taxable year, subject to the 272

limitation imposed by section 67 of the Internal Revenue Code.	273
For the municipal corporation in which the taxpayer is a	274
resident, the taxpayer may deduct all such expenses allowed for	275
federal income tax purposes. For a municipal corporation in	276
which the taxpayer is not a resident, the taxpayer may deduct	277
such expenses only to the extent the expenses are related to the	278
taxpayer's performance of personal services in that nonresident	279
municipal corporation.	280
(B) "Income" means the following:	281
(1) (a) For residents, all income, salaries, qualifying	282
wages, commissions, and other compensation from whatever source	283
earned or received by the resident, including the resident's	284
distributive share of the net profit of pass-through entities	285
owned directly or indirectly by the resident and any net profit	286
of the resident, except as provided in division (D) (4) of this	287
section.	288
(b) For the purposes of division (B) (1) (a) of this	289
section:	290
(i) Any net operating loss of the resident incurred in the	291
taxable year and the resident's distributive share of any net	292
operating loss generated in the same taxable year and	293
attributable to the resident's ownership interest in a pass-	294
through entity shall be allowed as a deduction, for that taxable	295
year and the following five taxable years, against any other net	296
profit of the resident or the resident's distributive share of	297
any net profit attributable to the resident's ownership interest	298
in a pass-through entity until fully utilized, subject to	299
division (B) (1) (d) of this section;	300
(ii) The resident's distributive share of the net profit	301

of each pass-through entity owned directly or indirectly by the 302  
resident shall be calculated without regard to any net operating 303  
loss that is carried forward by that entity from a prior taxable 304  
year and applied to reduce the entity's net profit for the 305  
current taxable year. 306

(c) Division (B) (1) (b) of this section does not apply with 307  
respect to any net profit or net operating loss attributable to 308  
an ownership interest in an S corporation unless shareholders' 309  
distributive shares of net profits from S corporations are 310  
subject to tax in the municipal corporation as provided in 311  
division (C) (14) (b) or (c) of this section. 312

(d) Any amount of a net operating loss used to reduce a 313  
taxpayer's net profit for a taxable year shall reduce the amount 314  
of net operating loss that may be carried forward to any 315  
subsequent year for use by that taxpayer. In no event shall the 316  
cumulative deductions for all taxable years with respect to a 317  
taxpayer's net operating loss exceed the original amount of that 318  
net operating loss available to that taxpayer. 319

(2) In the case of nonresidents, all income, salaries, 320  
qualifying wages, commissions, and other compensation from 321  
whatever source earned or received by the nonresident for work 322  
done, services performed or rendered, or activities conducted in 323  
the municipal corporation, including any net profit of the 324  
nonresident, but excluding the nonresident's distributive share 325  
of the net profit or loss of only pass-through entities owned 326  
directly or indirectly by the nonresident. 327

(3) For taxpayers that are not individuals, net profit of 328  
the taxpayer; 329

(4) Lottery, sweepstakes, gambling and sports winnings, 330

winnings from games of chance, and prizes and awards. If the 331  
taxpayer is a professional gambler for federal income tax 332  
purposes, the taxpayer may deduct related wagering losses and 333  
expenses to the extent authorized under the Internal Revenue 334  
Code and claimed against such winnings. 335

(C) "Exempt income" means all of the following: 336

(1) The military pay or allowances of members of the armed 337  
forces of the United States or members of their reserve 338  
components, including the national guard of any state; 339

(2) (a) Except as provided in division (C) (2) (b) of this 340  
section, intangible income; 341

(b) A municipal corporation that taxed any type of 342  
intangible income on March 29, 1988, pursuant to Section 3 of 343  
S.B. 238 of the 116th general assembly, may continue to tax that 344  
type of income if a majority of the electors of the municipal 345  
corporation voting on the question of whether to permit the 346  
taxation of that type of intangible income after 1988 voted in 347  
favor thereof at an election held on November 8, 1988. 348

(3) Social security benefits, railroad retirement 349  
benefits, unemployment compensation, pensions, retirement 350  
benefit payments, payments from annuities, and similar payments 351  
made to an employee or to the beneficiary of an employee under a 352  
retirement program or plan, disability payments received from 353  
private industry or local, state, or federal governments or from 354  
charitable, religious or educational organizations, and the 355  
proceeds of sickness, accident, or liability insurance policies. 356  
As used in division (C) (3) of this section, "unemployment 357  
compensation" does not include supplemental unemployment 358  
compensation described in section 3402(o) (2) of the Internal 359

Revenue Code.	360
(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.	361 362 363 364
(5) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.	365 366 367 368 369 370 371 372
(6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;	373 374 375
(7) Alimony and child support received;	376
(8) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages;	377 378 379 380
(9) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code. Division (C) (9) of this section does not apply for purposes of Chapter 5745. of the Revised Code.	381 382 383 384
(10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate	385 386 387 388

during the period of administration except such income from the 389  
operation of a trade or business; 390

(11) Compensation or allowances excluded from federal 391  
gross income under section 107 of the Internal Revenue Code; 392

(12) Employee compensation that is not qualifying wages as 393  
defined in division (R) of this section; 394

(13) Compensation paid to a person employed within the 395  
boundaries of a United States air force base under the 396  
jurisdiction of the United States air force that is used for the 397  
housing of members of the United States air force and is a 398  
center for air force operations, unless the person is subject to 399  
taxation because of residence or domicile. If the compensation 400  
is subject to taxation because of residence or domicile, tax on 401  
such income shall be payable only to the municipal corporation 402  
of residence or domicile. 403

(14) (a) Except as provided in division (C) (14) (b) or (c) 404  
of this section, an S corporation shareholder's distributive 405  
share of net profits of the S corporation, other than any part 406  
of the distributive share of net profits that represents wages 407  
as defined in section 3121(a) of the Internal Revenue Code or 408  
net earnings from self-employment as defined in section 1402(a) 409  
of the Internal Revenue Code. 410

(b) If, pursuant to division (H) of former section 718.01 411  
of the Revised Code as it existed before March 11, 2004, a 412  
majority of the electors of a municipal corporation voted in 413  
favor of the question at an election held on November 4, 2003, 414  
the municipal corporation may continue after 2002 to tax an S 415  
corporation shareholder's distributive share of net profits of 416  
an S corporation. 417

(c) If, on December 6, 2002, a municipal corporation was 418  
imposing, assessing, and collecting a tax on an S corporation 419  
shareholder's distributive share of net profits of the S 420  
corporation to the extent the distributive share would be 421  
allocated or apportioned to this state under divisions (B) (1) 422  
and (2) of section 5733.05 of the Revised Code if the S 423  
corporation were a corporation subject to taxes imposed under 424  
Chapter 5733. of the Revised Code, the municipal corporation may 425  
continue to impose the tax on such distributive shares to the 426  
extent such shares would be so allocated or apportioned to this 427  
state only until December 31, 2004, unless a majority of the 428  
electors of the municipal corporation voting on the question of 429  
continuing to tax such shares after that date voted in favor of 430  
that question at an election held November 2, 2004. If a 431  
majority of those electors voted in favor of the question, the 432  
municipal corporation may continue after December 31, 2004, to 433  
impose the tax on such distributive shares only to the extent 434  
such shares would be so allocated or apportioned to this state. 435

(d) A municipal corporation shall be deemed to have 436  
elected to tax S corporation shareholders' distributive shares 437  
of net profits of the S corporation in the hands of the 438  
shareholders if a majority of the electors of a municipal 439  
corporation voted in favor of a question at an election held 440  
under division (C) (14) (b) or (c) of this section. The municipal 441  
corporation shall specify by resolution or ordinance that the 442  
tax applies to the distributive share of a shareholder of an S 443  
corporation in the hands of the shareholder of the S 444  
corporation. 445

(15) To the extent authorized under a resolution or 446  
ordinance adopted by a municipal corporation before January 1, 447  
2016, all or a portion of the income of individuals or a class 448



of individuals under eighteen years of age. 449

(16) (a) Except as provided in divisions (C) (16) (b), (c), 450  
and (d) of this section, qualifying wages described in division 451  
(B) (1) or (E) of section 718.011 of the Revised Code to the 452  
extent the qualifying wages are not subject to withholding for 453  
the municipal corporation under either of those divisions. 454

(b) The exemption provided in division (C) (16) (a) of this 455  
section does not apply with respect to the municipal corporation 456  
in which the employee resided at the time the employee earned 457  
the qualifying wages. 458

(c) The exemption provided in division (C) (16) (a) of this 459  
section does not apply to qualifying wages that an employer 460  
elects to withhold under division (D) (2) of section 718.011 of 461  
the Revised Code. 462

(d) The exemption provided in division (C) (16) (a) of this 463  
section does not apply to qualifying wages if both of the 464  
following conditions apply: 465

(i) For qualifying wages described in division (B) (1) of 466  
section 718.011 of the Revised Code, the employee's employer 467  
withholds and remits tax on the qualifying wages to the 468  
municipal corporation in which the employee's principal place of 469  
work is situated, or, for qualifying wages described in division 470  
(E) of section 718.011 of the Revised Code, the employee's 471  
employer withholds and remits tax on the qualifying wages to the 472  
municipal corporation in which the employer's fixed location is 473  
located; 474

(ii) The employee receives a refund of the tax described 475  
in division (C) (16) (d) (i) of this section on the basis of the 476  
employee not performing services in that municipal corporation. 477

(17) (a) Except as provided in division (C) (17) (b) or (c) 478  
of this section, compensation that is not qualifying wages paid 479  
to a nonresident individual for personal services performed in 480  
the municipal corporation on not more than twenty days in a 481  
taxable year. 482

(b) The exemption provided in division (C) (17) (a) of this 483  
section does not apply under either of the following 484  
circumstances: 485

(i) The individual's base of operation is located in the 486  
municipal corporation. 487

(ii) The individual is a professional athlete, 488  
professional entertainer, or public figure, and the compensation 489  
is paid for the performance of services in the individual's 490  
capacity as a professional athlete, professional entertainer, or 491  
public figure. For purposes of division (C) (17) (b) (ii) of this 492  
section, "professional athlete," "professional entertainer," and 493  
"public figure" have the same meanings as in section 718.011 of 494  
the Revised Code. 495

(c) Compensation to which division (C) (17) of this section 496  
applies shall be treated as earned or received at the 497  
individual's base of operation. If the individual does not have 498  
a base of operation, the compensation shall be treated as earned 499  
or received where the individual is domiciled. 500

(d) For purposes of division (C) (17) of this section, 501  
"base of operation" means the location where an individual owns 502  
or rents an office, storefront, or similar facility to which the 503  
individual regularly reports and at which the individual 504  
regularly performs personal services for compensation. 505

(18) Compensation paid to a person for personal services 506

performed for a political subdivision on property owned by the 507  
political subdivision, regardless of whether the compensation is 508  
received by an employee of the subdivision or another person 509  
performing services for the subdivision under a contract with 510  
the subdivision, if the property on which services are performed 511  
is annexed to a municipal corporation pursuant to section 512  
709.023 of the Revised Code on or after March 27, 2013, unless 513  
the person is subject to such taxation because of residence. If 514  
the compensation is subject to taxation because of residence, 515  
municipal income tax shall be payable only to the municipal 516  
corporation of residence. 517

(19) In the case of a tax administered, collected, and 518  
enforced by a municipal corporation pursuant to an agreement 519  
with the board of directors of a joint economic development 520  
district under section 715.72 of the Revised Code, the net 521  
profits of a business, and the income of the employees of that 522  
business, exempted from the tax under division (Q) of that 523  
section; 524

(20) All of the following: 525

(a) Income derived from disaster work conducted in this 526  
state by an out-of-state disaster business during a disaster 527  
response period pursuant to a qualifying solicitation received 528  
by the business; 529

(b) Income of a qualifying employee described in division 530  
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 531  
such income is derived from disaster work conducted in this 532  
state by the employee during a disaster response period pursuant 533  
to a qualifying solicitation received by the employee's 534  
employer; 535

<u>(c) Income of a qualifying employee described in division</u>	536
<u>(A) (14) (b) of section 5703.94 of the Revised Code, to the extent</u>	537
<u>such income is derived from disaster work conducted in this</u>	538
<u>state by the employee during a disaster response period on</u>	539
<u>critical infrastructure owned or used by the employee's</u>	540
<u>employer.</u>	541
<u>(21) Income the taxation of which is prohibited by the</u>	542
constitution or laws of the United States.	543
Any item of income that is exempt income of a pass-through	544
entity under division (C) of this section is exempt income of	545
each owner of the pass-through entity to the extent of that	546
owner's distributive or proportionate share of that item of the	547
entity's income.	548
(D) (1) "Net profit" for a person other than an individual	549
means adjusted federal taxable income.	550
(2) "Net profit" for a person who is an individual means	551
the individual's net profit required to be reported on schedule	552
C, schedule E, or schedule F reduced by any net operating loss	553
carried forward. For the purposes of division (D) (2) of this	554
section, the net operating loss carried forward shall be	555
calculated and deducted in the same manner as provided in	556
division (E) (8) of this section.	557
(3) For the purposes of this chapter, and notwithstanding	558
division (D) (1) of this section, net profit of a disregarded	559
entity shall not be taxable as against that disregarded entity,	560
but shall instead be included in the net profit of the owner of	561
the disregarded entity.	562
(4) For the purposes of this chapter, and notwithstanding	563
any other provision of this chapter, the net profit of a	564

publicly traded partnership that makes the election described in 565  
division (D) (4) of this section shall be taxed as if the 566  
partnership were a C corporation, and shall not be treated as 567  
the net profit or income of any owner of the partnership. 568

A publicly traded partnership that is treated as a 569  
partnership for federal income tax purposes and that is subject 570  
to tax on its net profits in one or more municipal corporations 571  
in this state may elect to be treated as a C corporation for 572  
municipal income tax purposes. The publicly traded partnership 573  
shall make the election in every municipal corporation in which 574  
the partnership is subject to taxation on its net profits. The 575  
election shall be made on the annual tax return filed in each 576  
such municipal corporation. The publicly traded partnership 577  
shall not be required to file the election with any municipal 578  
corporation in which the partnership is not subject to taxation 579  
on its net profits, but division (D) (4) of this section applies 580  
to all municipal corporations in which an individual owner of 581  
the partnership resides. 582

(E) "Adjusted federal taxable income," for a person 583  
required to file as a C corporation, or for a person that has 584  
elected to be taxed as a C corporation under division (D) (4) of 585  
this section, means a C corporation's federal taxable income 586  
before net operating losses and special deductions as determined 587  
under the Internal Revenue Code, adjusted as follows: 588

(1) Deduct intangible income to the extent included in 589  
federal taxable income. The deduction shall be allowed 590  
regardless of whether the intangible income relates to assets 591  
used in a trade or business or assets held for the production of 592  
income. 593

(2) Add an amount equal to five per cent of intangible 594

income deducted under division (E) (1) of this section, but 595  
excluding that portion of intangible income directly related to 596  
the sale, exchange, or other disposition of property described 597  
in section 1221 of the Internal Revenue Code; 598

(3) Add any losses allowed as a deduction in the 599  
computation of federal taxable income if the losses directly 600  
relate to the sale, exchange, or other disposition of an asset 601  
described in section 1221 or 1231 of the Internal Revenue Code; 602

(4) (a) Except as provided in division (E) (4) (b) of this 603  
section, deduct income and gain included in federal taxable 604  
income to the extent the income and gain directly relate to the 605  
sale, exchange, or other disposition of an asset described in 606  
section 1221 or 1231 of the Internal Revenue Code; 607

(b) Division (E) (4) (a) of this section does not apply to 608  
the extent the income or gain is income or gain described in 609  
section 1245 or 1250 of the Internal Revenue Code. 610

(5) Add taxes on or measured by net income allowed as a 611  
deduction in the computation of federal taxable income; 612

(6) In the case of a real estate investment trust or 613  
regulated investment company, add all amounts with respect to 614  
dividends to, distributions to, or amounts set aside for or 615  
credited to the benefit of investors and allowed as a deduction 616  
in the computation of federal taxable income; 617

(7) Deduct, to the extent not otherwise deducted or 618  
excluded in computing federal taxable income, any income derived 619  
from a transfer agreement or from the enterprise transferred 620  
under that agreement under section 4313.02 of the Revised Code; 621

(8) (a) Except as limited by divisions (E) (8) (b), (c), and 622  
(d) of this section, deduct any net operating loss incurred by 623

the person in a taxable year beginning on or after January 1, 624  
2017. 625

The amount of such net operating loss shall be deducted 626  
from net profit that is reduced by exempt income to the extent 627  
necessary to reduce municipal taxable income to zero, with any 628  
remaining unused portion of the net operating loss carried 629  
forward to not more than five consecutive taxable years 630  
following the taxable year in which the loss was incurred, but 631  
in no case for more years than necessary for the deduction to be 632  
fully utilized. 633

(b) No person shall use the deduction allowed by division 634  
(E) (8) of this section to offset qualifying wages. 635

(c) (i) For taxable years beginning in 2018, 2019, 2020, 636  
2021, or 2022, a person may not deduct, for purposes of an 637  
income tax levied by a municipal corporation that levies an 638  
income tax before January 1, 2016, more than fifty per cent of 639  
the amount of the deduction otherwise allowed by division (E) (8) 640  
(a) of this section. 641

(ii) For taxable years beginning in 2023 or thereafter, a 642  
person may deduct, for purposes of an income tax levied by a 643  
municipal corporation that levies an income tax before January 644  
1, 2016, the full amount allowed by division (E) (8) (a) of this 645  
section. 646

(d) Any pre-2017 net operating loss carryforward deduction 647  
that is available must be utilized before a taxpayer may deduct 648  
any amount pursuant to division (E) (8) of this section. 649

(e) Nothing in division (E) (8) (c) (i) of this section 650  
precludes a person from carrying forward, for use with respect 651  
to any return filed for a taxable year beginning after 2018, any 652

amount of net operating loss that was not fully utilized by 653  
operation of division (E) (8) (c) (i) of this section. To the 654  
extent that an amount of net operating loss that was not fully 655  
utilized in one or more taxable years by operation of division 656  
(E) (8) (c) (i) of this section is carried forward for use with 657  
respect to a return filed for a taxable year beginning in 2019, 658  
2020, 2021, or 2022, the limitation described in division (E) (8) 659  
(c) (i) of this section shall apply to the amount carried 660  
forward. 661

(9) Deduct any net profit of a pass-through entity owned 662  
directly or indirectly by the taxpayer and included in the 663  
taxpayer's federal taxable income unless an affiliated group of 664  
corporations includes that net profit in the group's federal 665  
taxable income in accordance with division (E) (3) (b) of section 666  
718.06 of the Revised Code. 667

(10) Add any loss incurred by a pass-through entity owned 668  
directly or indirectly by the taxpayer and included in the 669  
taxpayer's federal taxable income unless an affiliated group of 670  
corporations includes that loss in the group's federal taxable 671  
income in accordance with division (E) (3) (b) of section 718.06 672  
of the Revised Code. 673

If the taxpayer is not a C corporation, is not a 674  
disregarded entity that has made the election described in 675  
division (L) (2) of this section, is not a publicly traded 676  
partnership that has made the election described in division (D) 677  
(4) of this section, and is not an individual, the taxpayer 678  
shall compute adjusted federal taxable income under this section 679  
as if the taxpayer were a C corporation, except guaranteed 680  
payments and other similar amounts paid or accrued to a partner, 681  
former partner, shareholder, former shareholder, member, or 682



former member shall not be allowed as a deductible expense 683  
unless such payments are in consideration for the use of capital 684  
and treated as payment of interest under section 469 of the 685  
Internal Revenue Code or United States treasury regulations. 686  
Amounts paid or accrued to a qualified self-employed retirement 687  
plan with respect to a partner, former partner, shareholder, 688  
former shareholder, member, or former member of the taxpayer, 689  
amounts paid or accrued to or for health insurance for a 690  
partner, former partner, shareholder, former shareholder, 691  
member, or former member, and amounts paid or accrued to or for 692  
life insurance for a partner, former partner, shareholder, 693  
former shareholder, member, or former member shall not be 694  
allowed as a deduction. 695

Nothing in division (E) of this section shall be construed 696  
as allowing the taxpayer to add or deduct any amount more than 697  
once or shall be construed as allowing any taxpayer to deduct 698  
any amount paid to or accrued for purposes of federal self- 699  
employment tax. 700

(F) "Schedule C" means internal revenue service schedule C 701  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 702  
Code. 703

(G) "Schedule E" means internal revenue service schedule E 704  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 705  
Code. 706

(H) "Schedule F" means internal revenue service schedule F 707  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 708  
Code. 709

(I) "Internal Revenue Code" has the same meaning as in 710  
section 5747.01 of the Revised Code. 711

(J) "Resident" means an individual who is domiciled in the 712  
municipal corporation as determined under section 718.012 of the 713  
Revised Code. 714

(K) "Nonresident" means an individual that is not a 715  
resident. 716

(L) (1) "Taxpayer" means a person subject to a tax levied 717  
on income by a municipal corporation in accordance with this 718  
chapter. "Taxpayer" does not include a grantor trust or, except 719  
as provided in division (L) (2) (a) of this section, a disregarded 720  
entity. 721

(2) (a) A single member limited liability company that is a 722  
disregarded entity for federal tax purposes may be a separate 723  
taxpayer from its single member in all Ohio municipal 724  
corporations in which it either filed as a separate taxpayer or 725  
did not file for its taxable year ending in 2003, if all of the 726  
following conditions are met: 727

