

As Reported by the House Public Utilities Committee

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H. B. No. 133

Representative Ryan

**Cosponsors: Representatives Hambley, Hill, Carfagna, Goodman, Seitz, Schaffer,
Lipps, Arndt, Green, Ginter, Slaby, Cupp, Dean, Reineke, Miller**

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 a domestic corporation, including designation of agent:	18
	19
(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, ninety-nine dollars;	20
	21
(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:	22
	23
(a) Ten cents for each share authorized up to and including one thousand shares;	24
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(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;	26
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(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;	28
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(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;	30
	31
(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;	32
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	34
(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than ninety-nine dollars or greater than one hundred thousand dollars.	35
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(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:	39
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	43
(1) If the domestic corporation is not authorized to issue	44

any shares of capital stock, fifty dollars; 45

(2) If the domestic corporation is authorized to issue 46
shares of capital stock, fifty dollars, and in case of any 47
increase in the number of shares authorized to be issued, a 48
further sum computed in accordance with the schedule set forth 49
in division (A) (2) of this section less a credit computed in the 50
same manner for the number of shares previously authorized to be 51
issued by the corporation; provided no fee under division (B) (2) 52
of this section shall be greater than one hundred thousand 53
dollars; 54

(3) If the foreign corporation is not authorized to issue 55
any shares of capital stock, fifty dollars; 56

(4) If the foreign corporation is authorized to issue 57
shares of capital stock, fifty dollars. 58

(C) For filing and recording articles of incorporation of 59
a savings and loan association, ninety-nine dollars; and for 60
filing and recording a certificate of amendment to or amended 61
articles of incorporation of a savings and loan association, 62
fifty dollars; 63

(D) For filing and recording a certificate of conversion, 64
including a designation of agent, a certificate of merger, or a 65
certificate of consolidation, ninety-nine dollars and, in the 66
case of any new corporation resulting from a consolidation or 67
any surviving corporation that has an increased number of shares 68
authorized to be issued resulting from a merger, an additional 69
sum computed in accordance with the schedule set forth in 70
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 100
foreign corporation for profit pursuant to section 1703.04 of 101
the Revised Code or a foreign nonprofit corporation pursuant to 102

section 1703.27 of the Revised Code, ninety-nine dollars;	103
(2) A biennial report or biennial statement pursuant to	104
section 1775.63, 1776.83, or 1785.06 of the Revised Code,	105
twenty-five dollars;	106
(3) Except as otherwise provided in this section or any	107
other section of the Revised Code, any other certificate or	108
paper that is required to be filed and recorded or is permitted	109
to be filed and recorded by any provision of the Revised Code	110
with the secretary of state, twenty-five dollars.	111
(J) For filing any certificate or paper not required to be	112
recorded, five dollars;	113
(K) (1) For making copies of any certificate or other paper	114
filed in the office of the secretary of state, a fee not to	115
exceed one dollar per page, except as otherwise provided in the	116
Revised Code, and for creating and affixing the seal of the	117
office of the secretary of state to any good standing or other	118
certificate, five dollars. For copies of certificates or papers	119
required by state officers for official purpose, no charge shall	120
be made.	121
(2) For creating and affixing the seal of the office of	122
the secretary of state to the certificates described in division	123
(E) of section 1701.81, division (E) of section 1701.811,	124
division (E) of section 1705.38, division (E) of section	125
1705.381, division (D) of section 1702.43, division (E) of	126
section 1775.47, division (E) of section 1775.55, division (E)	127
of section 1776.70, division (E) of section 1776.74, division	128
(E) of section 1782.433, or division (E) of section 1782.4310 of	129
the Revised Code, twenty-five dollars.	130
(L) For a minister's license to solemnize marriages, ten	131

dollars;	132
(M) For examining documents to be filed at a later date	133
for the purpose of advising as to the acceptability of the	134
proposed filing, fifty dollars;	135
(N) Fifty dollars for filing and recording any of the	136
following:	137
(1) A certificate of dissolution and accompanying	138
documents, or a certificate of cancellation, under section	139
1701.86, 1702.47, 1705.43, 1776.65, or 1782.10 of the Revised	140
Code;	141
(2) A notice of dissolution of a foreign licensed	142
corporation or a certificate of surrender of license by a	143
foreign licensed corporation under section 1703.17 of the	144
Revised Code;	145
(3) The withdrawal of registration of a foreign or	146
domestic limited liability partnership under section 1775.61,	147
1775.64, 1776.81, or 1776.86 of the Revised Code, or the	148
certificate of cancellation of registration of a foreign limited	149
liability company under section 1705.57 of the Revised Code;	150
(4) The filing of a statement of denial under section	151
1776.34 of the Revised Code, a statement of dissociation under	152
section 1776.57 of the Revised Code, a statement of disclaimer	153
of general partner status under Chapter 1782. of the Revised	154
Code, or a cancellation of disclaimer of general partner status	155
under Chapter 1782. of the Revised Code.	156
(O) For filing a statement of continued existence by a	157
nonprofit corporation, twenty-five dollars;	158
(P) For filing a restatement under section 1705.08 or	159

