

As Reported by the House Ways and Means Committee

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Sub. H. B. No. 510

Representative Amstutz

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A B I L L

To amend sections 122.17, 122.171, 122.85, 145.114, 1
145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 2
742.114, 742.116, 3307.152, 3307.154, 3309.157, 3
3309.159, 5505.068, 5505.0610, 5703.052, 5703.053, 4
5703.70, 5707.03, 5709.76, 5711.22, 5725.02, 5
5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 6
5733.02, 5733.021, 5733.06, 5747.01, 5747.98, 7
5751.01, 5751.011, 5751.012, and 5751.98 and to 8
enact sections 5701.12, 5726.01 to 5726.08, 9
5726.10, 5726.20, 5726.21, 5726.30 to 5726.33, 10
5726.36, 5726.40 to 5726.43, 5726.50 to 5726.57, 11
5726.98, 5726.99, 5747.65, and 5751.54 of the 12
Revised Code to impose a new tax on financial 13
institutions, effective January 1, 2014, to 14
provide that such institutions and dealers in 15
intangibles are no longer subject to the 16
corporation franchise tax or dealers in 17
intangibles tax after 2013, and to require dealers 18
in intangibles to pay the commercial activity tax 19
after 2013. 20

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

Section 1. That sections 122.17, 122.171, 122.85, 145.114, 21

145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 742.114, 22
742.116, 3307.152, 3307.154, 3309.157, 3309.159, 5505.068, 23
5505.0610, 5703.052, 5703.053, 5703.70, 5707.03, 5709.76, 5711.22, 24
5725.02, 5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 5733.02, 25
5733.021, 5733.06, 5747.01, 5747.98, 5751.01, 5751.011, 5751.012, 26
and 5751.98 be amended and sections 5701.12, 5726.01, 5726.02, 27
5726.03, 5726.04, 5726.05, 5726.06, 5726.07, 5726.08, 5726.10, 28
5726.20, 5726.21, 5726.30, 5726.31, 5726.32, 5726.33, 5726.36, 29
5726.40, 5726.41, 5726.42, 5726.43, 5726.50, 5726.51, 5726.52, 30
5726.53, 5726.54, 5726.55, 5726.56, 5726.57, 5726.98, 5726.99, 31
5747.65, and 5751.54 of the Revised Code be enacted to read as 32
follows: 33

Sec. 122.17. (A) As used in this section: 34

(1) "Income tax revenue" means the total amount withheld 35
under section 5747.06 of the Revised Code by the taxpayer during 36
the taxable year, or during the calendar year that includes the 37
tax period, from the compensation of each employee employed in the 38
project to the extent the employee's withholdings are not used to 39
determine the credit under section 122.171 of the Revised Code. 40
"Income tax revenue" excludes amounts withheld before the day the 41
taxpayer becomes eligible for the credit. 42

(2) "Baseline income tax revenue" means income tax revenue 43
except that the applicable withholding period is the twelve months 44
immediately preceding the date the tax credit authority approves 45
the taxpayer's application multiplied by the sum of one plus an 46
annual pay increase factor to be determined by the tax credit 47
authority. If the taxpayer becomes eligible for the credit after 48
the first day of the taxpayer's taxable year or after the first 49
day of the calendar year that includes the tax period, the 50
taxpayer's baseline income tax revenue for the first such taxable 51
or calendar year of credit eligibility shall be reduced in 52

proportion to the number of days during the taxable or calendar 53
year for which the taxpayer was not eligible for the credit. For 54
subsequent taxable or calendar years, "baseline income tax 55
revenue" equals the unreduced baseline income tax revenue for the 56
preceding taxable or calendar year multiplied by the sum of one 57
plus the pay increase factor. 58

(3) "Excess income tax revenue" means income tax revenue 59
minus baseline income tax revenue. 60