(i) The limited liability company's single member is also 728  
a limited liability company. 729

(ii) The limited liability company and its single member 730  
were formed and doing business in one or more Ohio municipal 731  
corporations for at least five years before January 1, 2004. 732

(iii) Not later than December 31, 2004, the limited 733  
liability company and its single member each made an election to 734  
be treated as a separate taxpayer under division (L) of this 735  
section as this section existed on December 31, 2004. 736

(iv) The limited liability company was not formed for the 737  
purpose of evading or reducing Ohio municipal corporation income 738  
tax liability of the limited liability company or its single 739  
member. 740

(v) The Ohio municipal corporation that was the primary 741  
place of business of the sole member of the limited liability 742  
company consented to the election. 743

(b) For purposes of division (L) (2) (a) (v) of this section, 744  
a municipal corporation was the primary place of business of a 745  
limited liability company if, for the limited liability 746  
company's taxable year ending in 2003, its income tax liability 747  
was greater in that municipal corporation than in any other 748  
municipal corporation in Ohio, and that tax liability to that 749  
municipal corporation for its taxable year ending in 2003 was at 750  
least four hundred thousand dollars. 751

(M) "Person" includes individuals, firms, companies, joint 752  
stock companies, business trusts, estates, trusts, partnerships, 753  
limited liability partnerships, limited liability companies, 754  
associations, C corporations, S corporations, governmental 755  
entities, and any other entity. 756

(N) "Pass-through entity" means a partnership not treated 757  
as an association taxable as a C corporation for federal income 758  
tax purposes, a limited liability company not treated as an 759  
association taxable as a C corporation for federal income tax 760  
purposes, an S corporation, or any other class of entity from 761  
which the income or profits of the entity are given pass-through 762  
treatment for federal income tax purposes. "Pass-through entity" 763  
does not include a trust, estate, grantor of a grantor trust, or 764  
disregarded entity. 765

(O) "S corporation" means a person that has made an 766  
election under subchapter S of Chapter 1 of Subtitle A of the 767  
Internal Revenue Code for its taxable year. 768

(P) "Single member limited liability company" means a 769

limited liability company that has one direct member.	770
(Q) "Limited liability company" means a limited liability	771
company formed under Chapter 1705. of the Revised Code or under	772
the laws of another state.	773
(R) "Qualifying wages" means wages, as defined in section	774
3121(a) of the Internal Revenue Code, without regard to any wage	775
limitations, adjusted as follows:	776
(1) Deduct the following amounts:	777
(a) Any amount included in wages if the amount constitutes	778
compensation attributable to a plan or program described in	779
section 125 of the Internal Revenue Code.	780
(b) Any amount included in wages if the amount constitutes	781
payment on account of a disability related to sickness or an	782
accident paid by a party unrelated to the employer, agent of an	783
employer, or other payer.	784
(c) Any amount attributable to a nonqualified deferred	785
compensation plan or program described in section 3121(v) (2) (C)	786
of the Internal Revenue Code if the compensation is included in	787
wages and the municipal corporation has, by resolution or	788
ordinance adopted before January 1, 2016, exempted the amount	789
from withholding and tax.	790
(d) Any amount included in wages if the amount arises from	791
the sale, exchange, or other disposition of a stock option, the	792
exercise of a stock option, or the sale, exchange, or other	793
disposition of stock purchased under a stock option and the	794
municipal corporation has, by resolution or ordinance adopted	795
before January 1, 2016, exempted the amount from withholding and	796
tax.	797

(e) Any amount included in wages that is exempt income.	798
(2) Add the following amounts:	799
(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.	800 801
(b) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (R) (2) (b) of this section applies only to those amounts constituting ordinary income.	802 803 804 805 806 807 808 809
(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (R) (2) (c) of this section applies only to employee contributions and employee deferrals.	810 811 812 813
(d) Any amount that is supplemental unemployment compensation benefits described in section 3402(o) (2) of the Internal Revenue Code and not included in wages.	814 815 816
(e) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a) (8) of the Internal Revenue Code.	817 818 819
(f) Any amount not included in wages if all of the following apply:	820 821
(i) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the	822 823 824 825

taxpayer's gross income for such purposes if the taxpayer did 826  
not elect to exclude the income under section 911 of the 827  
Internal Revenue Code; 828

(ii) For no preceding taxable year did the amount 829  
constitute wages as defined in section 3121(a) of the Internal 830  
Revenue Code; 831

(iii) For no succeeding taxable year will the amount 832  
constitute wages; and 833

(iv) For any taxable year the amount has not otherwise 834  
been added to wages pursuant to either division (R) (2) of this 835  
section or section 718.03 of the Revised Code, as that section 836  
existed before the effective date of H.B. 5 of the 130th general 837  
assembly, March 23, 2015. 838

(S) "Intangible income" means income of any of the 839  
following types: income yield, interest, capital gains, 840  
dividends, or other income arising from the ownership, sale, 841  
exchange, or other disposition of intangible property including, 842  
but not limited to, investments, deposits, money, or credits as 843  
those terms are defined in Chapter 5701. of the Revised Code, 844  
and patents, copyrights, trademarks, tradenames, investments in 845  
real estate investment trusts, investments in regulated 846  
investment companies, and appreciation on deferred compensation. 847  
"Intangible income" does not include prizes, awards, or other 848  
income associated with any lottery winnings, gambling winnings, 849  
or other similar games of chance. 850

(T) "Taxable year" means the corresponding tax reporting 851  
period as prescribed for the taxpayer under the Internal Revenue 852  
Code. 853

(U) "Tax administrator" means the individual charged with 854

direct responsibility for administration of an income tax levied 855  
by a municipal corporation in accordance with this chapter, and 856  
also includes the following: 857

(1) A municipal corporation acting as the agent of another 858  
municipal corporation; 859

(2) A person retained by a municipal corporation to 860  
administer a tax levied by the municipal corporation, but only 861  
if the municipal corporation does not compensate the person in 862  
whole or in part on a contingency basis; 863

(3) The central collection agency or the regional income 864  
tax agency or their successors in interest, or another entity 865  
organized to perform functions similar to those performed by the 866  
central collection agency and the regional income tax agency. 867

(V) "Employer" means a person that is an employer for 868  
federal income tax purposes. 869

(W) "Employee" means an individual who is an employee for 870  
federal income tax purposes. 871

(X) "Other payer" means any person, other than an 872  
individual's employer or the employer's agent, that pays an 873  
individual any amount included in the federal gross income of 874  
the individual. "Other payer" includes casino operators and 875  
video lottery terminal sales agents. 876

(Y) "Calendar quarter" means the three-month period ending 877  
on the last day of March, June, September, or December. 878

(Z) "Form 2106" means internal revenue service form 2106 879  
filed by a taxpayer pursuant to the Internal Revenue Code. 880

(AA) "Municipal corporation" includes a joint economic 881  
development district or joint economic development zone that 882

levies an income tax under section 715.691, 715.70, 715.71, or 883  
715.72 of the Revised Code. 884

(BB) "Disregarded entity" means a single member limited 885  
liability company, a qualifying subchapter S subsidiary, or 886  
another entity if the company, subsidiary, or entity is a 887  
disregarded entity for federal income tax purposes. 888

(CC) "Generic form" means an electronic or paper form that 889  
is not prescribed by a particular municipal corporation and that 890  
is designed for reporting taxes withheld by an employer, agent 891  
of an employer, or other payer, estimated municipal income 892  
taxes, or annual municipal income tax liability or for filing a 893  
refund claim. 894

(DD) "Tax return preparer" means any individual described 895  
in section 7701(a)(36) of the Internal Revenue Code and 26 896  
C.F.R. 301.7701-15. 897

(EE) "Ohio business gateway" means the online computer 898  
network system, created under section 125.30 of the Revised 899  
Code, that allows persons to electronically file business reply 900  
forms with state agencies and includes any successor electronic 901  
filing and payment system. 902

(FF) "Local board of tax review" and "board of tax review" 903  
mean the entity created under section 718.11 of the Revised 904  
Code. 905

(GG) "Net operating loss" means a loss incurred by a 906  
person in the operation of a trade or business. "Net operating 907  
loss" does not include unutilized losses resulting from basis 908  
limitations, at-risk limitations, or passive activity loss 909  
limitations. 910

(HH) "Casino operator" and "casino facility" have the same 911



meanings as in section 3772.01 of the Revised Code.	912
(II) "Video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.	913 914
(JJ) "Video lottery terminal sales agent" means a lottery sales agent licensed under Chapter 3770. of the Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Revised Code.	915 916 917 918
(KK) "Postal service" means the United States postal service.	919 920
(LL) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Revised Code.	921 922 923 924
(MM) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B) (3) of section 5703.056 of the Revised Code.	925 926 927 928
(NN) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.	929 930 931 932 933 934 935 936 937 938
(OO) "Related entity" means any of the following:	939

(1) An individual stockholder, or a member of the 940  
stockholder's family enumerated in section 318 of the Internal 941  
Revenue Code, if the stockholder and the members of the 942  
stockholder's family own directly, indirectly, beneficially, or 943  
constructively, in the aggregate, at least fifty per cent of the 944  
value of the taxpayer's outstanding stock; 945

(2) A stockholder, or a stockholder's partnership, estate, 946  
trust, or corporation, if the stockholder and the stockholder's 947  
partnerships, estates, trusts, or corporations own directly, 948  
indirectly, beneficially, or constructively, in the aggregate, 949  
at least fifty per cent of the value of the taxpayer's 950  
outstanding stock; 951

(3) A corporation, or a party related to the corporation 952  
in a manner that would require an attribution of stock from the 953  
corporation to the party or from the party to the corporation 954  
under division (00) (4) of this section, provided the taxpayer 955  
owns directly, indirectly, beneficially, or constructively, at 956  
least fifty per cent of the value of the corporation's 957  
outstanding stock; 958

(4) The attribution rules described in section 318 of the 959  
Internal Revenue Code apply for the purpose of determining 960  
whether the ownership requirements in divisions (00) (1) to (3) 961  
of this section have been met. 962

(PP) (1) "Assessment" means a written finding by the tax 963  
administrator that a person has underpaid municipal income tax, 964  
or owes penalty and interest, or any combination of tax, 965  
penalty, or interest, to the municipal corporation that 966  
commences the person's time limitation for making an appeal to 967  
the local board of tax review pursuant to section 718.11 of the 968  
Revised Code, and has "ASSESSMENT" written in all capital 969

letters at the top of such finding. 970

(2) "Assessment" does not include an informal notice 971  
denying a request for refund issued under division (B) (3) of 972  
section 718.19 of the Revised Code, a billing statement 973  
notifying a taxpayer of current or past-due balances owed to the 974  
municipal corporation, a tax administrator's request for 975  
additional information, a notification to the taxpayer of 976  
mathematical errors, or a tax administrator's other written 977  
correspondence to a person or taxpayer that does meet the 978  
criteria prescribed by division (PP) (1) of this section. 979

(QQ) "Taxpayers' rights and responsibilities" means the 980  
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 981  
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 982  
Revised Code and the responsibilities of taxpayers to file, 983  
report, withhold, remit, and pay municipal income tax and 984  
otherwise comply with Chapter 718. of the Revised Code and 985  
resolutions, ordinances, and rules adopted by a municipal 986  
corporation for the imposition and administration of a municipal 987  
income tax. 988

(RR) "Qualified municipal corporation" means a municipal 989  
corporation that, by resolution or ordinance adopted on or 990  
before December 31, 2011, adopted Ohio adjusted gross income, as 991  
defined by section 5747.01 of the Revised Code, as the income 992  
subject to tax for the purposes of imposing a municipal income 993  
tax. 994

(SS) (1) "Pre-2017 net operating loss carryforward" means 995  
any net operating loss incurred in a taxable year beginning 996  
before January 1, 2017, to the extent such loss was permitted, 997  
by a resolution or ordinance of the municipal corporation that 998  
was adopted by the municipal corporation before January 1, 2016, 999

to be carried forward and utilized to offset income or net 1000  
profit generated in such municipal corporation in future taxable 1001  
years. 1002

(2) For the purpose of calculating municipal taxable 1003  
income, any pre-2017 net operating loss carryforward may be 1004  
carried forward to any taxable year, including taxable years 1005  
beginning in 2017 or thereafter, for the number of taxable years 1006  
provided in the resolution or ordinance or until fully utilized, 1007  
whichever is earlier. 1008

(TT) "Small employer" means any employer that had total 1009  
revenue of less than five hundred thousand dollars during the 1010  
preceding taxable year. For purposes of this division, "total 1011  
revenue" means receipts of any type or kind, including, but not 1012  
limited to, sales receipts; payments; rents; profits; gains, 1013  
dividends, and other investment income; compensation; 1014  
commissions; premiums; money; property; grants; contributions; 1015  
donations; gifts; program service revenue; patient service 1016  
revenue; premiums; fees, including premium fees and service 1017  
fees; tuition payments; unrelated business revenue; 1018  
reimbursements; any type of payment from a governmental unit, 1019  
including grants and other allocations; and any other similar 1020  
receipts reported for federal income tax purposes or under 1021  
generally accepted accounting principles. "Small employer" does 1022  
not include the federal government; any state government, 1023  
including any state agency or instrumentality; any political 1024  
subdivision; or any entity treated as a government for financial 1025  
accounting and reporting purposes. 1026

(UU) "Audit" means the examination of a person or the 1027  
inspection of the books, records, memoranda, or accounts of a 1028  
person for the purpose of determining liability for a municipal 1029

income tax. 1030

(VV) "Publicly traded partnership" means any partnership, 1031  
an interest in which is regularly traded on an established 1032  
securities market. A "publicly traded partnership" may have any 1033  
number of partners. 1034

(WW) "Out-of-state disaster business," "qualifying 1035  
solicitation," "qualifying employee," "disaster work," "critical 1036  
infrastructure," and "disaster response period" have the same 1037  
meanings as in section 5703.94 of the Revised Code. 1038

**Sec. 718.05.** (A) An annual return with respect to the 1039  
income tax levied by a municipal corporation shall be completed 1040  
and filed by every taxpayer for any taxable year for which the 1041  
taxpayer is liable for the tax. If the total credit allowed 1042  
against the tax as described in division (D) of section 718.04 1043  
of the Revised Code for the year is equal to or exceeds the tax 1044  
imposed by the municipal corporation, no return shall be 1045  
required unless the municipal ordinance or resolution levying 1046  
the tax requires the filing of a return in such circumstances. 1047

(B) If an individual is deceased, any return or notice 1048  
required of that individual shall be completed and filed by that 1049  
decedent's executor, administrator, or other person charged with 1050  
the property of that decedent. 1051

(C) If an individual is unable to complete and file a 1052  
return or notice required by a municipal corporation in 1053  
accordance with this chapter, the return or notice required of 1054  
that individual shall be completed and filed by the individual's 1055  
duly authorized agent, guardian, conservator, fiduciary, or 1056  
other person charged with the care of the person or property of 1057  
that individual. 1058

(D) Returns or notices required of an estate or a trust 1059  
shall be completed and filed by the fiduciary of the estate or 1060  
trust. 1061

(E) No municipal corporation shall deny spouses the 1062  
ability to file a joint return. 1063

(F) (1) Each return required to be filed under this section 1064  
shall contain the signature of the taxpayer or the taxpayer's 1065  
duly authorized agent and of the person who prepared the return 1066  
for the taxpayer, and shall include the taxpayer's social 1067  
security number or taxpayer identification number. Each return 1068  
shall be verified by a declaration under penalty of perjury. 1069

(2) A tax administrator may require a taxpayer who is an 1070  
individual to include, with each annual return, amended return, 1071  
or request for refund required under this section, copies of 1072  
only the following documents: all of the taxpayer's Internal 1073  
Revenue Service form W-2, "Wage and Tax Statements," including 1074  
all information reported on the taxpayer's federal W-2, as well 1075  
as taxable wages reported or withheld for any municipal 1076  
corporation; the taxpayer's Internal Revenue Service form 1040 1077  
or, in the case of a return or request required by a qualified 1078  
municipal corporation, Ohio form IT-1040; and, with respect to 1079  
an amended tax return or refund request, any other documentation 1080  
necessary to support the refund request or the adjustments made 1081  
in the amended return. An individual taxpayer who files the 1082  
annual return required by this section electronically is not 1083  
required to provide paper copies of any of the foregoing to the 1084  
tax administrator unless the tax administrator requests such 1085  
copies after the return has been filed. 1086

(3) A tax administrator may require a taxpayer that is not 1087  
an individual to include, with each annual net profit return, 1088

amended net profit return, or request for refund required under 1089  
this section, copies of only the following documents: the 1090  
taxpayer's Internal Revenue Service form 1041, form 1065, form 1091  
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 1092  
respect to an amended tax return or refund request, any other 1093  
documentation necessary to support the refund request or the 1094  
adjustments made in the amended return. 1095

A taxpayer that is not an individual and that files an 1096  
annual net profit return electronically through the Ohio 1097  
business gateway or in some other manner shall either mail the 1098  
documents required under this division to the tax administrator 1099  
at the time of filing or, if electronic submission is available, 1100  
submit the documents electronically through the Ohio business 1101  
gateway. The department of taxation shall publish a method of 1102  
electronically submitting the documents required under this 1103  
division through the Ohio business gateway on or before January 1104  
1, 2016. The department shall transmit all documents submitted 1105  
electronically under this division to the appropriate tax 1106  
administrator. 1107

(4) After a taxpayer files a tax return, the tax 1108  
administrator may request, and the taxpayer shall provide, any 1109  
information, statements, or documents required by the municipal 1110  
corporation to determine and verify the taxpayer's municipal 1111  
income tax liability. The requirements imposed under division 1112  
(F) of this section apply regardless of whether the taxpayer 1113  
files on a generic form or on a form prescribed by the tax 1114  
administrator. 1115

(G) (1) (a) Except as otherwise provided in this chapter, 1116  
each individual income tax return required to be filed under 1117  
this section shall be completed and filed as required by the tax 1118

administrator on or before the date prescribed for the filing of 1119  
state individual income tax returns under division (G) of 1120  
section 5747.08 of the Revised Code. The taxpayer shall complete 1121  
and file the return or notice on forms prescribed by the tax 1122  
administrator or on generic forms, together with remittance made 1123  
payable to the municipal corporation or tax administrator. No 1124  
remittance is required if the amount shown to be due is ten 1125  
dollars or less. A municipal corporation shall not require a 1126  
qualifying employee whose income consists exclusively of exempt 1127  
income described in division (C) (20) (b) or (c) of section 718.01 1128  
of the Revised Code to file a return under this section. 1129

(b) Except as otherwise provided in this chapter, each 1130  
annual net profit return required to be filed under this section 1131  
by a taxpayer that is not an individual shall be completed and 1132  
filed as required by the tax administrator on or before the 1133  
fifteenth day of the fourth month following the end of the 1134  
taxpayer's taxable year. The taxpayer shall complete and file 1135  
the return or notice on forms prescribed by the tax 1136  
administrator or on generic forms, together with remittance made 1137  
payable to the municipal corporation or tax administrator. No 1138  
remittance is required if the amount shown to be due is ten 1139  
dollars or less. 1140

(2) (a) Any taxpayer that has duly requested an automatic 1141  
six-month extension for filing the taxpayer's federal income tax 1142  
return shall automatically receive an extension for the filing 1143  
of a municipal income tax return. The extended due date of the 1144  
municipal income tax return shall be the fifteenth day of the 1145  
tenth month after the last day of the taxable year to which the 1146  
return relates. 1147

(b) A taxpayer that has not requested or received a six- 1148



month extension for filing the taxpayer's federal income tax 1149  
return may request that the tax administrator grant the taxpayer 1150  
a six-month extension of the date for filing the taxpayer's 1151  
municipal income tax return. If the request is received by the 1152  
tax administrator on or before the date the municipal income tax 1153  
return is due, the tax administrator shall grant the taxpayer's 1154  
requested extension. 1155

(c) An extension of time to file under division (G) (2) of 1156  
this section is not an extension of the time to pay any tax due 1157  
unless the tax administrator grants an extension of that date. 1158

(3) If the tax commissioner extends for all taxpayers the 1159  
date for filing state income tax returns under division (G) of 1160  
section 5747.08 of the Revised Code, a taxpayer shall 1161  
automatically receive an extension for the filing of a municipal 1162  
income tax return. The extended due date of the municipal income 1163  
tax return shall be the same as the extended due date of the 1164  
state income tax return. 1165

(4) If the tax administrator considers it necessary in 1166  
order to ensure the payment of the tax imposed by the municipal 1167  
corporation in accordance with this chapter, the tax 1168  
administrator may require taxpayers to file returns and make 1169  
payments otherwise than as provided in this section, including 1170  
taxpayers not otherwise required to file annual returns. 1171

(5) To the extent that any provision in this division 1172  
conflicts with any provision in section 718.052 of the Revised 1173  
Code, the provision in that section prevails. 1174

(H) (1) For taxable years beginning after 2015, a municipal 1175  
corporation shall not require a taxpayer to remit tax with 1176  
respect to net profits if the amount due is less than ten 1177

dollars. 1178

(2) Any Except as provided in division (H) (3) of this 1179  
section, any taxpayer not required to remit tax to a municipal 1180  
corporation for a taxable year pursuant to division (H) (1) of 1181  
this section shall file with the municipal corporation an annual 1182  
net profit return under division (F) (3) of this section. 1183