1782.09 of the Revised Code, an amendment to a certificate of 160
cancellation under section 1782.10 of the Revised Code, an 161
amendment under section 1705.08 or 1782.09 of the Revised Code, 162
or a correction under section 1705.55, 1775.61, 1775.64, 163
1776.12, or 1782.52 of the Revised Code, fifty dollars; 164

(Q) For filing for reinstatement of an entity cancelled by 165
operation of law, by the secretary of state, by order of the 166
department of taxation, or by order of a court, twenty-five 167
dollars; 168

(R) For filing and recording any of the following: 169

(1) A change of agent, resignation of agent, or change of 170
agent's address under section 1701.07, 1702.06, 1703.041, 171
1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 172
of the Revised Code, twenty-five dollars; 173

(2) A multiple change of agent name or address, 174
standardization of agent address, or resignation of agent under 175
section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 176
1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one 177
hundred twenty-five dollars, plus three dollars per entity 178
record being changed, by the multiple agent update. 179

(S) For filing and recording any of the following: 180

(1) An application for the exclusive right to use a name 181
or an application to reserve a name for future use under section 182
1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised 183
Code, thirty-nine dollars; 184

(2) A trade name or fictitious name registration or 185
report, thirty-nine dollars; 186

(3) An application to renew any item covered by division 187

(S) (1) or (2) of this section that is permitted to be renewed,	188
twenty-five dollars;	189
(4) An assignment of rights for use of a name covered by	190
division (S) (1), (2), or (3) of this section, the cancellation	191
of a name registration or name reservation that is so covered,	192
or notice of a change of address of the registrant of a name	193
that is so covered, twenty-five dollars.	194
(T) For filing and recording a report to operate a	195
business trust or a real estate investment trust, either foreign	196
or domestic, ninety-nine dollars; and for filing and recording	197
an amendment to a report or associated trust instrument, or a	198
surrender of authority, to operate a business trust or real	199
estate investment trust, fifty dollars;	200
(U) (1) For filing and recording the registration of a	201
trademark, service mark, or mark of ownership, one hundred	202
twenty-five dollars;	203
(2) For filing and recording the change of address of a	204
registrant, the assignment of rights to a registration, a	205
renewal of a registration, or the cancellation of a registration	206
associated with a trademark, service mark, or mark of ownership,	207
twenty-five dollars.	208
(V) For filing a service of process with the secretary of	209
state, five dollars, except as otherwise provided in any section	210
of the Revised Code.	211
Fees specified in this section may be paid by cash, check,	212
or money order, by credit card in accordance with section 113.40	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 municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Revised Code.

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

(2) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (A) (1) (b) (i) or (c) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in

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, 361
scientific, literary, or educational institutions to the extent 362
such income is derived from tax-exempt real estate, tax-exempt 363

tangible or intangible property, or tax-exempt activities.	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 during the period of administration except such income from the operation of a trade or business;	385 386 387 388 389 390
(11) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;	391 392

(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

(c) Income of a qualifying employee described in division 536
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 537
such income is derived from disaster work conducted in this 538
state by the employee during a disaster response period on 539

<u>critical infrastructure owned or used by the employee's</u>	540
<u>employer.</u>	541
<u>(21)</u> Income the taxation of which is prohibited by the	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 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:	774 775 776
(1) Deduct the following amounts:	777
(a) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.	778 779 780
(b) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.	781 782 783 784
(c) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v) (2) (C) of the Internal Revenue Code if the compensation is included in wages and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.	785 786 787 788 789 790
(d) Any amount included in wages if 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, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.	791 792 793 794 795 796 797
(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	800

employee was employed by the employer before April 1, 1986. 801

(b) Any amount not included in wages because the amount 802
arises from the sale, exchange, or other disposition of a stock 803
option, the exercise of a stock option, or the sale, exchange, 804
or other disposition of stock purchased under a stock option and 805
the municipal corporation has not, by resolution or ordinance, 806
exempted the amount from withholding and tax adopted before 807
January 1, 2016. Division (R) (2) (b) of this section applies only 808
to those amounts constituting ordinary income. 809