(3) A municipal corporation shall not require a person to 1184  
file a net profit return under this section if the person's 1185  
income consists exclusively of exempt income described in 1186  
division (C) (20) (a) of section 718.01 of the Revised Code. 1187

(I) (1) If any report, claim, statement, or other document 1188  
required to be filed, or any payment required to be made, within 1189  
a prescribed period or on or before a prescribed date under this 1190  
chapter is delivered after that period or that date by United 1191  
States mail to the tax administrator or other municipal official 1192  
with which the report, claim, statement, or other document is 1193  
required to be filed, or to which the payment is required to be 1194  
made, the date of the postmark stamped on the cover in which the 1195  
report, claim, statement, or other document, or payment is 1196  
mailed shall be deemed to be the date of delivery or the date of 1197  
payment. "The date of postmark" means, in the event there is 1198  
more than one date on the cover, the earliest date imprinted on 1199  
the cover by the postal service. 1200

(2) If a payment under this chapter is made by electronic 1201  
funds transfer, the payment shall be considered to be made on 1202  
the date of the timestamp assigned by the first electronic 1203  
system receiving that payment. 1204

(J) The amounts withheld by an employer, the agent of an 1205  
employer, or an other payer as described in section 718.03 of 1206

the Revised Code shall be allowed to the recipient of the 1207  
compensation as credits against payment of the tax imposed on 1208  
the recipient by the municipal corporation, unless the amounts 1209  
withheld were not remitted to the municipal corporation and the 1210  
recipient colluded with the employer, agent, or other payer in 1211  
connection with the failure to remit the amounts withheld. 1212

(K) Each return required by a municipal corporation to be 1213  
filed in accordance with this section shall include a box that 1214  
the taxpayer may check to authorize another person, including a 1215  
tax return preparer who prepared the return, to communicate with 1216  
the tax administrator about matters pertaining to the return. 1217  
The return or instructions accompanying the return shall 1218  
indicate that by checking the box the taxpayer authorizes the 1219  
tax administrator to contact the preparer or other person 1220  
concerning questions that arise during the examination or other 1221  
review of the return and authorizes the preparer or other person 1222  
only to provide the tax administrator with information that is 1223  
missing from the return, to contact the tax administrator for 1224  
information about the examination or other review of the return 1225  
or the status of the taxpayer's refund or payments, and to 1226  
respond to notices about mathematical errors, offsets, or return 1227  
preparation that the taxpayer has received from the tax 1228  
administrator and has shown to the preparer or other person. 1229

(L) The tax administrator of a municipal corporation shall 1230  
accept for filing a generic form of any income tax return, 1231  
report, or document required by the municipal corporation in 1232  
accordance with this chapter, provided that the generic form, 1233  
once completed and filed, contains all of the information 1234  
required by ordinance, resolution, or rules adopted by the 1235  
municipal corporation or tax administrator, and provided that 1236  
the taxpayer or tax return preparer filing the generic form 1237

otherwise complies with the provisions of this chapter and of 1238  
the municipal corporation ordinance or resolution governing the 1239  
filing of returns, reports, or documents. 1240

(M) When income tax returns, reports, or other documents 1241  
require the signature of a tax return preparer, the tax 1242  
administrator shall accept a facsimile of such a signature in 1243  
lieu of a manual signature. 1244

(N) (1) As used in this division, "worksite location" has 1245  
the same meaning as in section 718.011 of the Revised Code. 1246

(2) A person may notify a tax administrator that the 1247  
person does not expect to be a taxpayer with respect to the 1248  
municipal corporation for a taxable year if both of the 1249  
following conditions apply: 1250

(a) The person was required to file a tax return with the 1251  
municipal corporation for the immediately preceding taxable year 1252  
because the person performed services at a worksite location 1253  
within that municipal corporation. 1254

(b) The person no longer provides services in the 1255  
municipal corporation and does not expect to be subject to the 1256  
municipal corporation's income tax for the taxable year. 1257

The person shall provide the notice in a signed affidavit 1258  
that briefly explains the person's circumstances, including the 1259  
location of the previous worksite location and the last date on 1260  
which the person performed services or made any sales within the 1261  
municipal corporation. The affidavit also shall include the 1262  
following statement: "The affiant has no plans to perform any 1263  
services within the municipal corporation, make any sales in the 1264  
municipal corporation, or otherwise become subject to the tax 1265  
levied by the municipal corporation during the taxable year. If 1266

the affiant does become subject to the tax levied by the 1267  
municipal corporation for the taxable year, the affiant agrees 1268  
to be considered a taxpayer and to properly register as a 1269  
taxpayer with the municipal corporation if such a registration 1270  
is required by the municipal corporation's resolutions, 1271  
ordinances, or rules." The person shall sign the affidavit under 1272  
penalty of perjury. 1273

(c) If a person submits an affidavit described in division 1274  
(N) (2) of this section, the tax administrator shall not require 1275  
the person to file any tax return for the taxable year unless 1276  
the tax administrator possesses information that conflicts with 1277  
the affidavit or if the circumstances described in the affidavit 1278  
change. Nothing in division (N) of this section prohibits the 1279  
tax administrator from performing an audit of the person. 1280

**Sec. 1329.01.** (A) As used in sections 1329.01 to 1329.10 1281  
of the Revised Code: 1282

(1) "Trade name" means a name used in business or trade to 1283  
designate the business of the user and to which the user asserts 1284  
a right to exclusive use. 1285

(2) "Fictitious name" means a name used in business or 1286  
trade that is fictitious and that the user has not registered or 1287  
is not entitled to register as a trade name. It does not include 1288  
the name of record of any domestic corporation that is formed 1289  
under Chapter 1701. or 1702. of the Revised Code, any foreign 1290  
corporation that is registered pursuant to Chapter 1703. of the 1291  
Revised Code, any domestic or foreign limited liability company 1292  
that is formed under or registered pursuant to Chapter 1705. of 1293  
the Revised Code, any domestic or foreign limited partnership 1294  
that is formed under or registered pursuant to Chapter 1782. of 1295  
the Revised Code, or any domestic or foreign limited liability 1296

partnership that is formed under or registered pursuant to 1297  
Chapter 1775. or 1776. of the Revised Code. 1298

(3) "Person" includes any individual, general partnership, 1299  
limited partnership, limited liability partnership, corporation, 1300  
association, professional association, limited liability 1301  
company, society, foundation, federation, or organization formed 1302  
under the laws of this state or any other state. 1303

(B) ~~Subject~~ Except as provided in section 1701.041 of the 1304  
Revised Code and subject to sections 1329.01 to 1329.10 of the 1305  
Revised Code, any person may register with the secretary of 1306  
state, on a form prescribed by the secretary of state, any trade 1307  
name under which the person is operating, setting forth all of 1308  
the following: 1309

(1) The name and business address of the applicant for 1310  
registration and any of the following that is applicable: 1311

(a) If the applicant is a general partnership, the name 1312  
and address of at least one partner or the identifying number 1313  
the secretary of state assigns to the partnership pursuant to 1314  
section 1776.05 of the Revised Code; 1315

(b) If the applicant is a limited partnership, a 1316  
corporation, professional association, limited liability 1317  
company, or other entity, the form of the entity and the state 1318  
under the laws of which it was formed. 1319

(2) The trade name to be registered; 1320

(3) The general nature of the business conducted by the 1321  
applicant; 1322

(4) The length of time during which the trade name has 1323  
been used by the applicant in business operations in this state. 1324

(C) The trade name application shall be signed by the 1325  
applicant or by any authorized representative of the applicant. 1326

A single trade name may be registered upon each trade name 1327  
application submitted under sections 1329.01 to 1329.10 of the 1328  
Revised Code. 1329

The trade name application shall be accompanied by a 1330  
filing fee of thirty-nine dollars, payable to the secretary of 1331  
state. 1332

(D) Any person who does business under a fictitious name 1333  
and who has not registered and does not wish to register the 1334  
fictitious name as a trade name or who cannot do so because the 1335  
name is not available for registration shall report the use of 1336  
the fictitious name to the secretary of state, on a form 1337  
prescribed by the secretary of state, setting forth all of the 1338  
following: 1339

(1) The name and business address of the user and any of 1340  
the following that is applicable: 1341

(a) If the user is a general partnership, the name and 1342  
address of at least one partner or the identifying number the 1343  
secretary of state assigns to the partnership pursuant to 1344  
section 1775.105 of the Revised Code; 1345

(b) If the user is a limited partnership, a corporation, 1346  
professional association, limited liability company, or other 1347  
entity, the form of the entity and the state under whose laws it 1348  
was formed. 1349

(2) The fictitious name being used; 1350

(3) The general nature of the business conducted by the 1351  
user. 1352

(E) The report of use of a fictitious name shall be signed 1353  
by the user or by any authorized representative of the user. 1354

A single fictitious name may be registered upon each 1355  
fictitious name report submitted under sections 1329.01 to 1356  
1329.10 of the Revised Code. 1357

The fictitious name report shall be accompanied by a 1358  
filing fee of thirty-nine dollars, payable to the secretary of 1359  
state. 1360

A report under this division shall be made within thirty 1361  
days after the date of the first use of the fictitious name. 1362

**Sec. 1701.041.** (A) As used in this section, "critical 1363  
infrastructure," "disaster response period," "disaster work," 1364  
and "qualifying employee" have the same meanings as in section 1365  
5703.94 of the Revised Code. 1366

(B) No person shall be required to file articles of 1367  
incorporation or any other documents or applications with the 1368  
secretary of state as established in sections 111.16, 1329.01, 1369  
1701.04, or elsewhere in the Revised Code or otherwise comply 1370  
with the requirements of Title XVII of the Revised Code as a 1371  
condition precedent to engaging in business in this state for 1372  
any of the following activities: 1373

(1) Disaster work performed in this state by an out-of- 1374  
state disaster business during a disaster response period 1375  
pursuant to a qualifying solicitation received by the business; 1376

(2) Disaster work performed in this state by a qualifying 1377  
employee described in division (A) (14) (a) of section 5703.94 of 1378  
the Revised Code during a disaster response period pursuant to a 1379  
qualifying solicitation received by the employee's employer; 1380



(3) Disaster work performed in this state by a qualifying 1381  
employee described in division (A) (14) (b) of section 5703.94 of 1382  
the Revised Code during a disaster response period on critical 1383  
infrastructure owned or used by the employee's employer. 1384

**Sec. 4123.01.** As used in this chapter: 1385

(A) (1) "Employee" means: 1386

(a) Every person in the service of the state, or of any 1387  
county, municipal corporation, township, or school district 1388  
therein, including regular members of lawfully constituted 1389  
police and fire departments of municipal corporations and 1390  
townships, whether paid or volunteer, and wherever serving 1391  
within the state or on temporary assignment outside thereof, and 1392  
executive officers of boards of education, under any appointment 1393  
or contract of hire, express or implied, oral or written, 1394  
including any elected official of the state, or of any county, 1395  
municipal corporation, or township, or members of boards of 1396  
education. 1397

As used in division (A) (1) (a) of this section, the term 1398  
"employee" includes the following persons when responding to an 1399  
inherently dangerous situation that calls for an immediate 1400  
response on the part of the person, regardless of whether the 1401  
person is within the limits of the jurisdiction of the person's 1402  
regular employment or voluntary service when responding, on the 1403  
condition that the person responds to the situation as the 1404  
person otherwise would if the person were on duty in the 1405  
person's jurisdiction: 1406

(i) Off-duty peace officers. As used in division (A) (1) (a) 1407  
(i) of this section, "peace officer" has the same meaning as in 1408  
section 2935.01 of the Revised Code. 1409

(ii) Off-duty firefighters, whether paid or volunteer, of	1410
a lawfully constituted fire department.	1411
(iii) Off-duty first responders, emergency medical	1412
technicians-basic, emergency medical technicians-intermediate,	1413
or emergency medical technicians-paramedic, whether paid or	1414
volunteer, of an ambulance service organization or emergency	1415
medical service organization pursuant to Chapter 4765. of the	1416
Revised Code.	1417
(b) Every person in the service of any person, firm, or	1418
private corporation, including any public service corporation,	1419
that (i) employs one or more persons regularly in the same	1420
business or in or about the same establishment under any	1421
contract of hire, express or implied, oral or written, including	1422
aliens and minors, household workers who earn one hundred sixty	1423
dollars or more in cash in any calendar quarter from a single	1424
household and casual workers who earn one hundred sixty dollars	1425
or more in cash in any calendar quarter from a single employer,	1426
or (ii) is bound by any such contract of hire or by any other	1427
written contract, to pay into the state insurance fund the	1428
premiums provided by this chapter.	1429
(c) Every person who performs labor or provides services	1430
pursuant to a construction contract, as defined in section	1431
4123.79 of the Revised Code, if at least ten of the following	1432
criteria apply:	1433
(i) The person is required to comply with instructions	1434
from the other contracting party regarding the manner or method	1435
of performing services;	1436
(ii) The person is required by the other contracting party	1437
to have particular training;	1438

(iii) The person's services are integrated into the regular functioning of the other contracting party;	1439 1440
(iv) The person is required to perform the work personally;	1441 1442
(v) The person is hired, supervised, or paid by the other contracting party;	1443 1444
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	1445 1446 1447
(vii) The person's hours of work are established by the other contracting party;	1448 1449
(viii) The person is required to devote full time to the business of the other contracting party;	1450 1451
(ix) The person is required to perform the work on the premises of the other contracting party;	1452 1453
(x) The person is required to follow the order of work set by the other contracting party;	1454 1455
(xi) The person is required to make oral or written reports of progress to the other contracting party;	1456 1457
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	1458 1459
(xiii) The person's expenses are paid for by the other contracting party;	1460 1461
(xiv) The person's tools and materials are furnished by the other contracting party;	1462 1463
(xv) The person is provided with the facilities used to perform services;	1464 1465

(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	1466 1467
(xvii) The person is not performing services for a number of employers at the same time;	1468 1469
(xviii) The person does not make the same services available to the general public;	1470 1471
(xix) The other contracting party has a right to discharge the person;	1472 1473
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	1474 1475 1476
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or <del>if who is</del> a self-insuring employer <u>and who</u> has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	1477 1478 1479 1480 1481 1482 1483 1484 1485 1486 1487 1488 1489
(2) "Employee" does not mean any of the following:	1490
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	1491 1492 1493

(b) Any officer of a family farm corporation;	1494
(c) An individual incorporated as a corporation;	1495
(d) An officer of a nonprofit corporation, as defined in section 1702.01 of the Revised Code, who volunteers the person's services as a an officer;	1496 1497 1498
(e) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code;	1499 1500 1501 1502 1503
<u>(f) (i) A qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;</u>	1504 1505 1506 1507 1508
<u>(ii) A qualifying employee described in division (A) (14) (b) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period on critical infrastructure owned or used by the employee's employer;</u>	1509 1510 1511 1512 1513
<u>(iii) As used in division (A) (2) (f) of this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code.</u>	1514 1515 1516 1517
Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A) (2) (a), (b), (c), or (e) of this section in accordance with rules adopted by the administrator, with the advice and consent of the bureau of	1518 1519 1520 1521 1522

workers' compensation board of directors. If an employer is a 1523  
partnership, sole proprietorship, individual incorporated as a 1524  
corporation, or family farm corporation, such employer may elect 1525  
to include as an "employee" within this chapter, any member of 1526  
such partnership, the owner of the sole proprietorship, the 1527  
individual incorporated as a corporation, or the officers of the 1528  
family farm corporation. Nothing in this section shall prohibit 1529  
a partner, sole proprietor, or any person excluded from the 1530  
definition of "employee" pursuant to division (A) (2) (a), (b), 1531  
(c), or (e) of this section from electing to be included as an 1532  
"employee" under this chapter in accordance with rules adopted 1533  
by the administrator, with the advice and consent of the board. 1534

In the event of an election, the employer or person 1535  
electing coverage shall serve upon the bureau of workers' 1536  
compensation written notice naming the person to be covered and 1537  
include the person's remuneration for premium purposes in all 1538  
future payroll reports. No partner, sole proprietor, or person 1539  
excluded from the definition of "employee" pursuant to division 1540  
(A) (2) (a), (b), (c), or (e) of this section, shall receive 1541  
benefits or compensation under this chapter until the bureau 1542  
receives written notice of the election permitted by this 1543  
section. 1544

For informational purposes only, the bureau shall 1545  
prescribe such language as it considers appropriate, on such of 1546  
its forms as it considers appropriate, to advise employers of 1547  
their right to elect to include as an "employee" within this 1548  
chapter a sole proprietor, any member of a partnership, or a 1549  
person excluded from the definition of "employee" under division 1550  
(A) (2) (a), (b), (c), or (e) of this section, that they should 1551  
check any health and disability insurance policy, or other form 1552  
of health and disability plan or contract, presently covering 1553

them, or the purchase of which they may be considering, to 1554  
determine whether such policy, plan, or contract excludes 1555  
benefits for illness or injury that they might have elected to 1556  
have covered by workers' compensation. 1557

(B) "Employer" means: 1558

(1) The state, including state hospitals, each county, 1559  
municipal corporation, township, school district, and hospital 1560  
owned by a political subdivision or subdivisions other than the 1561  
state; 1562

(2) Every person, firm, professional employer 1563  
organization, and private corporation, including any public 1564  
service corporation, that (a) has in service one or more 1565  
employees or shared employees regularly in the same business or 1566  
in or about the same establishment under any contract of hire, 1567  
express or implied, oral or written, or (b) is bound by any such 1568  
contract of hire or by any other written contract, to pay into 1569  
the insurance fund the premiums provided by this chapter. 1570

All such employers are subject to this chapter. Any member 1571  
of a firm or association, who regularly performs manual labor in 1572  
or about a mine, factory, or other establishment, including a 1573  
household establishment, shall be considered an employee in 1574  
determining whether such person, firm, or private corporation, 1575  
or public service corporation, has in its service, one or more 1576  
employees and the employer shall report the income derived from 1577  
such labor to the bureau as part of the payroll of such 1578  
employer, and such member shall thereupon be entitled to all the 1579  
benefits of an employee. 1580

(C) "Injury" includes any injury, whether caused by 1581  
external accidental means or accidental in character and result, 1582

received in the course of, and arising out of, the injured 1583  
employee's employment. "Injury" does not include: 1584

(1) Psychiatric conditions except where the claimant's 1585  
psychiatric conditions have arisen from an injury or 1586  
occupational disease sustained by that claimant or where the 1587  
claimant's psychiatric conditions have arisen from sexual 1588  
conduct in which the claimant was forced by threat of physical 1589  
harm to engage or participate; 1590

(2) Injury or disability caused primarily by the natural 1591  
deterioration of tissue, an organ, or part of the body; 1592

(3) Injury or disability incurred in voluntary 1593  
participation in an employer-sponsored recreation or fitness 1594  
activity if the employee signs a waiver of the employee's right 1595  
to compensation or benefits under this chapter prior to engaging 1596  
in the recreation or fitness activity; 1597

(4) A condition that pre-existed an injury unless that 1598  
pre-existing condition is substantially aggravated by the 1599  
injury. Such a substantial aggravation must be documented by 1600  
objective diagnostic findings, objective clinical findings, or 1601  
objective test results. Subjective complaints may be evidence of 1602  
such a substantial aggravation. However, subjective complaints 1603  
without objective diagnostic findings, objective clinical 1604  
findings, or objective test results are insufficient to 1605  
substantiate a substantial aggravation. 1606

(D) "Child" includes a posthumous child and a child 1607  
legally adopted prior to the injury. 1608

(E) "Family farm corporation" means a corporation founded 1609  
for the purpose of farming agricultural land in which the 1610  
majority of the voting stock is held by and the majority of the 1611



stockholders are persons or the spouse of persons related to 1612  
each other within the fourth degree of kinship, according to the 1613  
rules of the civil law, and at least one of the related persons 1614  
is residing on or actively operating the farm, and none of whose 1615  
stockholders are a corporation. A family farm corporation does 1616  
not cease to qualify under this division where, by reason of any 1617  
devise, bequest, or the operation of the laws of descent or 1618  
distribution, the ownership of shares of voting stock is 1619  
transferred to another person, as long as that person is within 1620  
the degree of kinship stipulated in this division. 1621

(F) "Occupational disease" means a disease contracted in 1622  
the course of employment, which by its causes and the 1623  
characteristics of its manifestation or the condition of the 1624  
employment results in a hazard which distinguishes the 1625  
employment in character from employment generally, and the 1626  
employment creates a risk of contracting the disease in greater 1627  
degree and in a different manner from the public in general. 1628

(G) "Self-insuring employer" means an employer who is 1629  
granted the privilege of paying compensation and benefits 1630  
directly under section 4123.35 of the Revised Code, including a 1631  
board of county commissioners for the sole purpose of 1632  
constructing a sports facility as defined in section 307.696 of 1633  
the Revised Code, provided that the electors of the county in 1634  
which the sports facility is to be built have approved 1635  
construction of a sports facility by ballot election no later 1636  
than November 6, 1997. 1637

(H) "Private employer" means an employer as defined in 1638  
division (B) (2) of this section. 1639

(I) "Professional employer organization" has the same 1640  
meaning as in section 4125.01 of the Revised Code. 1641

(J) "Public employer" means an employer as defined in 1642  
division (B)(1) of this section. 1643

(K) "Sexual conduct" means vaginal intercourse between a 1644  
male and female; anal intercourse, fellatio, and cunnilingus 1645  
between persons regardless of gender; and, without privilege to 1646  
do so, the insertion, however slight, of any part of the body or 1647  
any instrument, apparatus, or other object into the vaginal or 1648  
anal cavity of another. Penetration, however slight, is 1649  
sufficient to complete vaginal or anal intercourse. 1650

(L) "Other-states' insurer" means an insurance company 1651  
that is authorized to provide workers' compensation insurance 1652  
coverage in any of the states that permit employers to obtain 1653  
insurance for workers' compensation claims through insurance 1654  
companies. 1655

(M) "Other-states' coverage" means both of the following: 1656

(1) Insurance coverage secured by an eligible employer for 1657  
workers' compensation claims of employees who are in employment 1658  
relationships localized in a state other than this state or 1659  
those employees' dependents; 1660

(2) Insurance coverage secured by an eligible employer for 1661  
workers' compensation claims that arise in a state other than 1662  
this state where an employer elects to obtain coverage through 1663  
either the administrator or an other-states' insurer. 1664

(N) "Limited other-states coverage" means insurance 1665  
coverage provided by the administrator to an eligible employer 1666  
for workers' compensation claims of employees who are in an 1667  
employment relationship localized in this state but are 1668  
temporarily working in a state other than this state, or those 1669  
employees' dependents. 1670

**Sec. 4141.42.** (A) As used in this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code. 1671  
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(B) The director of job and family services may enter into reciprocal agreements with departments charged with the administration of the unemployment compensation law of any other state or the United States or Canada for the purpose of determining and placing the liability of an employer for the payment of contributions for services rendered within this state or such other jurisdiction, or both, and to provide that the jurisdiction authorized to collect the contributions shall determine the benefit rights which may arise in connection with such services and assume the liability for the payment of the benefits. 1675  
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(C) An agreement described in division (B) of this section shall provide that an employer is not liable for disaster work performed in this state during a disaster response period by either of the following: 1686  
1687  
1688  
1689

(1) A qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code, when the disaster work is performed pursuant to a qualifying solicitation received by the employee's employer; 1690  
1691  
1692  
1693

(2) A qualifying employee described in division (A) (14) (b) of section 5703.94 of the Revised Code, when the disaster work is performed on critical infrastructure owned or used by the employee's employer. 1694  
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**Sec. 4799.04.** (A) As used in this section, "critical infrastructure," "disaster response period," "disaster work," 1698  
1699

"out-of-state disaster business," and "qualifying employee" have 1700  
the same meanings as in section 5703.94 of the Revised Code. 1701

(B) No out-of-state disaster business or qualifying 1702  
employee shall be required to obtain a state or local license or 1703  
other authorization to engage in an occupation in this state for 1704  
an activity for which a license or other authorization is 1705  
required under Title XLVII of the Revised Code, local ordinance, 1706  
or other provision of state or local law, rule, or regulation if 1707  
any of the following are true: 1708

(1) The activity is disaster work performed in this state 1709  
by an out-of-state disaster business during a disaster response 1710  
period pursuant to a qualifying solicitation received by the 1711  
business. 1712

(2) The activity is disaster work performed in this state 1713  
by a qualifying employee described in division (A) (14) (a) of 1714  
section 5703.94 of the Revised Code during a disaster response 1715  
period pursuant to a qualifying solicitation received by the 1716  
employee's employer. 1717

(3) The activity is disaster work performed in this state 1718  
by a qualifying employee described in division (A) (14) (b) of 1719  
section 5703.94 of the Revised Code during a disaster response 1720  
period on critical infrastructure owned or used by the 1721  
employee's employer. 1722

(C) (1) Upon request by the secretary of state, the 1723  
employer of each qualifying employee who performed disaster work 1724  
in this state during the disaster response period shall provide 1725  
proof of the employee's eligibility to perform the disaster work 1726  
as determined by the employer's books and records. 1727

(2) If the secretary makes a request under division (C) (1) 1728

of this section, the employer shall submit information described 1729  
in that division to the secretary not later than thirty days 1730  
from the date the disaster response period terminates or thirty 1731  
days from the date the employer receives the request, whichever 1732  
is later. 1733

**Sec. 5703.94.** (A) As used in this section: 1734

(1) "Declared disaster" means an event for which a 1735  
disaster declaration has been issued. 1736

(2) "Disaster declaration" means a declaration issued by 1737  
the president of the United States or the governor of this state 1738  
that an emergency exists. 1739

(3) "Disaster response period" means the period that 1740  
begins on the tenth day preceding the day on which a disaster 1741  
declaration is issued through the sixtieth day following the day 1742  
that the disaster declaration expires or is rescinded. 1743

(4) "Disaster work" means both of the following: 1744

(a) Repairing, renovating, installing, or constructing 1745  
critical infrastructure damaged or destroyed by the declared 1746  
disaster, or other business activities related to that critical 1747  
infrastructure; 1748

(b) Activities conducted in preparation for any activity 1749  
described in division (A)(4)(a) of this section. 1750

(5) "Critical infrastructure" means property and equipment 1751  
owned or used by a qualifying owner or user to provide service 1752  
to more than one customer, including related support facilities 1753  
such as buildings, offices, power lines, cable lines, poles, 1754  
communication lines, and structures. 1755

(6) "Qualifying owner or user" means a public utility, 1756

commercial mobile radio service provider, cable service 1757  
provider, or video service provider. 1758

(7) "Public utility" has the same meaning as in section 1759  
4905.02 of the Revised Code, without regard to the exclusions 1760  
from that definition prescribed in divisions (A) (1) to (5) of 1761  
that section. 1762

(8) "Commercial mobile radio service provider" means a 1763  
person providing commercial mobile service as defined in 47 1764  
U.S.C. 332(d). 1765

(9) "Cable service provider" and "video service provider" 1766  
have the same meanings as in section 1332.21 of the Revised 1767  
Code. 1768

(10) "Out-of-state disaster business" means a person that 1769  
does all of the following or to which apply all of the 1770  
following: 1771

(a) Receives a qualifying solicitation; 1772

(b) Conducts disaster work in this state during a disaster 1773  
response period; 1774

(c) Is not subject to taxation under Chapter 5747. or 1775  
5751. of the Revised Code on any basis other than such disaster 1776  
work during the calendar year preceding the year in which the 1777  
disaster response period begins or is subject to such taxation 1778  
during that year solely because the person is a related member 1779  
of another person. 1780

(11) "Out-of-state employee" means an individual who 1781  
performs no work in this state, except disaster work during a 1782  
disaster response period, from the first day of the preceding 1783  
calendar year to the date on which the disaster response period 1784

begins. 1785

(12) "Related member" has the same meaning as in section 5733.042 of the Revised Code without regard to division (B) of that section. 1786  
1787  
1788

(13) "Qualifying solicitation" means a written solicitation or request from the state, a county, municipal corporation, or township, or a qualifying user or owner of critical infrastructure soliciting or requesting the assistance of a person to perform disaster work in this state. 1789  
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(14) "Qualifying employee" means one of the following: 1794

(a) An out-of-state employee performing disaster work in this state during a disaster response period whose employer receives a qualifying solicitation to perform such work; 1795  
1796  
1797

(b) An out-of-state employee performing disaster work in this state on critical infrastructure owned or used by the employee's employer during a disaster response period, provided that employer is a qualifying user or owner. 1798  
1799  
1800  
1801

(B) An out-of-state disaster business or qualifying employee shall qualify for all of the following, as applicable: 1802  
1803

(1) The exemption authorized in division (C) (20) of section 718.01, the exemption authorized in division (C) (10) of section 5741.02, the deduction authorized in division (A) (33) of section 5747.01, and the exclusion authorized in division (F) (2) (11) of section 5751.01 of the Revised Code; 1804  
1805  
1806  
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1808

(2) An exemption from any requirement to file a document or application with or to remit a fee to the secretary of state as a condition precedent to engaging in business in this state, in accordance with section 1701.041 of the Revised Code; 1809  
1810  
1811  
1812

(3) An exemption from the requirements of Chapters 4121., 1813  
4123., and 4141. of the Revised Code, in accordance with 1814  
division (A)(2) of section 4123.01 and section 4141.42 of the 1815  
Revised Code; 1816

(4) An exemption from the requirement to obtain a state or 1817  
local occupational license or other authorization, in accordance 1818  
with section 4799.04 of the Revised Code. 1819

(C)(1) Upon the request of the tax commissioner, an out- 1820  
of-state disaster business shall provide the following 1821  
information to the commissioner: 1822

(a) The name of the out-of-state disaster business and the 1823  
address of its principal place of business; 1824

(b) The business' federal tax identification number; 1825

(c) A copy of the qualifying solicitation received by the 1826  
business; 1827

(d) The dates that the out-of-state disaster business and 1828  
each of the business' out-of-state employees performing disaster 1829  
work in this state during a disaster response period began 1830  
performing disaster work in this state during that period; 1831

(e) The name and social security number of each of the 1832  
out-of-state disaster business' out-of-state employees 1833  
performing disaster work in this state during a disaster 1834  
response period; 1835

(f) The name of any person of which the out-of-state 1836  
disaster business is a related member, provided that person is 1837  
subject to taxation under Chapter 5747. or 5751. of the Revised 1838  
Code during the calendar year preceding the year in which the 1839  
disaster response period begins; 1840



(g) Any other information required by the tax commissioner. 1841  
1842

(2) Upon the request of the tax commissioner, the employer of a qualifying employee shall provide the following information to the commissioner: 1843  
1844  
1845

(a) The employer's name and the address of its principal place of business; 1846  
1847

(b) The employer's federal tax identification number; 1848

(c) For the employer of a qualifying employee described in division (A) (14) (a) of this section, a copy of the qualifying solicitation received by the employer; 1849  
1850  
1851

(d) The date each of the employer's out-of-state employees performing disaster work in this state during a disaster response period began performing disaster work in this state during that period; 1852  
1853  
1854  
1855

(e) The name and social security number of each of the employer's out-of-state employees performing disaster work in this state during a disaster response period; 1856  
1857  
1858

(f) Any other information required by the tax commissioner. 1859  
1860

(3) If the commissioner makes a request under division (C) (1) or (2) of this section, the out-of-state disaster business or employer shall submit information described in that division to the commissioner not later than thirty days from the date the disaster response period terminates or thirty days after the business or employer receives the request, whichever is later. 1861  
1862  
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(D) The department of taxation may adopt rules necessary to administer this section. 1867  
1868

**Sec. 5741.02.** (A) (1) For the use of the general revenue 1869  
fund of the state, an excise tax is hereby levied on the 1870  
storage, use, or other consumption in this state of tangible 1871  
personal property or the benefit realized in this state of any 1872  
service provided. The tax shall be collected as provided in 1873  
section 5739.025 of the Revised Code. The rate of the tax shall 1874  
be five and three-fourths per cent. 1875

(2) In the case of the lease or rental, with a fixed term 1876  
of more than thirty days or an indefinite term with a minimum 1877  
period of more than thirty days, of any motor vehicles designed 1878  
by the manufacturer to carry a load of not more than one ton, 1879  
watercraft, outboard motor, or aircraft, or of any tangible 1880  
personal property, other than motor vehicles designed by the 1881  
manufacturer to carry a load of more than one ton, to be used by 1882  
the lessee or renter primarily for business purposes, the tax 1883  
shall be collected by the seller at the time the lease or rental 1884  
is consummated and shall be calculated by the seller on the 1885  
basis of the total amount to be paid by the lessee or renter 1886  
under the lease or rental agreement. If the total amount of the 1887  
consideration for the lease or rental includes amounts that are 1888  
not calculated at the time the lease or rental is executed, the 1889  
tax shall be calculated and collected by the seller at the time 1890  
such amounts are billed to the lessee or renter. In the case of 1891  
an open-end lease or rental, the tax shall be calculated by the 1892  
seller on the basis of the total amount to be paid during the 1893  
initial fixed term of the lease or rental, and for each 1894  
subsequent renewal period as it comes due. As used in this 1895  
division, "motor vehicle" has the same meaning as in section 1896  
4501.01 of the Revised Code, and "watercraft" includes an 1897  
outdrive unit attached to the watercraft. 1898

(3) Except as provided in division (A) (2) of this section, 1899

in the case of a transaction, the price of which consists in 1900  
whole or part of the lease or rental of tangible personal 1901  
property, the tax shall be measured by the installments of those 1902  
leases or rentals. 1903

(B) Each consumer, storing, using, or otherwise consuming 1904  
in this state tangible personal property or realizing in this 1905  
state the benefit of any service provided, shall be liable for 1906  
the tax, and such liability shall not be extinguished until the 1907  
tax has been paid to this state; provided, that the consumer 1908  
shall be relieved from further liability for the tax if the tax 1909  
has been paid to a seller in accordance with section 5741.04 of 1910  
the Revised Code or prepaid by the seller in accordance with 1911  
section 5741.06 of the Revised Code. 1912

(C) The tax does not apply to the storage, use, or 1913  
consumption in this state of the following described tangible 1914  
personal property or services, nor to the storage, use, or 1915  
consumption or benefit in this state of tangible personal 1916  
property or services purchased under the following described 1917  
circumstances: 1918

(1) When the sale of property or service in this state is 1919  
subject to the excise tax imposed by sections 5739.01 to 5739.31 1920  
of the Revised Code, provided said tax has been paid; 1921

(2) Except as provided in division (D) of this section, 1922  
tangible personal property or services, the acquisition of 1923  
which, if made in Ohio, would be a sale not subject to the tax 1924  
imposed by sections 5739.01 to 5739.31 of the Revised Code; 1925

(3) Property or services, the storage, use, or other 1926  
consumption of or benefit from which this state is prohibited 1927  
from taxing by the Constitution of the United States, laws of 1928

the United States, or the Constitution of this state. This 1929  
exemption shall not exempt from the application of the tax 1930  
imposed by this section the storage, use, or consumption of 1931  
tangible personal property that was purchased in interstate 1932  
commerce, but that has come to rest in this state, provided that 1933  
fuel to be used or transported in carrying on interstate 1934  
commerce that is stopped within this state pending transfer from 1935  
one conveyance to another is exempt from the excise tax imposed 1936  
by this section and section 5739.02 of the Revised Code; 1937

(4) Transient use of tangible personal property in this 1938  
state by a nonresident tourist or vacationer, or a nonbusiness 1939  
use within this state by a nonresident of this state, if the 1940  
property so used was purchased outside this state for use 1941  
outside this state and is not required to be registered or 1942  
licensed under the laws of this state; 1943

(5) Tangible personal property or services rendered, upon 1944  
which taxes have been paid to another jurisdiction to the extent 1945  
of the amount of the tax paid to such other jurisdiction. Where 1946  
the amount of the tax imposed by this section and imposed 1947  
pursuant to section 5741.021, 5741.022, or 5741.023 of the 1948  
Revised Code exceeds the amount paid to another jurisdiction, 1949  
the difference shall be allocated between the tax imposed by 1950  
this section and any tax imposed by a county or a transit 1951  
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 1952  
the Revised Code, in proportion to the respective rates of such 1953  
taxes. 1954

As used in this subdivision, "taxes paid to another 1955  
jurisdiction" means the total amount of retail sales or use tax 1956  
or similar tax based upon the sale, purchase, or use of tangible 1957  
personal property or services rendered legally, levied by and 1958

paid to another state or political subdivision thereof, or to 1959  
the District of Columbia, where the payment of such tax does not 1960  
entitle the taxpayer to any refund or credit for such payment. 1961

(6) The transfer of a used manufactured home or used 1962  
mobile home, as defined by section 5739.0210 of the Revised 1963  
Code, made on or after January 1, 2000; 1964

(7) Drugs that are or are intended to be distributed free 1965  
of charge to a practitioner licensed to prescribe, dispense, and 1966  
administer drugs to a human being in the course of a 1967  
professional practice and that by law may be dispensed only by 1968  
or upon the order of such a practitioner; 1969

(8) Computer equipment and related software leased from a 1970  
lessor located outside this state and initially received in this 1971  
state on behalf of the consumer by a third party that will 1972  
retain possession of such property for not more than ninety days 1973  
and that will, within that ninety-day period, deliver such 1974  
property to the consumer at a location outside this state. 1975  
Division (C) (8) of this section does not provide exemption from 1976  
taxation for any otherwise taxable charges associated with such 1977  
property while it is in this state or for any subsequent 1978  
storage, use, or consumption of such property in this state by 1979  
or on behalf of the consumer. 1980

(9) Tangible personal property held for sale by a person 1981  
but not for that person's own use and donated by that person, 1982  
without charge or other compensation, to either of the 1983  
following: 1984

(a) A nonprofit organization operated exclusively for 1985  
charitable purposes in this state, no part of the net income of 1986  
which inures to the benefit of any private shareholder or 1987

individual and no substantial part of the activities of which 1988  
consists of carrying on propaganda or otherwise attempting to 1989  
influence legislation; or 1990

(b) This state or any political subdivision of this state, 1991  
but only if donated for exclusively public purposes. 1992

For the purposes of division (C) ~~(10)~~ (9) of this section, 1993  
"charitable purposes" has the same meaning as in division (B) 1994  
(12) of section 5739.02 of the Revised Code. 1995

(10) Equipment stored, used, or otherwise consumed in this 1996  
state by an out-of-state disaster business during a disaster 1997  
response period during which the business conducts disaster work 1998  
pursuant to a qualifying solicitation received by the business, 1999  
provided the equipment is removed from the state before the last 2000  
day of that period. All terms used in division (C) (10) of this 2001  
section have the same meanings as in section 5703.94 of the 2002  
Revised Code. 2003

(D) The tax applies to the storage, use, or other 2004  
consumption in this state of tangible personal property or 2005  
services, the acquisition of which at the time of sale was 2006  
excepted under division (E) of section 5739.01 of the Revised 2007  
Code from the tax imposed by section 5739.02 of the Revised 2008  
Code, but which has subsequently been temporarily or permanently 2009  
stored, used, or otherwise consumed in a taxable manner. 2010

(E) (1) (a) If any transaction is claimed to be exempt under 2011  
division (E) of section 5739.01 of the Revised Code or under 2012  
section 5739.02 of the Revised Code, with the exception of 2013  
divisions (B) (1) to (11) or (28) of section 5739.02 of the 2014  
Revised Code, the consumer shall provide to the seller, and the 2015  
seller shall obtain from the consumer, a certificate specifying 2016

the reason that the transaction is not subject to the tax. The 2017  
certificate shall be in such form, and shall be provided either 2018  
in a hard copy form or electronic form, as the tax commissioner 2019  
prescribes. 2020

(b) A seller that obtains a fully completed exemption 2021  
certificate from a consumer is relieved of liability for 2022  
collecting and remitting tax on any sale covered by that 2023  
certificate. If it is determined the exemption was improperly 2024  
claimed, the consumer shall be liable for any tax due on that 2025  
sale under this chapter. Relief under this division from 2026  
liability does not apply to any of the following: 2027

(i) A seller that fraudulently fails to collect tax; 2028

(ii) A seller that solicits consumers to participate in 2029  
the unlawful claim of an exemption; 2030

(iii) A seller that accepts an exemption certificate from 2031  
a consumer that claims an exemption based on who purchases or 2032  
who sells property or a service, when the subject of the 2033  
transaction sought to be covered by the exemption certificate is 2034  
actually received by the consumer at a location operated by the 2035  
seller in this state, and this state has posted to its web site 2036  
an exemption certificate form that clearly and affirmatively 2037  
indicates that the claimed exemption is not available in this 2038  
state; 2039

(iv) A seller that accepts an exemption certificate from a 2040  
consumer who claims a multiple points of use exemption under 2041  
division (D) of section 5739.033 of the Revised Code, if the 2042  
item purchased is tangible personal property, other than 2043  
prewritten computer software. 2044

(2) The seller shall maintain records, including exemption 2045

certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) If no certificate is provided or obtained within ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a seller, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence



within ninety days of the receipt by the seller of the notice of  
assessment, except that, upon application and for reasonable  
cause, the tax commissioner may extend the period for submitting  
such evidence thirty days.

(G) For the purpose of the proper administration of  
sections 5741.01 to 5741.22 of the Revised Code, and to prevent  
the evasion of the tax hereby levied, it shall be presumed that  
any use, storage, or other consumption of tangible personal  
property in this state is subject to the tax until the contrary  
is established.

(H) The tax collected by the seller from the consumer  
under this chapter is not part of the price, but is a tax  
collection for the benefit of the state, and of counties levying  
an additional use tax pursuant to section 5741.021 or 5741.023  
of the Revised Code and of transit authorities levying an  
additional use tax pursuant to section 5741.022 of the Revised  
Code. Except for the discount authorized under section 5741.12  
of the Revised Code and the effects of any rounding pursuant to  
section 5703.055 of the Revised Code, no person other than the  
state or such a county or transit authority shall derive any  
benefit from the collection of such tax.