(c) Any amount not included in wages if the amount is an 810
amount described in section 401(k), 403(b), or 457 of the 811
Internal Revenue Code. Division (R) (2) (c) of this section 812
applies only to employee contributions and employee deferrals. 813

(d) Any amount that is supplemental unemployment 814
compensation benefits described in section 3402(o) (2) of the 815
Internal Revenue Code and not included in wages. 816

(e) Any amount received that is treated as self-employment 817
income for federal tax purposes in accordance with section 818
1402(a) (8) of the Internal Revenue Code. 819

(f) Any amount not included in wages if all of the 820
following apply: 821

(i) For the taxable year the amount is employee 822
compensation that is earned outside of the United States and 823
that either is included in the taxpayer's gross income for 824
federal income tax purposes or would have been included in the 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 Revenue Code;	830 831
(iii) For no succeeding taxable year will the amount constitute wages; and	832 833
(iv) For any taxable year the amount has not otherwise been added to wages pursuant to either division (R) (2) of this section or section 718.03 of the Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.	834 835 836 837 838
(S) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.	839 840 841 842 843 844 845 846 847 848 849 850
(T) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.	851 852 853
(U) "Tax administrator" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:	854 855 856 857
(1) A municipal corporation acting as the agent of another	858

municipal corporation;	859
(2) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;	860 861 862 863
(3) The central collection agency or the regional income tax agency or their successors in interest, or another entity organized to perform functions similar to those performed by the central collection agency and the regional income tax agency.	864 865 866 867
(V) "Employer" means a person that is an employer for federal income tax purposes.	868 869
(W) "Employee" means an individual who is an employee for federal income tax purposes.	870 871
(X) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.	872 873 874 875 876
(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.	877 878
(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.	879 880
(AA) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.72 of the Revised Code.	881 882 883 884
(BB) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or	885 886

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	913
section 3770.21 of the Revised Code.	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.

(KK) "Postal service" means the United States postal service.

(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.

(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.

(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.

(OO) "Related entity" means any of the following:

(1) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or

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 number of partners.

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

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

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

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

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

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

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

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

(3) A tax administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form

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, limited partnership, limited liability partnership, corporation, association, professional association, limited liability company, society, foundation, federation, or organization formed under the laws of this state or any other state.

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

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

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

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

(2) The trade name to be registered;

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

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

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

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

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

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

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

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

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

(2) The fictitious name being used;

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

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

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 1439
regular functioning of the other contracting party; 1440

(iv) The person is required to perform the work 1441

personally;	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	1468
of employers at the same time;	1469
(xviii) The person does not make the same services	1470
available to the general public;	1471
(xix) The other contracting party has a right to discharge	1472
the person;	1473
(xx) The person has the right to end the relationship with	1474
the other contracting party without incurring liability pursuant	1475
to an employment contract or agreement.	1476
Every person in the service of any independent contractor	1477
or subcontractor who has failed to pay into the state insurance	1478
fund the amount of premium determined and fixed by the	1479
administrator of workers' compensation for the person's	1480
employment or occupation or <u>if-who is a</u> self-insuring employer	1481
<u>and who</u> has failed to pay compensation and benefits directly to	1482
the employer's injured and to the dependents of the employer's	1483
killed employees as required by section 4123.35 of the Revised	1484
Code, shall be considered as the employee of the person who has	1485
entered into a contract, whether written or verbal, with such	1486
independent contractor unless such employees or their legal	1487
representatives or beneficiaries elect, after injury or death,	1488
to regard such independent contractor as the employer.	1489
(2) "Employee" does not mean any of the following:	1490
(a) A duly ordained, commissioned, or licensed minister or	1491
assistant or associate minister of a church in the exercise of	1492
ministry;	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 1496
section 1702.01 of the Revised Code, who volunteers the person's 1497
services as a an officer; 1498

(e) An individual who otherwise is an employee of an 1499
employer but who signs the waiver and affidavit specified in 1500
section 4123.15 of the Revised Code on the condition that the 1501
administrator has granted a waiver and exception to the 1502
individual's employer under section 4123.15 of the Revised Code; 1503

(f) (i) A qualifying employee described in division (A) (14) 1504
(a) of section 5703.94 of the Revised Code when the qualifying 1505
employee is performing disaster work in this state during a 1506
disaster response period pursuant to a qualifying solicitation 1507
received by the employee's employer; 1508

(ii) A qualifying employee described in division (A) (14) 1509
(b) of section 5703.94 of the Revised Code when the qualifying 1510
employee is performing disaster work in this state during a 1511
disaster response period on critical infrastructure owned or 1512
used by the employee's employer; 1513