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

As used in this chapter:	2106
(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:	2107 2108 2109 2110
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	2111 2112 2113 2114
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	2115 2116 2117 2118 2119
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	2120 2121 2122 2123 2124 2125
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	2126 2127
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	2128 2129 2130 2131
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the	2132 2133 2134

beneficiary's taxable years beginning before 2002, the portion, 2135  
if any, of such distribution that does not exceed the 2136  
undistributed net income of the trust for the three taxable 2137  
years preceding the taxable year in which the distribution is 2138  
made to the extent that the portion was not included in the 2139  
trust's taxable income for any of the trust's taxable years 2140  
beginning in 2002 or thereafter. "Undistributed net income of a 2141  
trust" means the taxable income of the trust increased by (a) (i) 2142  
the additions to adjusted gross income required under division 2143  
(A) of this section and (ii) the personal exemptions allowed to 2144  
the trust pursuant to section 642(b) of the Internal Revenue 2145  
Code, and decreased by (b) (i) the deductions to adjusted gross 2146  
income required under division (A) of this section, (ii) the 2147  
amount of federal income taxes attributable to such income, and 2148  
(iii) the amount of taxable income that has been included in the 2149  
adjusted gross income of a beneficiary by reason of a prior 2150  
accumulation distribution. Any undistributed net income included 2151  
in the adjusted gross income of a beneficiary shall reduce the 2152  
undistributed net income of the trust commencing with the 2153  
earliest years of the accumulation period. 2154

(7) Deduct the amount of wages and salaries, if any, not 2155  
otherwise allowable as a deduction but that would have been 2156  
allowable as a deduction in computing federal adjusted gross 2157  
income for the taxable year, had the targeted jobs credit 2158  
allowed and determined under sections 38, 51, and 52 of the 2159  
Internal Revenue Code not been in effect. 2160

(8) Deduct any interest or interest equivalent on public 2161  
obligations and purchase obligations to the extent that the 2162  
interest or interest equivalent is included in federal adjusted 2163  
gross income. 2164

(9) Add any loss or deduct any gain resulting from the 2165  
sale, exchange, or other disposition of public obligations to 2166  
the extent that the loss has been deducted or the gain has been 2167  
included in computing federal adjusted gross income. 2168

(10) Deduct or add amounts, as provided under section 2169  
5747.70 of the Revised Code, related to contributions to 2170  
variable college savings program accounts made or tuition units 2171  
purchased pursuant to Chapter 3334. of the Revised Code. 2172

(11) (a) Deduct, to the extent not otherwise allowable as a 2173  
deduction or exclusion in computing federal or Ohio adjusted 2174  
gross income for the taxable year, the amount the taxpayer paid 2175  
during the taxable year for medical care insurance and qualified 2176  
long-term care insurance for the taxpayer, the taxpayer's 2177  
spouse, and dependents. No deduction for medical care insurance 2178  
under division (A) (11) of this section shall be allowed either 2179  
to any taxpayer who is eligible to participate in any subsidized 2180  
health plan maintained by any employer of the taxpayer or of the 2181  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 2182  
application would be entitled to, benefits under part A of Title 2183  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 2184  
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 2185  
of this section, "subsidized health plan" means a health plan 2186  
for which the employer pays any portion of the plan's cost. The 2187  
deduction allowed under division (A) (11) (a) of this section 2188  
shall be the net of any related premium refunds, related premium 2189  
reimbursements, or related insurance premium dividends received 2190  
during the taxable year. 2191

(b) Deduct, to the extent not otherwise deducted or 2192  
excluded in computing federal or Ohio adjusted gross income 2193  
during the taxable year, the amount the taxpayer paid during the 2194

taxable year, not compensated for by any insurance or otherwise, 2195  
for medical care of the taxpayer, the taxpayer's spouse, and 2196  
dependents, to the extent the expenses exceed seven and one-half 2197  
per cent of the taxpayer's federal adjusted gross income. 2198

(c) Deduct, to the extent not otherwise deducted or 2199  
excluded in computing federal or Ohio adjusted gross income, any 2200  
amount included in federal adjusted gross income under section 2201  
105 or not excluded under section 106 of the Internal Revenue 2202  
Code solely because it relates to an accident and health plan 2203  
for a person who otherwise would be a "qualifying relative" and 2204  
thus a "dependent" under section 152 of the Internal Revenue 2205  
Code but for the fact that the person fails to meet the income 2206  
and support limitations under section 152(d)(1)(B) and (C) of 2207  
the Internal Revenue Code. 2208

(d) For purposes of division (A)(11) of this section, 2209  
"medical care" has the meaning given in section 213 of the 2210  
Internal Revenue Code, subject to the special rules, 2211  
limitations, and exclusions set forth therein, and "qualified 2212  
long-term care" has the same meaning given in section 7702B(c) 2213  
of the Internal Revenue Code. Solely for purposes of divisions 2214  
(A)(11)(a) and (c) of this section, "dependent" includes a 2215  
person who otherwise would be a "qualifying relative" and thus a 2216  
"dependent" under section 152 of the Internal Revenue Code but 2217  
for the fact that the person fails to meet the income and 2218  
support limitations under section 152(d)(1)(B) and (C) of the 2219  
Internal Revenue Code. 2220

(12)(a) Deduct any amount included in federal adjusted 2221  
gross income solely because the amount represents a 2222  
reimbursement or refund of expenses that in any year the 2223  
taxpayer had deducted as an itemized deduction pursuant to 2224

section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A) (12) (a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

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

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

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

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

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

(15) (a) Add an amount equal to the funds withdrawn from a

medical savings account during the taxable year, and the net 2254  
investment earnings on those funds, when the funds withdrawn 2255  
were used for any purpose other than to reimburse an account 2256  
holder for, or to pay, eligible medical expenses, in accordance 2257  
with section 3924.66 of the Revised Code; 2258

(b) Add the amounts distributed from a medical savings 2259  
account under division (A) (2) of section 3924.68 of the Revised 2260  
Code during the taxable year. 2261

(16) Add any amount claimed as a credit under section 2262  
5747.059 or 5747.65 of the Revised Code to the extent that such 2263  
amount satisfies either of the following: 2264

(a) The amount was deducted or excluded from the 2265  
computation of the taxpayer's federal adjusted gross income as 2266  
required to be reported for the taxpayer's taxable year under 2267  
the Internal Revenue Code; 2268

(b) The amount resulted in a reduction of the taxpayer's 2269  
federal adjusted gross income as required to be reported for any 2270  
of the taxpayer's taxable years under the Internal Revenue Code. 2271

(17) Deduct the amount contributed by the taxpayer to an 2272  
individual development account program established by a county 2273  
department of job and family services pursuant to sections 2274  
329.11 to 329.14 of the Revised Code for the purpose of matching 2275  
funds deposited by program participants. On request of the tax 2276  
commissioner, the taxpayer shall provide any information that, 2277  
in the tax commissioner's opinion, is necessary to establish the 2278  
amount deducted under division (A) (17) of this section. 2279

(18) Beginning in taxable year 2001 but not for any 2280  
taxable year beginning after December 31, 2005, if the taxpayer 2281  
is married and files a joint return and the combined federal 2282

adjusted gross income of the taxpayer and the taxpayer's spouse 2283  
for the taxable year does not exceed one hundred thousand 2284  
dollars, or if the taxpayer is single and has a federal adjusted 2285  
gross income for the taxable year not exceeding fifty thousand 2286  
dollars, deduct amounts paid during the taxable year for 2287  
qualified tuition and fees paid to an eligible institution for 2288  
the taxpayer, the taxpayer's spouse, or any dependent of the 2289  
taxpayer, who is a resident of this state and is enrolled in or 2290  
attending a program that culminates in a degree or diploma at an 2291  
eligible institution. The deduction may be claimed only to the 2292  
extent that qualified tuition and fees are not otherwise 2293  
deducted or excluded for any taxable year from federal or Ohio 2294  
adjusted gross income. The deduction may not be claimed for 2295  
educational expenses for which the taxpayer claims a credit 2296  
under section 5747.27 of the Revised Code. 2297

(19) Add any reimbursement received during the taxable 2298  
year of any amount the taxpayer deducted under division (A) (18) 2299  
of this section in any previous taxable year to the extent the 2300  
amount is not otherwise included in Ohio adjusted gross income. 2301

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 2302  
(v) of this section, add five-sixths of the amount of 2303  
depreciation expense allowed by subsection (k) of section 168 of 2304  
the Internal Revenue Code, including the taxpayer's 2305  
proportionate or distributive share of the amount of 2306  
depreciation expense allowed by that subsection to a pass- 2307  
through entity in which the taxpayer has a direct or indirect 2308  
ownership interest. 2309

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 2310  
of this section, add five-sixths of the amount of qualifying 2311  
section 179 depreciation expense, including the taxpayer's 2312



proportionate or distributive share of the amount of qualifying 2313  
section 179 depreciation expense allowed to any pass-through 2314  
entity in which the taxpayer has a direct or indirect ownership 2315  
interest. 2316

(iii) Subject to division (A) (20) (a) (v) of this section, 2317  
for taxable years beginning in 2012 or thereafter, if the 2318  
increase in income taxes withheld by the taxpayer is equal to or 2319  
greater than ten per cent of income taxes withheld by the 2320  
taxpayer during the taxpayer's immediately preceding taxable 2321  
year, "two-thirds" shall be substituted for "five-sixths" for 2322  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2323

(iv) Subject to division (A) (20) (a) (v) of this section, 2324  
for taxable years beginning in 2012 or thereafter, a taxpayer is 2325  
not required to add an amount under division (A) (20) of this 2326  
section if the increase in income taxes withheld by the taxpayer 2327  
and by any pass-through entity in which the taxpayer has a 2328  
direct or indirect ownership interest is equal to or greater 2329  
than the sum of (I) the amount of qualifying section 179 2330  
depreciation expense and (II) the amount of depreciation expense 2331  
allowed to the taxpayer by subsection (k) of section 168 of the 2332  
Internal Revenue Code, and including the taxpayer's 2333  
proportionate or distributive shares of such amounts allowed to 2334  
any such pass-through entities. 2335

(v) If a taxpayer directly or indirectly incurs a net 2336  
operating loss for the taxable year for federal income tax 2337  
purposes, to the extent such loss resulted from depreciation 2338  
expense allowed by subsection (k) of section 168 of the Internal 2339  
Revenue Code and by qualifying section 179 depreciation expense, 2340  
"the entire" shall be substituted for "five-sixths of the" for 2341  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2342

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

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

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

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

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

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

(ii) "Increase in income taxes withheld" means the amount

by which the amount of income taxes withheld by an employer 2372  
during the employer's current taxable year exceeds the amount of 2373  
income taxes withheld by that employer during the employer's 2374  
immediately preceding taxable year. 2375

(iii) "Qualifying section 179 depreciation expense" means 2376  
the difference between (I) the amount of depreciation expense 2377  
directly or indirectly allowed to a taxpayer under section 179 2378  
of the Internal Revised Code, and (II) the amount of 2379  
depreciation expense directly or indirectly allowed to the 2380  
taxpayer under section 179 of the Internal Revenue Code as that 2381  
section existed on December 31, 2002. 2382

(21) (a) If the taxpayer was required to add an amount 2383  
under division (A) (20) (a) of this section for a taxable year, 2384  
deduct one of the following: 2385

(i) One-fifth of the amount so added for each of the five 2386  
succeeding taxable years if the amount so added was five-sixths 2387  
of qualifying section 179 depreciation expense or depreciation 2388  
expense allowed by subsection (k) of section 168 of the Internal 2389  
Revenue Code; 2390

(ii) One-half of the amount so added for each of the two 2391  
succeeding taxable years if the amount so added was two-thirds 2392  
of such depreciation expense; 2393

(iii) One-sixth of the amount so added for each of the six 2394  
succeeding taxable years if the entire amount of such 2395  
depreciation expense was so added. 2396

(b) If the amount deducted under division (A) (21) (a) of 2397  
this section is attributable to an add-back allocated under 2398  
division (A) (20) (c) of this section, the amount deducted shall 2399  
be situated to the same location. Otherwise, the add-back shall 2400

be apportioned using the apportionment factors for the taxable 2401  
year in which the deduction is taken, subject to one or more of 2402  
the four alternative methods of apportionment enumerated in 2403  
section 5747.21 of the Revised Code. 2404

(c) No deduction is available under division (A) (21) (a) of 2405  
this section with regard to any depreciation allowed by section 2406  
168(k) of the Internal Revenue Code and by the qualifying 2407  
section 179 depreciation expense amount to the extent that such 2408  
depreciation results in or increases a federal net operating 2409  
loss carryback or carryforward. If no such deduction is 2410  
available for a taxable year, the taxpayer may carry forward the 2411  
amount not deducted in such taxable year to the next taxable 2412  
year and add that amount to any deduction otherwise available 2413  
under division (A) (21) (a) of this section for that next taxable 2414  
year. The carryforward of amounts not so deducted shall continue 2415  
until the entire addition required by division (A) (20) (a) of 2416  
this section has been deducted. 2417

(d) No refund shall be allowed as a result of adjustments 2418  
made by division (A) (21) of this section. 2419

(22) Deduct, to the extent not otherwise deducted or 2420  
excluded in computing federal or Ohio adjusted gross income for 2421  
the taxable year, the amount the taxpayer received during the 2422  
taxable year as reimbursement for life insurance premiums under 2423  
section 5919.31 of the Revised Code. 2424

(23) Deduct, to the extent not otherwise deducted or 2425  
excluded in computing federal or Ohio adjusted gross income for 2426  
the taxable year, the amount the taxpayer received during the 2427  
taxable year as a death benefit paid by the adjutant general 2428  
under section 5919.33 of the Revised Code. 2429

(24) Deduct, to the extent included in federal adjusted 2430  
gross income and not otherwise allowable as a deduction or 2431  
exclusion in computing federal or Ohio adjusted gross income for 2432  
the taxable year, military pay and allowances received by the 2433  
taxpayer during the taxable year for active duty service in the 2434  
United States army, air force, navy, marine corps, or coast 2435  
guard or reserve components thereof or the national guard. The 2436  
deduction may not be claimed for military pay and allowances 2437  
received by the taxpayer while the taxpayer is stationed in this 2438  
state. 2439

(25) Deduct, to the extent not otherwise allowable as a 2440  
deduction or exclusion in computing federal or Ohio adjusted 2441  
gross income for the taxable year and not otherwise compensated 2442  
for by any other source, the amount of qualified organ donation 2443  
expenses incurred by the taxpayer during the taxable year, not 2444  
to exceed ten thousand dollars. A taxpayer may deduct qualified 2445  
organ donation expenses only once for all taxable years 2446  
beginning with taxable years beginning in 2007. 2447

For the purposes of division (A) (25) of this section: 2448

(a) "Human organ" means all or any portion of a human 2449  
liver, pancreas, kidney, intestine, or lung, and any portion of 2450  
human bone marrow. 2451

(b) "Qualified organ donation expenses" means travel 2452  
expenses, lodging expenses, and wages and salary forgone by a 2453  
taxpayer in connection with the taxpayer's donation, while 2454  
living, of one or more of the taxpayer's human organs to another 2455  
human being. 2456

(26) Deduct, to the extent not otherwise deducted or 2457  
excluded in computing federal or Ohio adjusted gross income for 2458

the taxable year, amounts received by the taxpayer as retired 2459  
personnel pay for service in the uniformed services or reserve 2460  
components thereof, or the national guard, or received by the 2461  
surviving spouse or former spouse of such a taxpayer under the 2462  
survivor benefit plan on account of such a taxpayer's death. If 2463  
the taxpayer receives income on account of retirement paid under 2464  
the federal civil service retirement system or federal employees 2465  
retirement system, or under any successor retirement program 2466  
enacted by the congress of the United States that is established 2467  
and maintained for retired employees of the United States 2468  
government, and such retirement income is based, in whole or in 2469  
part, on credit for the taxpayer's uniformed service, the 2470  
deduction allowed under this division shall include only that 2471  
portion of such retirement income that is attributable to the 2472  
taxpayer's uniformed service, to the extent that portion of such 2473  
retirement income is otherwise included in federal adjusted 2474  
gross income and is not otherwise deducted under this section. 2475  
Any amount deducted under division (A) (26) of this section is 2476  
not included in a taxpayer's adjusted gross income for the 2477  
purposes of section 5747.055 of the Revised Code. No amount may 2478  
be deducted under division (A) (26) of this section on the basis 2479  
of which a credit was claimed under section 5747.055 of the 2480  
Revised Code. 2481

(27) Deduct, to the extent not otherwise deducted or 2482  
excluded in computing federal or Ohio adjusted gross income for 2483  
the taxable year, the amount the taxpayer received during the 2484  
taxable year from the military injury relief fund created in 2485  
section 5902.05 of the Revised Code. 2486

(28) Deduct, to the extent not otherwise deducted or 2487  
excluded in computing federal or Ohio adjusted gross income for 2488  
the taxable year, the amount the taxpayer received as a veterans 2489

bonus during the taxable year from the Ohio department of 2490  
veterans services as authorized by Section 2r of Article VIII, 2491  
Ohio Constitution. 2492

(29) Deduct, to the extent not otherwise deducted or 2493  
excluded in computing federal or Ohio adjusted gross income for 2494  
the taxable year, any income derived from a transfer agreement 2495  
or from the enterprise transferred under that agreement under 2496  
section 4313.02 of the Revised Code. 2497

(30) Deduct, to the extent not otherwise deducted or 2498  
excluded in computing federal or Ohio adjusted gross income for 2499  
the taxable year, Ohio college opportunity or federal Pell grant 2500  
amounts received by the taxpayer or the taxpayer's spouse or 2501  
dependent pursuant to section 3333.122 of the Revised Code or 20 2502  
U.S.C. 1070a, et seq., and used to pay room or board furnished 2503  
by the educational institution for which the grant was awarded 2504  
at the institution's facilities, including meal plans 2505  
administered by the institution. For the purposes of this 2506  
division, receipt of a grant includes the distribution of a 2507  
grant directly to an educational institution and the crediting 2508  
of the grant to the enrollee's account with the institution. 2509

(31) (a) For taxable years beginning in 2015, deduct from 2510  
the portion of an individual's adjusted gross income that is 2511  
business income, to the extent not otherwise deducted or 2512  
excluded in computing federal or Ohio adjusted gross income for 2513  
the taxable year, the lesser of the following amounts: 2514

(i) Seventy-five per cent of the individual's business 2515  
income; 2516

(ii) Ninety-three thousand seven hundred fifty dollars for 2517  
each spouse if spouses file separate returns under section 2518

5747.08 of the Revised Code or one hundred eighty-seven thousand 2519  
five hundred dollars for all other individuals. 2520

(b) For taxable years beginning in 2016 or thereafter, 2521  
deduct from the portion of an individual's adjusted gross income 2522  
that is business income, to the extent not otherwise deducted or 2523  
excluded in computing federal adjusted gross income for the 2524  
taxable year, one hundred twenty-five thousand dollars for each 2525  
spouse if spouses file separate returns under section 5747.08 of 2526  
the Revised Code or two hundred fifty thousand dollars for all 2527  
other individuals. 2528

(32) Deduct, as provided under section 5747.78 of the 2529  
Revised Code, contributions to ABLE savings accounts made in 2530  
accordance with sections 113.50 to 113.56 of the Revised Code. 2531

(33) (a) Deduct, to the extent not otherwise deducted or 2532  
excluded in computing federal or Ohio adjusted gross income 2533  
during the taxable year, all of the following: 2534

(i) Compensation paid to a qualifying employee described 2535  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 2536  
the extent such compensation is for disaster work conducted in 2537  
this state during a disaster response period pursuant to a 2538  
qualifying solicitation received by the employee's employer; 2539

(ii) Compensation paid to a qualifying employee described 2540  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 2541  
the extent such compensation is for disaster work conducted in 2542  
this state by the employee during the disaster response period 2543  
on critical infrastructure owned or used by the employee's 2544  
employer; 2545

(iii) Income received by an out-of-state disaster business 2546  
for disaster work conducted in this state during a disaster 2547



response period, or, if the out-of-state disaster business is a 2548  
pass-through entity, a taxpayer's distributive share of the 2549  
pass-through entity's income from the business conducting 2550  
disaster work in this state during a disaster response period, 2551  
if, in either case, the disaster work is conducted pursuant to a 2552  
qualifying solicitation received by the business. 2553

(b) All terms used in division (A) (33) of this section 2554  
have the same meanings as in section 5703.94 of the Revised 2555  
Code. 2556

(B) "Business income" means income, including gain or 2557  
loss, arising from transactions, activities, and sources in the 2558  
regular course of a trade or business and includes income, gain, 2559  
or loss from real property, tangible property, and intangible 2560  
property if the acquisition, rental, management, and disposition 2561  
of the property constitute integral parts of the regular course 2562  
of a trade or business operation. "Business income" includes 2563  
income, including gain or loss, from a partial or complete 2564  
liquidation of a business, including, but not limited to, gain 2565  
or loss from the sale or other disposition of goodwill. 2566

(C) "Nonbusiness income" means all income other than 2567  
business income and may include, but is not limited to, 2568  
compensation, rents and royalties from real or tangible personal 2569  
property, capital gains, interest, dividends and distributions, 2570  
patent or copyright royalties, or lottery winnings, prizes, and 2571  
awards. 2572

(D) "Compensation" means any form of remuneration paid to 2573  
an employee for personal services. 2574

(E) "Fiduciary" means a guardian, trustee, executor, 2575  
administrator, receiver, conservator, or any other person acting 2576

in any fiduciary capacity for any individual, trust, or estate.	2577
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	2578 2579
(G) "Individual" means any natural person.	2580
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	2581 2582
(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	2583 2584 2585
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	2586 2587
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	2588 2589 2590 2591
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	2592 2593 2594
For the purposes of division (I) (3) of this section:	2595
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	2596 2597 2598 2599 2600 2601
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only	2602 2603

if the trust is described in division (I) (3) (e) (i) or (ii) of 2604  
this section; 2605

(ii) A person who was domiciled in this state for the 2606  
purposes of this chapter when the person directly or indirectly 2607  
transferred assets to an irrevocable trust, but only if at least 2608  
one of the trust's qualifying beneficiaries is domiciled in this 2609  
state for the purposes of this chapter during all or some 2610  
portion of the trust's current taxable year; 2611

(iii) A person who was domiciled in this state for the 2612  
purposes of this chapter when the trust document or instrument 2613  
or part of the trust document or instrument became irrevocable, 2614  
but only if at least one of the trust's qualifying beneficiaries 2615  
is a resident domiciled in this state for the purposes of this 2616  
chapter during all or some portion of the trust's current 2617  
taxable year. If a trust document or instrument became 2618  
irrevocable upon the death of a person who at the time of death 2619  
was domiciled in this state for purposes of this chapter, that 2620  
person is a person described in division (I) (3) (a) (iii) of this 2621  
section. 2622

(b) A trust is irrevocable to the extent that the 2623  
transferor is not considered to be the owner of the net assets 2624  
of the trust under sections 671 to 678 of the Internal Revenue 2625  
Code. 2626

(c) With respect to a trust other than a charitable lead 2627  
trust, "qualifying beneficiary" has the same meaning as 2628  
"potential current beneficiary" as defined in section 1361(e) (2) 2629  
of the Internal Revenue Code, and with respect to a charitable 2630  
lead trust "qualifying beneficiary" is any current, future, or 2631  
contingent beneficiary, but with respect to any trust 2632  
"qualifying beneficiary" excludes a person or a governmental 2633

entity or instrumentality to any of which a contribution would 2634  
qualify for the charitable deduction under section 170 of the 2635  
Internal Revenue Code. 2636

(d) For the purposes of division (I) (3) (a) of this 2637  
section, the extent to which a trust consists directly or 2638  
indirectly, in whole or in part, of assets, net of any related 2639  
liabilities, that were transferred directly or indirectly, in 2640  
whole or part, to the trust by any of the sources enumerated in 2641  
that division shall be ascertained by multiplying the fair 2642  
market value of the trust's assets, net of related liabilities, 2643  
by the qualifying ratio, which shall be computed as follows: 2644

(i) The first time the trust receives assets, the 2645  
numerator of the qualifying ratio is the fair market value of 2646  
those assets at that time, net of any related liabilities, from 2647  
sources enumerated in division (I) (3) (a) of this section. The 2648  
denominator of the qualifying ratio is the fair market value of 2649  
all the trust's assets at that time, net of any related 2650  
liabilities. 2651

(ii) Each subsequent time the trust receives assets, a 2652  
revised qualifying ratio shall be computed. The numerator of the 2653  
revised qualifying ratio is the sum of (1) the fair market value 2654  
of the trust's assets immediately prior to the subsequent 2655  
transfer, net of any related liabilities, multiplied by the 2656  
qualifying ratio last computed without regard to the subsequent 2657  
transfer, and (2) the fair market value of the subsequently 2658  
transferred assets at the time transferred, net of any related 2659  
liabilities, from sources enumerated in division (I) (3) (a) of 2660  
this section. The denominator of the revised qualifying ratio is 2661  
the fair market value of all the trust's assets immediately 2662  
after the subsequent transfer, net of any related liabilities. 2663

(iii) Whether a transfer to the trust is by or from any of 2664  
the sources enumerated in division (I) (3) (a) of this section 2665  
shall be ascertained without regard to the domicile of the 2666  
trust's beneficiaries. 2667

(e) For the purposes of division (I) (3) (a) (i) of this 2668  
section: 2669

(i) A trust is described in division (I) (3) (e) (i) of this 2670  
section if the trust is a testamentary trust and the testator of 2671  
that testamentary trust was domiciled in this state at the time 2672  
of the testator's death for purposes of the taxes levied under 2673  
Chapter 5731. of the Revised Code. 2674

(ii) A trust is described in division (I) (3) (e) (ii) of 2675  
this section if the transfer is a qualifying transfer described 2676  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 2677  
trust is an irrevocable inter vivos trust, and at least one of 2678  
the trust's qualifying beneficiaries is domiciled in this state 2679  
for purposes of this chapter during all or some portion of the 2680  
trust's current taxable year. 2681

(f) For the purposes of division (I) (3) (e) (ii) of this 2682  
section, a "qualifying transfer" is a transfer of assets, net of 2683  
any related liabilities, directly or indirectly to a trust, if 2684  
the transfer is described in any of the following: 2685

(i) The transfer is made to a trust, created by the 2686  
decedent before the decedent's death and while the decedent was 2687  
domiciled in this state for the purposes of this chapter, and, 2688  
prior to the death of the decedent, the trust became irrevocable 2689  
while the decedent was domiciled in this state for the purposes 2690  
of this chapter. 2691

(ii) The transfer is made to a trust to which the 2692

decedent, prior to the decedent's death, had directly or 2693  
indirectly transferred assets, net of any related liabilities, 2694  
while the decedent was domiciled in this state for the purposes 2695  
of this chapter, and prior to the death of the decedent the 2696  
trust became irrevocable while the decedent was domiciled in 2697  
this state for the purposes of this chapter. 2698

(iii) The transfer is made on account of a contractual 2699  
relationship existing directly or indirectly between the 2700  
transferor and either the decedent or the estate of the decedent 2701  
at any time prior to the date of the decedent's death, and the 2702  
decedent was domiciled in this state at the time of death for 2703  
purposes of the taxes levied under Chapter 5731. of the Revised 2704  
Code. 2705

(iv) The transfer is made to a trust on account of a 2706  
contractual relationship existing directly or indirectly between 2707  
the transferor and another person who at the time of the 2708  
decedent's death was domiciled in this state for purposes of 2709  
this chapter. 2710

(v) The transfer is made to a trust on account of the will 2711  
of a testator who was domiciled in this state at the time of the 2712  
testator's death for purposes of the taxes levied under Chapter 2713  
5731. of the Revised Code. 2714

(vi) The transfer is made to a trust created by or caused 2715  
to be created by a court, and the trust was directly or 2716  
indirectly created in connection with or as a result of the 2717  
death of an individual who, for purposes of the taxes levied 2718  
under Chapter 5731. of the Revised Code, was domiciled in this 2719  
state at the time of the individual's death. 2720

(g) The tax commissioner may adopt rules to ascertain the 2721

part of a trust residing in this state. 2722

(J) "Nonresident" means an individual or estate that is 2723  
not a resident. An individual who is a resident for only part of 2724  
a taxable year is a nonresident for the remainder of that 2725  
taxable year. 2726

(K) "Pass-through entity" has the same meaning as in 2727  
section 5733.04 of the Revised Code. 2728

(L) "Return" means the notifications and reports required 2729  
to be filed pursuant to this chapter for the purpose of 2730  
reporting the tax due and includes declarations of estimated tax 2731  
when so required. 2732

(M) "Taxable year" means the calendar year or the 2733  
taxpayer's fiscal year ending during the calendar year, or 2734  
fractional part thereof, upon which the adjusted gross income is 2735  
calculated pursuant to this chapter. 2736

(N) "Taxpayer" means any person subject to the tax imposed 2737  
by section 5747.02 of the Revised Code or any pass-through 2738  
entity that makes the election under division (D) of section 2739  
5747.08 of the Revised Code. 2740

(O) "Dependents" means dependents as defined in the 2741  
Internal Revenue Code and as claimed in the taxpayer's federal 2742  
income tax return for the taxable year or which the taxpayer 2743  
would have been permitted to claim had the taxpayer filed a 2744  
federal income tax return. 2745

(P) "Principal county of employment" means, in the case of 2746  
a nonresident, the county within the state in which a taxpayer 2747  
performs services for an employer or, if those services are 2748  
performed in more than one county, the county in which the major 2749  
portion of the services are performed. 2750

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	2751 2752
(1) "Subdivision" means any county, municipal corporation, park district, or township.	2753 2754
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	2755 2756 2757 2758
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	2759 2760 2761
(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:	2762 2763 2764 2765
(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:	2766 2767 2768 2769 2770 2771 2772 2773
(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;	2774 2775 2776
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	2777 2778



(2) Add interest or dividends, net of ordinary, necessary,	2779
and reasonable expenses not deducted in computing federal	2780
taxable income, on obligations of any authority, commission,	2781
instrumentality, territory, or possession of the United States	2782
to the extent that the interest or dividends are exempt from	2783
federal income taxes but not from state income taxes, but only	2784
to the extent that such net amount is not otherwise includible	2785
in Ohio taxable income and is described in either division (S)	2786
(1) (a) or (b) of this section;	2787
(3) Add the amount of personal exemption allowed to the	2788
estate pursuant to section 642(b) of the Internal Revenue Code;	2789
(4) Deduct interest or dividends, net of related expenses	2790
deducted in computing federal taxable income, on obligations of	2791
the United States and its territories and possessions or of any	2792
authority, commission, or instrumentality of the United States	2793
to the extent that the interest or dividends are exempt from	2794
state taxes under the laws of the United States, but only to the	2795
extent that such amount is included in federal taxable income	2796
and is described in either division (S) (1) (a) or (b) of this	2797
section;	2798
(5) Deduct the amount of wages and salaries, if any, not	2799
otherwise allowable as a deduction but that would have been	2800
allowable as a deduction in computing federal taxable income for	2801
the taxable year, had the targeted jobs credit allowed under	2802
sections 38, 51, and 52 of the Internal Revenue Code not been in	2803
effect, but only to the extent such amount relates either to	2804
income included in federal taxable income for the taxable year	2805
or to income of the S portion of an electing small business	2806
trust for the taxable year;	2807
(6) Deduct any interest or interest equivalent, net of	2808

related expenses deducted in computing federal taxable income, 2809  
on public obligations and purchase obligations, but only to the 2810  
extent that such net amount relates either to income included in 2811  
federal taxable income for the taxable year or to income of the 2812  
S portion of an electing small business trust for the taxable 2813  
year; 2814

(7) Add any loss or deduct any gain resulting from sale, 2815  
exchange, or other disposition of public obligations to the 2816  
extent that such loss has been deducted or such gain has been 2817  
included in computing either federal taxable income or income of 2818  
the S portion of an electing small business trust for the 2819  
taxable year; 2820

(8) Except in the case of the final return of an estate, 2821  
add any amount deducted by the taxpayer on both its Ohio estate 2822  
tax return pursuant to section 5731.14 of the Revised Code, and 2823  
on its federal income tax return in determining federal taxable 2824  
income; 2825

(9) (a) Deduct any amount included in federal taxable 2826  
income solely because the amount represents a reimbursement or 2827  
refund of expenses that in a previous year the decedent had 2828  
deducted as an itemized deduction pursuant to section 63 of the 2829  
Internal Revenue Code and applicable treasury regulations. The 2830  
deduction otherwise allowed under division (S) (9) (a) of this 2831  
section shall be reduced to the extent the reimbursement is 2832  
attributable to an amount the taxpayer or decedent deducted 2833  
under this section in any taxable year. 2834

(b) Add any amount not otherwise included in Ohio taxable 2835  
income for any taxable year to the extent that the amount is 2836  
attributable to the recovery during the taxable year of any 2837  
amount deducted or excluded in computing federal or Ohio taxable 2838

income in any taxable year, but only to the extent such amount 2839  
has not been distributed to beneficiaries for the taxable year. 2840

(10) Deduct any portion of the deduction described in 2841  
section 1341(a)(2) of the Internal Revenue Code, for repaying 2842  
previously reported income received under a claim of right, that 2843  
meets both of the following requirements: 2844

(a) It is allowable for repayment of an item that was 2845  
included in the taxpayer's taxable income or the decedent's 2846  
adjusted gross income for a prior taxable year and did not 2847  
qualify for a credit under division (A) or (B) of section 2848  
5747.05 of the Revised Code for that year. 2849

(b) It does not otherwise reduce the taxpayer's taxable 2850  
income or the decedent's adjusted gross income for the current 2851  
or any other taxable year. 2852

(11) Add any amount claimed as a credit under section 2853  
5747.059 or 5747.65 of the Revised Code to the extent that the 2854  
amount satisfies either of the following: 2855

(a) The amount was deducted or excluded from the 2856  
computation of the taxpayer's federal taxable income as required 2857  
to be reported for the taxpayer's taxable year under the 2858  
Internal Revenue Code; 2859

(b) The amount resulted in a reduction in the taxpayer's 2860  
federal taxable income as required to be reported for any of the 2861  
taxpayer's taxable years under the Internal Revenue Code. 2862

(12) Deduct any amount, net of related expenses deducted 2863  
in computing federal taxable income, that a trust is required to 2864  
report as farm income on its federal income tax return, but only 2865  
if the assets of the trust include at least ten acres of land 2866  
satisfying the definition of "land devoted exclusively to 2867

agricultural use" under section 5713.30 of the Revised Code, 2868  
regardless of whether the land is valued for tax purposes as 2869  
such land under sections 5713.30 to 5713.38 of the Revised Code. 2870  
If the trust is a pass-through entity investor, section 5747.231 2871  
of the Revised Code applies in ascertaining if the trust is 2872  
eligible to claim the deduction provided by division (S) (12) of 2873  
this section in connection with the pass-through entity's farm 2874  
income. 2875

Except for farm income attributable to the S portion of an 2876  
electing small business trust, the deduction provided by 2877  
division (S) (12) of this section is allowed only to the extent 2878  
that the trust has not distributed such farm income. Division 2879  
(S) (12) of this section applies only to taxable years of a trust 2880  
beginning in 2002 or thereafter. 2881

(13) Add the net amount of income described in section 2882  
641(c) of the Internal Revenue Code to the extent that amount is 2883  
not included in federal taxable income. 2884

(14) Add or deduct the amount the taxpayer would be 2885  
required to add or deduct under division (A) (20) or (21) of this 2886  
section if the taxpayer's Ohio taxable income were computed in 2887  
the same manner as an individual's Ohio adjusted gross income is 2888  
computed under this section. In the case of a trust, division 2889  
(S) (14) of this section applies only to any of the trust's 2890  
taxable years beginning in 2002 or thereafter. 2891

(T) "School district income" and "school district income 2892  
tax" have the same meanings as in section 5748.01 of the Revised 2893  
Code. 2894

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 2895  
(7) of this section, "public obligations," "purchase 2896

obligations," and "interest or interest equivalent" have the 2897  
same meanings as in section 5709.76 of the Revised Code. 2898

(V) "Limited liability company" means any limited 2899  
liability company formed under Chapter 1705. of the Revised Code 2900  
or under the laws of any other state. 2901

(W) "Pass-through entity investor" means any person who, 2902  
during any portion of a taxable year of a pass-through entity, 2903  
is a partner, member, shareholder, or equity investor in that 2904  
pass-through entity. 2905

(X) "Banking day" has the same meaning as in section 2906  
1304.01 of the Revised Code. 2907

(Y) "Month" means a calendar month. 2908

(Z) "Quarter" means the first three months, the second 2909  
three months, the third three months, or the last three months 2910  
of the taxpayer's taxable year. 2911

(AA) (1) "Eligible institution" means a state university or 2912  
state institution of higher education as defined in section 2913  
3345.011 of the Revised Code, or a private, nonprofit college, 2914  
university, or other post-secondary institution located in this 2915  
state that possesses a certificate of authorization issued by 2916  
the chancellor of higher education pursuant to Chapter 1713. of 2917  
the Revised Code or a certificate of registration issued by the 2918  
state board of career colleges and schools under Chapter 3332. 2919  
of the Revised Code. 2920

(2) "Qualified tuition and fees" means tuition and fees 2921  
imposed by an eligible institution as a condition of enrollment 2922  
or attendance, not exceeding two thousand five hundred dollars 2923  
in each of the individual's first two years of post-secondary 2924  
education. If the individual is a part-time student, "qualified 2925

tuition and fees" includes tuition and fees paid for the 2926  
academic equivalent of the first two years of post-secondary 2927  
education during a maximum of five taxable years, not exceeding 2928  
a total of five thousand dollars. "Qualified tuition and fees" 2929  
does not include: 2930

(a) Expenses for any course or activity involving sports, 2931  
games, or hobbies unless the course or activity is part of the 2932  
individual's degree or diploma program; 2933

(b) The cost of books, room and board, student activity 2934  
fees, athletic fees, insurance expenses, or other expenses 2935  
unrelated to the individual's academic course of instruction; 2936

(c) Tuition, fees, or other expenses paid or reimbursed 2937  
through an employer, scholarship, grant in aid, or other 2938  
educational benefit program. 2939

(BB) (1) "Modified business income" means the business 2940  
income included in a trust's Ohio taxable income after such 2941  
taxable income is first reduced by the qualifying trust amount, 2942  
if any. 2943

(2) "Qualifying trust amount" of a trust means capital 2944  
gains and losses from the sale, exchange, or other disposition 2945  
of equity or ownership interests in, or debt obligations of, a 2946  
qualifying investee to the extent included in the trust's Ohio 2947  
taxable income, but only if the following requirements are 2948  
satisfied: 2949

(a) The book value of the qualifying investee's physical 2950  
assets in this state and everywhere, as of the last day of the 2951  
qualifying investee's fiscal or calendar year ending immediately 2952  
prior to the date on which the trust recognizes the gain or 2953  
loss, is available to the trust. 2954

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

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

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

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

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

(i) The trust's modified business income;

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

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

qualifying trust amount, and the denominator of which is the sum 2984  
of the book value of the qualifying investee's total physical 2985  
assets everywhere on the last day of the qualifying investee's 2986  
fiscal or calendar year ending immediately prior to the day on 2987  
which the trust recognizes the qualifying trust amount. If, for 2988  
a taxable year, the trust recognizes a qualifying trust amount 2989  
with respect to more than one qualifying investee, the amount 2990  
described in division (BB) (4) (b) of this section shall equal the 2991  
sum of the products so computed for each such qualifying 2992  
investee. 2993

(c) (i) With respect to a trust or portion of a trust that 2994  
is a resident as ascertained in accordance with division (I) (3) 2995  
(d) of this section, its modified nonbusiness income. 2996

(ii) With respect to a trust or portion of a trust that is 2997  
not a resident as ascertained in accordance with division (I) (3) 2998  
(d) of this section, the amount of its modified nonbusiness 2999  
income satisfying the descriptions in divisions (B) (2) to (5) of 3000  
section 5747.20 of the Revised Code, except as otherwise 3001  
provided in division (BB) (4) (c) (ii) of this section. With 3002  
respect to a trust or portion of a trust that is not a resident 3003  
as ascertained in accordance with division (I) (3) (d) of this 3004  
section, the trust's portion of modified nonbusiness income 3005  
recognized from the sale, exchange, or other disposition of a 3006  
debt interest in or equity interest in a section 5747.212 3007  
entity, as defined in section 5747.212 of the Revised Code, 3008  
without regard to division (A) of that section, shall not be 3009  
allocated to this state in accordance with section 5747.20 of 3010  
the Revised Code but shall be apportioned to this state in 3011  
accordance with division (B) of section 5747.212 of the Revised 3012  
Code without regard to division (A) of that section. 3013



If the allocation and apportionment of a trust's income 3014  
under divisions (BB) (4) (a) and (c) of this section do not fairly 3015  
represent the modified Ohio taxable income of the trust in this 3016  
state, the alternative methods described in division (C) of 3017  
section 5747.21 of the Revised Code may be applied in the manner 3018  
and to the same extent provided in that section. 3019

(5) (a) Except as set forth in division (BB) (5) (b) of this 3020  
section, "qualifying investee" means a person in which a trust 3021  
has an equity or ownership interest, or a person or unit of 3022  
government the debt obligations of either of which are owned by 3023  
a trust. For the purposes of division (BB) (2) (a) of this section 3024  
and for the purpose of computing the fraction described in 3025  
division (BB) (4) (b) of this section, all of the following apply: 3026

(i) If the qualifying investee is a member of a qualifying 3027  
controlled group on the last day of the qualifying investee's 3028  
fiscal or calendar year ending immediately prior to the date on 3029  
which the trust recognizes the gain or loss, then "qualifying 3030  
investee" includes all persons in the qualifying controlled 3031  
group on such last day. 3032

(ii) If the qualifying investee, or if the qualifying 3033  
investee and any members of the qualifying controlled group of 3034  
which the qualifying investee is a member on the last day of the 3035  
qualifying investee's fiscal or calendar year ending immediately 3036  
prior to the date on which the trust recognizes the gain or 3037  
loss, separately or cumulatively own, directly or indirectly, on 3038  
the last day of the qualifying investee's fiscal or calendar 3039  
year ending immediately prior to the date on which the trust 3040  
recognizes the qualifying trust amount, more than fifty per cent 3041  
of the equity of a pass-through entity, then the qualifying 3042  
investee and the other members are deemed to own the 3043

proportionate share of the pass-through entity's physical assets 3044  
which the pass-through entity directly or indirectly owns on the 3045  
last day of the pass-through entity's calendar or fiscal year 3046  
ending within or with the last day of the qualifying investee's 3047  
fiscal or calendar year ending immediately prior to the date on 3048  
which the trust recognizes the qualifying trust amount. 3049

(iii) For the purposes of division (BB) (5) (a) (iii) of this 3050  
section, "upper level pass-through entity" means a pass-through 3051  
entity directly or indirectly owning any equity of another pass- 3052  
through entity, and "lower level pass-through entity" means that 3053  
other pass-through entity. 3054