(iii) As used in division (A) (2) (f) of this section, 1514
"critical infrastructure," "disaster response period," "disaster 1515
work," and "qualifying employee" have the same meanings as in 1516
section 5703.94 of the Revised Code. 1517

Any employer may elect to include as an "employee" within 1518
this chapter, any person excluded from the definition of 1519
"employee" pursuant to division (A) (2) (a), (b), (c), or (e) of 1520
this section in accordance with rules adopted by the 1521
administrator, with the advice and consent of the bureau of 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 1671

infrastructure," "disaster response period," "disaster work," 1672
and "qualifying employee" have the same meanings as in section 1673
5703.94 of the Revised Code. 1674

(B) The director of job and family services may enter into 1675
reciprocal agreements with departments charged with the 1676
administration of the unemployment compensation law of any other 1677
state or the United States or Canada for the purpose of 1678
determining and placing the liability of an employer for the 1679
payment of contributions for services rendered within this state 1680
or such other jurisdiction, or both, and to provide that the 1681
jurisdiction authorized to collect the contributions shall 1682
determine the benefit rights which may arise in connection with 1683
such services and assume the liability for the payment of the 1684
benefits. 1685

(C) An agreement described in division (B) of this section 1686
shall provide that an employer is not liable for disaster work 1687
performed in this state during a disaster response period by 1688
either of the following: 1689

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

(2) A qualifying employee described in division (A) (14) (b) 1694
of section 5703.94 of the Revised Code, when the disaster work 1695
is performed on critical infrastructure owned or used by the 1696
employee's employer. 1697

Sec. 4799.04. (A) As used in this section, "critical 1698
infrastructure," "disaster response period," "disaster work," 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 4905.02 of the Revised Code, without regard to the exclusions from that definition prescribed in divisions (A)(1) to (5) of that section. 1759
1760
1761
1762

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

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

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

(a) Receives a qualifying solicitation; 1772

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

(c) Is not subject to taxation under Chapter 5747. or 5751. of the Revised Code on any basis other than such disaster work during the calendar year preceding the year in which the disaster response period begins or is subject to such taxation during that year solely because the person is a related member of another person. 1775
1776
1777
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(11) "Out-of-state employee" means an individual who performs no work in this state, except disaster work during a disaster response period, from the first day of the preceding calendar year to the date on which the disaster response period begins. 1781
1782
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(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
1790
1791
1792
1793

(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
1807
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 1841

commissioner. 1842

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

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

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

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

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

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

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

(3) If the commissioner makes a request under division (C) 1861
(1) or (2) of this section, the out-of-state disaster business 1862
or employer shall submit information described in that division 1863
to the commissioner not later than thirty days from the date the 1864
disaster response period terminates or thirty days after the 1865
business or employer receives the request, whichever is later. 1866

(D) The department of taxation may adopt rules necessary 1867
to administer this section. 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 2076
assessment, except that, upon application and for reasonable 2077
cause, the tax commissioner may extend the period for submitting 2078
such evidence thirty days. 2079

(G) For the purpose of the proper administration of 2080
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 2081
the evasion of the tax hereby levied, it shall be presumed that 2082
any use, storage, or other consumption of tangible personal 2083
property in this state is subject to the tax until the contrary 2084
is established. 2085

(H) The tax collected by the seller from the consumer 2086
under this chapter is not part of the price, but is a tax 2087
collection for the benefit of the state, and of counties levying 2088
an additional use tax pursuant to section 5741.021 or 5741.023 2089
of the Revised Code and of transit authorities levying an 2090
additional use tax pursuant to section 5741.022 of the Revised 2091
Code. Except for the discount authorized under section 5741.12 2092
of the Revised Code and the effects of any rounding pursuant to 2093
section 5703.055 of the Revised Code, no person other than the 2094
state or such a county or transit authority shall derive any 2095
benefit from the collection of such tax. 2096

Sec. 5747.01. Except as otherwise expressly provided or 2097
clearly appearing from the context, any term used in this 2098
chapter that is not otherwise defined in this section has the 2099
same meaning as when used in a comparable context in the laws of 2100
the United States relating to federal income taxes or if not 2101
used in a comparable context in those laws, has the same meaning 2102
as in section 5733.40 of the Revised Code. Any reference in this 2103
chapter to the Internal Revenue Code includes other laws of the 2104
United States relating to federal income taxes. 2105

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 year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.	3899 3900 3901
(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	3902 3903
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	3904 3905
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	3906 3907 3908
(1) A person receiving a fee to sell financial instruments;	3909 3910
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	3911 3912 3913
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	3914 3915
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	3916 3917
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	3918 3919
(Q) "Received" includes amounts accrued under the accrual method of accounting.	3920 3921
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax	3922 3923 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