An upper level pass-through entity, whether or not it is 3055  
also a qualifying investee, is deemed to own, on the last day of 3056  
the upper level pass-through entity's calendar or fiscal year, 3057  
the proportionate share of the lower level pass-through entity's 3058  
physical assets that the lower level pass-through entity 3059  
directly or indirectly owns on the last day of the lower level 3060  
pass-through entity's calendar or fiscal year ending within or 3061  
with the last day of the upper level pass-through entity's 3062  
fiscal or calendar year. If the upper level pass-through entity 3063  
directly and indirectly owns less than fifty per cent of the 3064  
equity of the lower level pass-through entity on each day of the 3065  
upper level pass-through entity's calendar or fiscal year in 3066  
which or with which ends the calendar or fiscal year of the 3067  
lower level pass-through entity and if, based upon clear and 3068  
convincing evidence, complete information about the location and 3069  
cost of the physical assets of the lower pass-through entity is 3070  
not available to the upper level pass-through entity, then 3071  
solely for purposes of ascertaining if a gain or loss 3072  
constitutes a qualifying trust amount, the upper level pass- 3073  
through entity shall be deemed as owning no equity of the lower 3074

level pass-through entity for each day during the upper level 3075  
pass-through entity's calendar or fiscal year in which or with 3076  
which ends the lower level pass-through entity's calendar or 3077  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 3078  
shall be construed to provide for any deduction or exclusion in 3079  
computing any trust's Ohio taxable income. 3080

(b) With respect to a trust that is not a resident for the 3081  
taxable year and with respect to a part of a trust that is not a 3082  
resident for the taxable year, "qualifying investee" for that 3083  
taxable year does not include a C corporation if both of the 3084  
following apply: 3085

(i) During the taxable year the trust or part of the trust 3086  
recognizes a gain or loss from the sale, exchange, or other 3087  
disposition of equity or ownership interests in, or debt 3088  
obligations of, the C corporation. 3089

(ii) Such gain or loss constitutes nonbusiness income. 3090

(6) "Available" means information is such that a person is 3091  
able to learn of the information by the due date plus 3092  
extensions, if any, for filing the return for the taxable year 3093  
in which the trust recognizes the gain or loss. 3094

(CC) "Qualifying controlled group" has the same meaning as 3095  
in section 5733.04 of the Revised Code. 3096

(DD) "Related member" has the same meaning as in section 3097  
5733.042 of the Revised Code. 3098

(EE) (1) For the purposes of division (EE) of this section: 3099

(a) "Qualifying person" means any person other than a 3100  
qualifying corporation. 3101

(b) "Qualifying corporation" means any person classified 3102

for federal income tax purposes as an association taxable as a corporation, except either of the following:

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

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

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

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

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

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

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

election, if timely made, shall be effective on and after 3132  
January 1, 2006, and shall apply for all tax periods and tax 3133  
years until revoked by the trustee of the trust. 3134

(4) A "pre-income tax trust" is a trust that satisfies all 3135  
of the following requirements: 3136

(a) The document or instrument creating the trust was 3137  
executed by the grantor before January 1, 1972; 3138

(b) The trust became irrevocable upon the creation of the 3139  
trust; and 3140

(c) The grantor was domiciled in this state at the time 3141  
the trust was created. 3142

(GG) "Uniformed services" has the same meaning as in 10 3143  
U.S.C. 101. 3144

(HH) "Taxable business income" means the amount by which 3145  
an individual's business income that is included in federal 3146  
adjusted gross income exceeds the amount of business income the 3147  
individual is authorized to deduct under division (A) (31) of 3148  
this section for the taxable year. 3149

**Sec. 5751.01.** As used in this chapter: 3150

(A) "Person" means, but is not limited to, individuals, 3151  
combinations of individuals of any form, receivers, assignees, 3152  
trustees in bankruptcy, firms, companies, joint-stock companies, 3153  
business trusts, estates, partnerships, limited liability 3154  
partnerships, limited liability companies, associations, joint 3155  
ventures, clubs, societies, for-profit corporations, S 3156  
corporations, qualified subchapter S subsidiaries, qualified 3157  
subchapter S trusts, trusts, entities that are disregarded for 3158  
federal income tax purposes, and any other entities. 3159

(B) "Consolidated elected taxpayer" means a group of two 3160  
or more persons treated as a single taxpayer for purposes of 3161  
this chapter as the result of an election made under section 3162  
5751.011 of the Revised Code. 3163

(C) "Combined taxpayer" means a group of two or more 3164  
persons treated as a single taxpayer for purposes of this 3165  
chapter under section 5751.012 of the Revised Code. 3166

(D) "Taxpayer" means any person, or any group of persons 3167  
in the case of a consolidated elected taxpayer or combined 3168  
taxpayer treated as one taxpayer, required to register or pay 3169  
tax under this chapter. "Taxpayer" does not include excluded 3170  
persons. 3171

(E) "Excluded person" means any of the following: 3172

(1) Any person with not more than one hundred fifty 3173  
thousand dollars of taxable gross receipts during the calendar 3174  
year. Division (E)(1) of this section does not apply to a person 3175  
that is a member of a consolidated elected taxpayer; 3176

(2) A public utility that paid the excise tax imposed by 3177  
section 5727.24 or 5727.30 of the Revised Code based on one or 3178  
more measurement periods that include the entire tax period 3179  
under this chapter, except that a public utility that is a 3180  
combined company is a taxpayer with regard to the following 3181  
gross receipts: 3182

(a) Taxable gross receipts directly attributed to a public 3183  
utility activity, but not directly attributed to an activity 3184  
that is subject to the excise tax imposed by section 5727.24 or 3185  
5727.30 of the Revised Code; 3186

(b) Taxable gross receipts that cannot be directly 3187  
attributed to any activity, multiplied by a fraction whose 3188

numerator is the taxable gross receipts described in division 3189  
(E) (2) (a) of this section and whose denominator is the total 3190  
taxable gross receipts that can be directly attributed to any 3191  
activity; 3192

(c) Except for any differences resulting from the use of 3193  
an accrual basis method of accounting for purposes of 3194  
determining gross receipts under this chapter and the use of the 3195  
cash basis method of accounting for purposes of determining 3196  
gross receipts under section 5727.24 of the Revised Code, the 3197  
gross receipts directly attributed to the activity of a natural 3198  
gas company shall be determined in a manner consistent with 3199  
division (D) of section 5727.03 of the Revised Code. 3200

As used in division (E) (2) of this section, "combined 3201  
company" and "public utility" have the same meanings as in 3202  
section 5727.01 of the Revised Code. 3203

(3) A financial institution, as defined in section 5726.01 3204  
of the Revised Code, that paid the tax imposed by section 3205  
5726.02 of the Revised Code based on one or more taxable years 3206  
that include the entire tax period under this chapter; 3207

(4) A person directly or indirectly owned by one or more 3208  
financial institutions, as defined in section 5726.01 of the 3209  
Revised Code, that paid the tax imposed by section 5726.02 of 3210  
the Revised Code based on one or more taxable years that include 3211  
the entire tax period under this chapter. 3212

For the purposes of division (E) (4) of this section, a 3213  
person owns another person under the following circumstances: 3214

(a) In the case of corporations issuing capital stock, one 3215  
corporation owns another corporation if it owns fifty per cent 3216  
or more of the other corporation's capital stock with current 3217

voting rights; 3218

(b) In the case of a limited liability company, one person 3219  
owns the company if that person's membership interest, as 3220  
defined in section 1705.01 of the Revised Code, is fifty per 3221  
cent or more of the combined membership interests of all persons 3222  
owning such interests in the company; 3223

(c) In the case of a partnership, trust, or other 3224  
unincorporated business organization other than a limited 3225  
liability company, one person owns the organization if, under 3226  
the articles of organization or other instrument governing the 3227  
affairs of the organization, that person has a beneficial 3228  
interest in the organization's profits, surpluses, losses, or 3229  
distributions of fifty per cent or more of the combined 3230  
beneficial interests of all persons having such an interest in 3231  
the organization. 3232

(5) A domestic insurance company or foreign insurance 3233  
company, as defined in section 5725.01 of the Revised Code, that 3234  
paid the insurance company premiums tax imposed by section 3235  
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 3236  
insurance company whose gross premiums are subject to tax under 3237  
section 3905.36 of the Revised Code based on one or more 3238  
measurement periods that include the entire tax period under 3239  
this chapter; 3240

(6) A person that solely facilitates or services one or 3241  
more securitizations of phase-in-recovery property pursuant to a 3242  
final financing order as those terms are defined in section 3243  
4928.23 of the Revised Code. For purposes of this division, 3244  
"securitization" means transferring one or more assets to one or 3245  
more persons and then issuing securities backed by the right to 3246  
receive payment from the asset or assets so transferred. 3247



(7) Except as otherwise provided in this division, a pre- 3248  
income tax trust as defined in division (FF)(4) of section 3249  
5747.01 of the Revised Code and any pass-through entity of which 3250  
such pre-income tax trust owns or controls, directly, 3251  
indirectly, or constructively through related interests, more 3252  
than five per cent of the ownership or equity interests. If the 3253  
pre-income tax trust has made a qualifying pre-income tax trust 3254  
election under division (FF)(3) of section 5747.01 of the 3255  
Revised Code, then the trust and the pass-through entities of 3256  
which it owns or controls, directly, indirectly, or 3257  
constructively through related interests, more than five per 3258  
cent of the ownership or equity interests, shall not be excluded 3259  
persons for purposes of the tax imposed under section 5751.02 of 3260  
the Revised Code. 3261

(8) Nonprofit organizations or the state and its agencies, 3262  
instrumentalities, or political subdivisions. 3263

(F) Except as otherwise provided in divisions (F)(2), (3), 3264  
and (4) of this section, "gross receipts" means the total amount 3265  
realized by a person, without deduction for the cost of goods 3266  
sold or other expenses incurred, that contributes to the 3267  
production of gross income of the person, including the fair 3268  
market value of any property and any services received, and any 3269  
debt transferred or forgiven as consideration. 3270

(1) The following are examples of gross receipts: 3271

(a) Amounts realized from the sale, exchange, or other 3272  
disposition of the taxpayer's property to or with another; 3273

(b) Amounts realized from the taxpayer's performance of 3274  
services for another; 3275

(c) Amounts realized from another's use or possession of 3276

the taxpayer's property or capital;	3277
(d) Any combination of the foregoing amounts.	3278
(2) "Gross receipts" excludes the following amounts:	3279
(a) Interest income except interest on credit sales;	3280
(b) Dividends and distributions from corporations, and	3281
distributive or proportionate shares of receipts and income from	3282
a pass-through entity as defined under section 5733.04 of the	3283
Revised Code;	3284
(c) Receipts from the sale, exchange, or other disposition	3285
of an asset described in section 1221 or 1231 of the Internal	3286
Revenue Code, without regard to the length of time the person	3287
held the asset. Notwithstanding section 1221 of the Internal	3288
Revenue Code, receipts from hedging transactions also are	3289
excluded to the extent the transactions are entered into	3290
primarily to protect a financial position, such as managing the	3291
risk of exposure to (i) foreign currency fluctuations that	3292
affect assets, liabilities, profits, losses, equity, or	3293
investments in foreign operations; (ii) interest rate	3294
fluctuations; or (iii) commodity price fluctuations. As used in	3295
division (F)(2)(c) of this section, "hedging transaction" has	3296
the same meaning as used in section 1221 of the Internal Revenue	3297
Code and also includes transactions accorded hedge accounting	3298
treatment under statement of financial accounting standards	3299
number 133 of the financial accounting standards board. For the	3300
purposes of division (F)(2)(c) of this section, the actual	3301
transfer of title of real or tangible personal property to	3302
another entity is not a hedging transaction.	3303
(d) Proceeds received attributable to the repayment,	3304
maturity, or redemption of the principal of a loan, bond, mutual	3305

fund, certificate of deposit, or marketable instrument;	3306
(e) The principal amount received under a repurchase	3307
agreement or on account of any transaction properly	3308
characterized as a loan to the person;	3309
(f) Contributions received by a trust, plan, or other	3310
arrangement, any of which is described in section 501(a) of the	3311
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter	3312
1, Subchapter (D) of the Internal Revenue Code applies;	3313
(g) Compensation, whether current or deferred, and whether	3314
in cash or in kind, received or to be received by an employee,	3315
former employee, or the employee's legal successor for services	3316
rendered to or for an employer, including reimbursements	3317
received by or for an individual for medical or education	3318
expenses, health insurance premiums, or employee expenses, or on	3319
account of a dependent care spending account, legal services	3320
plan, any cafeteria plan described in section 125 of the	3321
Internal Revenue Code, or any similar employee reimbursement;	3322
(h) Proceeds received from the issuance of the taxpayer's	3323
own stock, options, warrants, puts, or calls, or from the sale	3324
of the taxpayer's treasury stock;	3325
(i) Proceeds received on the account of payments from	3326
insurance policies, except those proceeds received for the loss	3327
of business revenue;	3328
(j) Gifts or charitable contributions received; membership	3329
dues received by trade, professional, homeowners', or	3330
condominium associations; and payments received for educational	3331
courses, meetings, meals, or similar payments to a trade,	3332
professional, or other similar association; and fundraising	3333
receipts received by any person when any excess receipts are	3334

donated or used exclusively for charitable purposes;	3335
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	3336 3337 3338
(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;	3339 3340 3341
(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;	3342 3343 3344 3345 3346 3347 3348 3349 3350 3351
(n) Pension reversions;	3352
(o) Contributions to capital;	3353
(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;	3354 3355 3356 3357 3358
(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes	3359 3360 3361 3362 3363

or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code; 3364  
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(r) In the case of receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person; 3366  
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(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code; 3373  
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(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle; 3380  
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(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership 3388  
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interests owned or controlled, directly or constructively	3394
through related interests, by common owners;	3395
(v) Receipts realized from administering anti-neoplastic	3396
drugs and other cancer chemotherapy, biologicals, therapeutic	3397
agents, and supportive drugs in a physician's office to patients	3398
with cancer;	3399
(w) Funds received or used by a mortgage broker that is	3400
not a dealer in intangibles, other than fees or other	3401
consideration, pursuant to a table-funding mortgage loan or	3402
warehouse-lending mortgage loan. Terms used in division (F) (2)	3403
(w) of this section have the same meanings as in section 1322.01	3404
of the Revised Code, except "mortgage broker" means a person	3405
assisting a buyer in obtaining a mortgage loan for a fee or	3406
other consideration paid by the buyer or a lender, or a person	3407
engaged in table-funding or warehouse-lending mortgage loans	3408
that are first lien mortgage loans.	3409
(x) Property, money, and other amounts received by a	3410
professional employer organization, as defined in section	3411
4125.01 of the Revised Code, from a client employer, as defined	3412
in that section, in excess of the administrative fee charged by	3413
the professional employer organization to the client employer;	3414
(y) In the case of amounts retained as commissions by a	3415
permit holder under Chapter 3769. of the Revised Code, an amount	3416
equal to the amounts specified under that chapter that must be	3417
paid to or collected by the tax commissioner as a tax and the	3418
amounts specified under that chapter to be used as purse money;	3419
(z) Qualifying distribution center receipts.	3420
(i) For purposes of division (F) (2) (z) of this section:	3421
(I) "Qualifying distribution center receipts" means	3422

receipts of a supplier from qualified property that is delivered 3423  
to a qualified distribution center, multiplied by a quantity 3424  
that equals one minus the Ohio delivery percentage. If the 3425  
qualified distribution center is a refining facility, "supplier" 3426  
includes all dealers, brokers, processors, sellers, vendors, 3427  
cosigners, and distributors of qualified property. 3428

(II) "Qualified property" means tangible personal property 3429  
delivered to a qualified distribution center that is shipped to 3430  
that qualified distribution center solely for further shipping 3431  
by the qualified distribution center to another location in this 3432  
state or elsewhere or, in the case of gold, silver, platinum, or 3433  
palladium delivered to a refining facility solely for refining 3434  
to a grade and fineness acceptable for delivery to a registered 3435  
commodities exchange. "Further shipping" includes storing and 3436  
repackaging property into smaller or larger bundles, so long as 3437  
the property is not subject to further manufacturing or 3438  
processing. "Refining" is limited to extracting impurities from 3439  
gold, silver, platinum, or palladium through smelting or some 3440  
other process at a refining facility. 3441

(III) "Qualified distribution center" means a warehouse, a 3442  
facility similar to a warehouse, or a refining facility in this 3443  
state that, for the qualifying year, is operated by a person 3444  
that is not part of a combined taxpayer group and that has a 3445  
qualifying certificate. All warehouses or facilities similar to 3446  
warehouses that are operated by persons in the same taxpayer 3447  
group and that are located within one mile of each other shall 3448  
be treated as one qualified distribution center. All refining 3449  
facilities that are operated by persons in the same taxpayer 3450  
group and that are located in the same or adjacent counties may 3451  
be treated as one qualified distribution center. 3452

(IV) "Qualifying year" means the calendar year to which 3453  
the qualifying certificate applies. 3454

(V) "Qualifying period" means the period of the first day 3455  
of July of the second year preceding the qualifying year through 3456  
the thirtieth day of June of the year preceding the qualifying 3457  
year. 3458

(VI) "Qualifying certificate" means the certificate issued 3459  
by the tax commissioner after the operator of a distribution 3460  
center files an annual application with the commissioner. The 3461  
application and annual fee shall be filed and paid for each 3462  
qualified distribution center on or before the first day of 3463  
September before the qualifying year or within forty-five days 3464  
after the distribution center opens, whichever is later. 3465

The applicant must substantiate to the commissioner's 3466  
satisfaction that, for the qualifying period, all persons 3467  
operating the distribution center have more than fifty per cent 3468  
of the cost of the qualified property shipped to a location such 3469  
that it would be situated outside this state under the provisions 3470  
of division (E) of section 5751.033 of the Revised Code. The 3471  
applicant must also substantiate that the distribution center 3472  
cumulatively had costs from its suppliers equal to or exceeding 3473  
five hundred million dollars during the qualifying period. (For 3474  
purposes of division (F) (2) (z) (i) (VI) of this section, 3475  
"supplier" excludes any person that is part of the consolidated 3476  
elected taxpayer group, if applicable, of the operator of the 3477  
qualified distribution center.) The commissioner may require the 3478  
applicant to have an independent certified public accountant 3479  
certify that the calculation of the minimum thresholds required 3480  
for a qualified distribution center by the operator of a 3481  
distribution center has been made in accordance with generally 3482



accepted accounting principles. The commissioner shall issue or 3483  
deny the issuance of a certificate within sixty days after the 3484  
receipt of the application. A denial is subject to appeal under 3485  
section 5717.02 of the Revised Code. If the operator files a 3486  
timely appeal under section 5717.02 of the Revised Code, the 3487  
operator shall be granted a qualifying certificate effective for 3488  
the remainder of the qualifying year or until the appeal is 3489  
finalized, whichever is earlier. If the operator does not 3490  
prevail in the appeal, the operator shall pay the ineligible 3491  
operator's supplier tax liability. 3492

(VII) "Ohio delivery percentage" means the proportion of 3493  
the total property delivered to a destination inside Ohio from 3494  
the qualified distribution center during the qualifying period 3495  
compared with total deliveries from such distribution center 3496  
everywhere during the qualifying period. 3497

(VIII) "Refining facility" means one or more buildings 3498  
located in a county in the Appalachian region of this state as 3499  
defined by section 107.21 of the Revised Code and utilized for 3500  
refining or smelting gold, silver, platinum, or palladium to a 3501  
grade and fineness acceptable for delivery to a registered 3502  
commodities exchange. 3503

(IX) "Registered commodities exchange" means a board of 3504  
trade, such as New York mercantile exchange, inc. or commodity 3505  
exchange, inc., designated as a contract market by the commodity 3506  
futures trading commission under the "Commodity Exchange Act," 7 3507  
U.S.C. 1 et seq., as amended. 3508

(X) "Ineligible operator's supplier tax liability" means 3509  
an amount equal to the tax liability of all suppliers of a 3510  
distribution center had the distribution center not been issued 3511  
a qualifying certificate for the qualifying year. Ineligible 3512

operator's supplier tax liability shall not include interest or 3513  
penalties. The tax commissioner shall determine an ineligible 3514  
operator's supplier tax liability based on information that the 3515  
commissioner may request from the operator of the distribution 3516  
center. An operator shall provide a list of all suppliers of the 3517  
distribution center and the corresponding costs of qualified 3518  
property for the qualifying year at issue within sixty days of a 3519  
request by the commissioner under this division. 3520

(ii) (I) If the distribution center is new and was not open 3521  
for the entire qualifying period, the operator of the 3522  
distribution center may request that the commissioner grant a 3523  
qualifying certificate. If the certificate is granted and it is 3524  
later determined that more than fifty per cent of the qualified 3525  
property during that year was not shipped to a location such 3526  
that it would be situated outside of this state under the 3527  
provisions of division (E) of section 5751.033 of the Revised 3528  
Code or if it is later determined that the person that operates 3529  
the distribution center had average monthly costs from its 3530  
suppliers of less than forty million dollars during that year, 3531  
then the operator of the distribution center shall pay the 3532  
ineligible operator's supplier tax liability. (For purposes of 3533  
division (F) (2) (z) (ii) of this section, "supplier" excludes any 3534  
person that is part of the consolidated elected taxpayer group, 3535  
if applicable, of the operator of the qualified distribution 3536  
center.) 3537

(II) The commissioner may grant a qualifying certificate 3538  
to a distribution center that does not qualify as a qualified 3539  
distribution center for an entire qualifying period if the 3540  
operator of the distribution center demonstrates that the 3541  
business operations of the distribution center have changed or 3542  
will change such that the distribution center will qualify as a 3543

qualified distribution center within thirty-six months after the 3544  
date the operator first applies for a certificate. If, at the 3545  
end of that thirty-six-month period, the business operations of 3546  
the distribution center have not changed such that the 3547  
distribution center qualifies as a qualified distribution 3548  
center, the operator of the distribution center shall pay the 3549  
ineligible operator's supplier tax liability for each year that 3550  
the distribution center received a certificate but did not 3551  
qualify as a qualified distribution center. For each year the 3552  
distribution center receives a certificate under division (F) (2) 3553  
(z) (ii) (II) of this section, the distribution center shall pay 3554  
all applicable fees required under division (F) (2) (z) of this 3555  
section and shall submit an updated business plan showing the 3556  
progress the distribution center made toward qualifying as a 3557  
qualified distribution center during the preceding year. 3558

(III) An operator may appeal a determination under 3559  
division (F) (2) (z) (ii) (I) or (II) of this section that the 3560  
ineligible operator is liable for the operator's supplier tax 3561  
liability as a result of not qualifying as a qualified 3562  
distribution center, as provided in section 5717.02 of the 3563  
Revised Code. 3564

(iii) When filing an application for a qualifying 3565  
certificate under division (F) (2) (z) (i) (VI) of this section, the 3566  
operator of a qualified distribution center also shall provide 3567  
documentation, as the commissioner requires, for the 3568  
commissioner to ascertain the Ohio delivery percentage. The 3569  
commissioner, upon issuing the qualifying certificate, also 3570  
shall certify the Ohio delivery percentage. The operator of the 3571  
qualified distribution center may appeal the commissioner's 3572  
certification of the Ohio delivery percentage in the same manner 3573  
as an appeal is taken from the denial of a qualifying 3574

certificate under division (F) (2) (z) (i) (VI) of this section. 3575

(iv) (I) In the case where the distribution center is new 3576  
and not open for the entire qualifying period, the operator 3577  
shall make a good faith estimate of an Ohio delivery percentage 3578  
for use by suppliers in their reports of taxable gross receipts 3579  
for the remainder of the qualifying period. The operator of the 3580  
facility shall disclose to the suppliers that such Ohio delivery 3581  
percentage is an estimate and is subject to recalculation. By 3582  
the due date of the next application for a qualifying 3583  
certificate, the operator shall determine the actual Ohio 3584  
delivery percentage for the estimated qualifying period and 3585  
proceed as provided in division (F) (2) (z) (iii) of this section 3586  
with respect to the calculation and recalculation of the Ohio 3587  
delivery percentage. The supplier is required to file, within 3588  
sixty days after receiving notice from the operator of the 3589  
qualified distribution center, amended reports for the impacted 3590  
calendar quarter or quarters or calendar year, whichever the 3591  
case may be. Any additional tax liability or tax overpayment 3592  
shall be subject to interest but shall not be subject to the 3593  
imposition of any penalty so long as the amended returns are 3594  
timely filed. 3595

(II) The operator of a distribution center that receives a 3596  
qualifying certificate under division (F) (2) (z) (ii) (II) of this 3597  
section shall make a good faith estimate of the Ohio delivery 3598  
percentage that the operator estimates will apply to the 3599  
distribution center at the end of the thirty-six-month period 3600  
after the operator first applied for a qualifying certificate 3601  
under that division. The result of the estimate shall be 3602  
multiplied by a factor of one and seventy-five one-hundredths. 3603  
The product of that calculation shall be the Ohio delivery 3604  
percentage used by suppliers in their reports of taxable gross 3605

receipts for each qualifying year that the distribution center 3606  
receives a qualifying certificate under division (F) (2) (z) (ii) 3607  
(II) of this section, except that, if the product is less than 3608  
five per cent, the Ohio delivery percentage used shall be five 3609  
per cent and that, if the product exceeds forty-nine per cent, 3610  
the Ohio delivery percentage used shall be forty-nine per cent. 3611

(v) Qualifying certificates and Ohio delivery percentages 3612  
issued by the commissioner shall be open to public inspection 3613  
and shall be timely published by the commissioner. A supplier 3614  
relying in good faith on a certificate issued under this 3615  
division shall not be subject to tax on the qualifying 3616  
distribution center receipts under division (F) (2) (z) of this 3617  
section. An operator receiving a qualifying certificate is 3618  
liable for the ineligible operator's supplier tax liability for 3619  
each year the operator received a certificate but did not 3620  
qualify as a qualified distribution center. 3621

(vi) The annual fee for a qualifying certificate shall be 3622  
one hundred thousand dollars for each qualified distribution 3623  
center. If a qualifying certificate is not issued, the annual 3624  
fee is subject to refund after the exhaustion of all appeals 3625  
provided for in division (F) (2) (z) (i) (VI) of this section. The 3626  
first one hundred thousand dollars of the annual application 3627  
fees collected each calendar year shall be credited to the 3628  
revenue enhancement fund. The remainder of the annual 3629  
application fees collected shall be distributed in the same 3630  
manner required under section 5751.20 of the Revised Code. 3631

(vii) The tax commissioner may require that adequate 3632  
security be posted by the operator of the distribution center on 3633  
appeal when the commissioner disagrees that the applicant has 3634  
met the minimum thresholds for a qualified distribution center 3635

as set forth in division (F) (2) (z) of this section.	3636
(aa) Receipts of an employer from payroll deductions	3637
relating to the reimbursement of the employer for advancing	3638
moneys to an unrelated third party on an employee's behalf;	3639
(bb) Cash discounts allowed and taken;	3640
(cc) Returns and allowances;	3641
(dd) Bad debts from receipts on the basis of which the tax	3642
imposed by this chapter was paid in a prior quarterly tax	3643
payment period. For the purpose of this division, "bad debts"	3644
means any debts that have become worthless or uncollectible	3645
between the preceding and current quarterly tax payment periods,	3646
have been uncollected for at least six months, and that may be	3647
claimed as a deduction under section 166 of the Internal Revenue	3648
Code and the regulations adopted under that section, or that	3649
could be claimed as such if the taxpayer kept its accounts on	3650
the accrual basis. "Bad debts" does not include repossessed	3651
property, uncollectible amounts on property that remains in the	3652
possession of the taxpayer until the full purchase price is	3653
paid, or expenses in attempting to collect any account	3654
receivable or for any portion of the debt recovered;	3655
(ee) Any amount realized from the sale of an account	3656
receivable to the extent the receipts from the underlying	3657
transaction giving rise to the account receivable were included	3658
in the gross receipts of the taxpayer;	3659
(ff) Any receipts directly attributed to a transfer	3660
agreement or to the enterprise transferred under that agreement	3661
under section 4313.02 of the Revised Code.	3662
(gg) (i) As used in this division:	3663

(I) "Qualified uranium receipts" means receipts from the 3664  
sale, exchange, lease, loan, production, processing, or other 3665  
disposition of uranium within a uranium enrichment zone 3666  
certified by the tax commissioner under division (F) (2) (gg) (ii) 3667  
of this section. "Qualified uranium receipts" does not include 3668  
any receipts with a situs in this state outside a uranium 3669  
enrichment zone certified by the tax commissioner under division 3670  
(F) (2) (gg) (ii) of this section. 3671

(II) "Uranium enrichment zone" means all real property 3672  
that is part of a uranium enrichment facility licensed by the 3673  
United States nuclear regulatory commission and that was or is 3674  
owned or controlled by the United States department of energy or 3675  
its successor. 3676

(ii) Any person that owns, leases, or operates real or 3677  
tangible personal property constituting or located within a 3678  
uranium enrichment zone may apply to the tax commissioner to 3679  
have the uranium enrichment zone certified for the purpose of 3680  
excluding qualified uranium receipts under division (F) (2) (gg) 3681  
of this section. The application shall include such information 3682  
that the tax commissioner prescribes. Within sixty days after 3683  
receiving the application, the tax commissioner shall certify 3684  
the zone for that purpose if the commissioner determines that 3685  
the property qualifies as a uranium enrichment zone as defined 3686  
in division (F) (2) (gg) of this section, or, if the tax 3687  
commissioner determines that the property does not qualify, the 3688  
commissioner shall deny the application or request additional 3689  
information from the applicant. If the tax commissioner denies 3690  
an application, the commissioner shall state the reasons for the 3691  
denial. The applicant may appeal the denial of an application to 3692  
the board of tax appeals pursuant to section 5717.02 of the 3693  
Revised Code. If the applicant files a timely appeal, the tax 3694

commissioner shall conditionally certify the applicant's 3695  
property. The conditional certification shall expire when all of 3696  
the applicant's appeals are exhausted. Until final resolution of 3697  
the appeal, the applicant shall retain the applicant's records 3698  
in accordance with section 5751.12 of the Revised Code, 3699  
notwithstanding any time limit on the preservation of records 3700  
under that section. 3701

(hh) In the case of amounts collected by a licensed casino 3702  
operator from casino gaming, amounts in excess of the casino 3703  
operator's gross casino revenue. In this division, "casino 3704  
operator" and "casino gaming" have the meanings defined in 3705  
section 3772.01 of the Revised Code, and "gross casino revenue" 3706  
has the meaning defined in section 5753.01 of the Revised Code. 3707

(ii) Receipts realized from the sale of agricultural 3708  
commodities by an agricultural commodity handler, both as 3709  
defined in section 926.01 of the Revised Code, that is licensed 3710  
by the director of agriculture to handle agricultural 3711  
commodities in this state. 3712

(jj) Qualifying integrated supply chain receipts. 3713

As used in division (F)(2)(jj) of this section: 3714

(i) "Qualifying integrated supply chain receipts" means 3715  
receipts of a qualified integrated supply chain vendor from the 3716  
sale of qualified property delivered to, or integrated supply 3717  
chain services provided to, another qualified integrated supply 3718  
chain vendor or to a retailer that is a member of the integrated 3719  
supply chain. "Qualifying integrated supply chain receipts" does 3720  
not include receipts of a person that is not a qualified 3721  
integrated supply chain vendor from the sale of raw materials to 3722  
a member of an integrated supply chain, or receipts of a member 3723



of an integrated supply chain from the sale of qualified 3724  
property or integrated supply chain services to a person that is 3725  
not a member of the integrated supply chain. 3726

(ii) "Qualified property" means any of the following: 3727

(I) Component parts used to hold, contain, package, or 3728  
dispense qualified products, excluding equipment; 3729

(II) Work-in-process inventory that will become, comprise, 3730  
or form a component part of a qualified product capable of being 3731  
sold at retail, excluding equipment, machinery, furniture, and 3732  
fixtures; 3733

(III) Finished goods inventory that is a qualified product 3734  
capable of being sold at retail in the inventory's present form. 3735

(iii) "Qualified integrated supply chain vendor" means a 3736  
person that is a member of an integrated supply chain and that 3737  
provides integrated supply chain services within a qualified 3738  
integrated supply chain district to a retailer that is a member 3739  
of the integrated supply chain or to another qualified 3740  
integrated supply chain vendor that is located within the same 3741  
such district as the person but does not share a common owner 3742  
with that person. 3743

(iv) "Qualified product" means a personal care, health, or 3744  
beauty product or an aromatic product, including a candle. 3745

"Qualified product" does not include a drug that may be 3746  
dispensed only pursuant to a prescription, durable medical 3747  
equipment, mobility enhancing equipment, or a prosthetic device, 3748  
as those terms are defined in section 5739.01 of the Revised 3749  
Code. 3750

(v) "Integrated supply chain" means two or more qualified 3751  
integrated supply chain vendors certified on the most recent 3752

list certified to the tax commissioner under this division that 3753  
systematically collaborate and coordinate business operations 3754  
with a retailer on the flow of tangible personal property from 3755  
material sourcing through manufacturing, assembly, packaging, 3756  
and delivery to the retailer to improve long-term financial 3757  
performance of each vendor and the supply chain that includes 3758  
the retailer. 3759

For the purpose of the certification required under this 3760  
division, the reporting person for each retailer, on or before 3761  
the first day of October of each year, shall certify to the tax 3762  
commissioner a list of the qualified integrated supply chain 3763  
vendors providing or receiving integrated supply chain services 3764  
within a qualified integrated supply chain district for the 3765  
ensuing calendar year. On or before the following first day of 3766  
November, the commissioner shall issue a certificate to the 3767  
retailer and to each vendor certified to the commissioner on 3768  
that list. The certificate shall include the names of the 3769  
retailer and of the qualified integrated supply chain vendors. 3770

The retailer shall notify the commissioner of any changes 3771  
to the list, including additions to or subtractions from the 3772  
list or changes in the name or legal entity of vendors certified 3773  
on the list, within sixty days after the date the retailer 3774  
becomes aware of the change. Within thirty days after receiving 3775  
that notification, the commissioner shall issue a revised 3776  
certificate to the retailer and to each vendor certified on the 3777  
list. The revised certificate shall include the effective date 3778  
of the change. 3779

Each recipient of a certificate issued pursuant to this 3780  
division shall maintain a copy of the certificate for four years 3781  
from the date the certificate was received. 3782

(vi) "Integrated supply chain services" means procuring 3783  
raw materials or manufacturing, processing, refining, 3784  
assembling, packaging, or repackaging tangible personal property 3785  
that will become finished goods inventory capable of being sold 3786  
at retail by a retailer that is a member of an integrated supply 3787  
chain. 3788

(vii) "Retailer" means a person primarily engaged in 3789  
making retail sales and any member of that person's consolidated 3790  
elected taxpayer group or combined taxpayer group, whether or 3791  
not that member is primarily engaged in making retail sales. 3792

(viii) "Qualified integrated supply chain district" means 3793  
the parcel or parcels of land from which a retailer's integrated 3794  
supply chain that existed on September 29, 2015, provides or 3795  
receives integrated supply chain services, and to which all of 3796  
the following apply: 3797

(I) The parcel or parcels are located wholly in a county 3798  
having a population of greater than one hundred sixty-five 3799  
thousand but less than one hundred seventy thousand based on the 3800  
2010 federal decennial census. 3801

(II) The parcel or parcels are located wholly in the 3802  
corporate limits of a municipal corporation with a population 3803  
greater than seven thousand five hundred and less than eight 3804  
thousand based on the 2010 federal decennial census that is 3805  
partly located in the county described in division (F)(2)(jj) 3806  
(viii)(I) of this section, as those corporate limits existed on 3807  
September 29, 2015. 3808

(III) The aggregate acreage of the parcel or parcels 3809  
equals or exceeds one hundred acres. 3810

(kk) In the case of a railroad company described in 3811

division (D) (9) of section 5727.01 of the Revised Code that 3812  
purchases dyed diesel fuel directly from a supplier as defined 3813  
by section 5736.01 of the Revised Code, an amount equal to the 3814  
product of the number of gallons of dyed diesel fuel purchased 3815  
directly from such a supplier multiplied by the average 3816  
wholesale price for a gallon of diesel fuel as determined under 3817  
section 5736.02 of the Revised Code for the period during which 3818  
the fuel was purchased multiplied by a fraction, the numerator 3819  
of which equals the rate of tax levied by section 5736.02 of the 3820  
Revised Code less the rate of tax computed in section 5751.03 of 3821  
the Revised Code, and the denominator of which equals the rate 3822  
of tax computed in section 5751.03 of the Revised Code. 3823

(ll) Receipts realized by an out-of-state disaster 3824  
business from disaster work conducted in this state during a 3825  
disaster response period pursuant to a qualifying solicitation 3826  
received by the business. Terms used in this division (F) (2) (ll) 3827  
have the same meanings as in section 5703.94 of the Revised 3828  
Code. 3829

(mm) Any receipts for which the tax imposed by this 3830  
chapter is prohibited by the constitution or laws of the United 3831  
States or the constitution of this state. 3832

(3) In the case of a taxpayer when acting as a real estate 3833  
broker, "gross receipts" includes only the portion of any fee 3834  
for the service of a real estate broker, or service of a real 3835  
estate salesperson associated with that broker, that is retained 3836  
by the broker and not paid to an associated real estate 3837  
salesperson or another real estate broker. For the purposes of 3838  
this division, "real estate broker" and "real estate 3839  
salesperson" have the same meanings as in section 4735.01 of the 3840  
Revised Code. 3841

(4) A taxpayer's method of accounting for gross receipts 3842  
for a tax period shall be the same as the taxpayer's method of 3843  
accounting for federal income tax purposes for the taxpayer's 3844  
federal taxable year that includes the tax period. If a 3845  
taxpayer's method of accounting for federal income tax purposes 3846  
changes, its method of accounting for gross receipts under this 3847  
chapter shall be changed accordingly. 3848

(G) "Taxable gross receipts" means gross receipts situated 3849  
to this state under section 5751.033 of the Revised Code. 3850

(H) A person has "substantial nexus with this state" if 3851  
any of the following applies. The person: 3852

(1) Owns or uses a part or all of its capital in this 3853  
state; 3854

(2) Holds a certificate of compliance with the laws of 3855  
this state authorizing the person to do business in this state; 3856

(3) Has bright-line presence in this state; 3857

(4) Otherwise has nexus with this state to an extent that 3858  
the person can be required to remit the tax imposed under this 3859  
chapter under the Constitution of the United States. 3860

(I) A person has "bright-line presence" in this state for 3861  
a reporting period and for the remaining portion of the calendar 3862  
year if any of the following applies. The person: 3863

(1) Has at any time during the calendar year property in 3864  
this state with an aggregate value of at least fifty thousand 3865  
dollars. For the purpose of division (I)(1) of this section, 3866  
owned property is valued at original cost and rented property is 3867  
valued at eight times the net annual rental charge. 3868

(2) Has during the calendar year payroll in this state of 3869

at least fifty thousand dollars. Payroll in this state includes 3870  
all of the following: 3871

(a) Any amount subject to withholding by the person under 3872  
section 5747.06 of the Revised Code; 3873

(b) Any other amount the person pays as compensation to an 3874  
individual under the supervision or control of the person for 3875  
work done in this state; and 3876

(c) Any amount the person pays for services performed in 3877  
this state on its behalf by another. 3878

(3) Has during the calendar year taxable gross receipts of 3879  
at least five hundred thousand dollars. 3880

(4) Has at any time during the calendar year within this 3881  
state at least twenty-five per cent of the person's total 3882  
property, total payroll, or total gross receipts. 3883

(5) Is domiciled in this state as an individual or for 3884  
corporate, commercial, or other business purposes. 3885

(J) "Tangible personal property" has the same meaning as 3886  
in section 5739.01 of the Revised Code. 3887

(K) "Internal Revenue Code" means the Internal Revenue 3888  
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 3889  
used in this chapter that is not otherwise defined has the same 3890  
meaning as when used in a comparable context in the laws of the 3891  
United States relating to federal income taxes unless a 3892  
different meaning is clearly required. Any reference in this 3893  
chapter to the Internal Revenue Code includes other laws of the 3894  
United States relating to federal income taxes. 3895

(L) "Calendar quarter" means a three-month period ending 3896  
on the thirty-first day of March, the thirtieth day of June, the 3897

thirtieth day of September, or the thirty-first day of December. 3898

(M) "Tax period" means the calendar quarter or calendar 3899  
year on the basis of which a taxpayer is required to pay the tax 3900  
imposed under this chapter. 3901

(N) "Calendar year taxpayer" means a taxpayer for which 3902  
the tax period is a calendar year. 3903

(O) "Calendar quarter taxpayer" means a taxpayer for which 3904  
the tax period is a calendar quarter. 3905

(P) "Agent" means a person authorized by another person to 3906  
act on its behalf to undertake a transaction for the other, 3907  
including any of the following: 3908

(1) A person receiving a fee to sell financial 3909  
instruments; 3910

(2) A person retaining only a commission from a 3911  
transaction with the other proceeds from the transaction being 3912  
remitted to another person; 3913

(3) A person issuing licenses and permits under section 3914  
1533.13 of the Revised Code; 3915

(4) A lottery sales agent holding a valid license issued 3916  
under section 3770.05 of the Revised Code; 3917

(5) A person acting as an agent of the division of liquor 3918  
control under section 4301.17 of the Revised Code. 3919

(Q) "Received" includes amounts accrued under the accrual 3920  
method of accounting. 3921

(R) "Reporting person" means a person in a consolidated 3922  
elected taxpayer or combined taxpayer group that is designated 3923  
by that group to legally bind the group for all filings and tax 3924

liabilities and to receive all legal notices with respect to 3925  
matters under this chapter, or, for the purposes of section 3926  
5751.04 of the Revised Code, a separate taxpayer that is not a 3927  
member of such a group. 3928

**Section 2.** That existing sections 111.16, 718.01, 718.05, 3929  
1329.01, 4123.01, 4141.42, 5741.02, 5747.01, and 5751.01 of the 3930  
Revised Code are hereby repealed. 3931

**Section 3.** The General Assembly finds that the ability of 3932  
the state to respond to a declared disaster is a matter of 3933  
statewide concern and requires statewide regulation. Therefore, 3934  
it is the intent of the General Assembly in enacting the 3935  
Disaster Relief Act to enact a general law permitting the state 3936  
to adequately respond to a declared disaster by establishing a 3937  
comprehensive plan for the application of state and local laws 3938  
and regulations with respect to out-of-state disaster businesses 3939  
and their employees while engaging in disaster relief activities 3940  
in this state. 3941