(B) The tax credit authority may make grants under this 61
section to foster job creation in this state. Such a grant shall 62
take the form of a refundable credit allowed against the tax 63
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 64
or levied under Chapter 5751. of the Revised Code. The credit 65
shall be claimed for the taxable years or tax periods specified in 66
the taxpayer's agreement with the tax credit authority under 67
division (D) of this section. With respect to taxes imposed under 68
section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the 69
Revised Code, the credit shall be claimed in the order required 70
under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised 71
Code. The amount of the credit available for a taxable year or for 72
a calendar year that includes a tax period equals the excess 73
income tax revenue for that year multiplied by the percentage 74
specified in the agreement with the tax credit authority. Any 75
credit granted under this section against the tax imposed by 76
section 5733.06 or 5747.02 of the Revised Code, to the extent not 77
fully utilized against such tax for taxable years ending prior to 78
2008, shall automatically be converted without any action taken by 79
the tax credit authority to a credit against the tax levied under 80
Chapter 5751. of the Revised Code for tax periods beginning on or 81
after July 1, 2008, provided that the person to whom the credit 82
was granted is subject to such tax. The converted credit shall 83
apply to those calendar years in which the remaining taxable years 84

specified in the agreement end.	85
(C) A taxpayer or potential taxpayer who proposes a project	86
to create new jobs in this state may apply to the tax credit	87
authority to enter into an agreement for a tax credit under this	88
section. The director of development <u>services</u> shall prescribe the	89
form of the application. After receipt of an application, the	90
authority may enter into an agreement with the taxpayer for a	91
credit under this section if it determines all of the following:	92
(1) The taxpayer's project will increase payroll and income	93
tax revenue;	94
(2) The taxpayer's project is economically sound and will	95
benefit the people of this state by increasing opportunities for	96
employment and strengthening the economy of this state;	97
(3) Receiving the tax credit is a major factor in the	98
taxpayer's decision to go forward with the project.	99
(D) An agreement under this section shall include all of the	100
following:	101
(1) A detailed description of the project that is the subject	102
of the agreement;	103
(2) The term of the tax credit, which shall not exceed	104
fifteen years, and the first taxable year, or first calendar year	105
that includes a tax period, for which the credit may be claimed;	106
(3) A requirement that the taxpayer shall maintain operations	107
at the project location for at least the greater of seven years or	108
the term of the credit plus three years;	109
(4) The percentage, as determined by the tax credit	110
authority, of excess income tax revenue that will be allowed as	111
the amount of the credit for each taxable year or for each	112
calendar year that includes a tax period;	113
(5) The pay increase factor to be applied to the taxpayer's	114

baseline income tax revenue; 115

(6) A requirement that the taxpayer annually shall report to 116
the director of development services employment, tax withholding, 117
investment, and other information the director needs to perform 118
the director's duties under this section; 119

(7) A requirement that the director of development services 120
annually review the information reported under division (D)(6) of 121
this section and verify compliance with the agreement; if the 122
taxpayer is in compliance, a requirement that the director issue a 123
certificate to the taxpayer stating that the information has been 124
verified and identifying the amount of the credit that may be 125
claimed for the taxable or calendar year; 126

(8) A provision providing that the taxpayer may not relocate 127
a substantial number of employment positions from elsewhere in 128
this state to the project location unless the director of 129
development services determines that the legislative authority of 130
the county, township, or municipal corporation from which the 131
employment positions would be relocated has been notified by the 132
taxpayer of the relocation. 133

For purposes of this section, the movement of an employment 134
position from one political subdivision to another political 135
subdivision shall be considered a relocation of an employment 136
position unless the employment position in the first political 137
subdivision is replaced. 138

(E) If a taxpayer fails to meet or comply with any condition 139
or requirement set forth in a tax credit agreement, the tax credit 140
authority may amend the agreement to reduce the percentage or term 141
of the tax credit. The reduction of the percentage or term may 142
take effect in the current taxable or calendar year. 143

(F) Projects that consist solely of point-of-final-purchase 144
retail facilities are not eligible for a tax credit under this 145

section. If a project consists of both point-of-final-purchase 146
retail facilities and nonretail facilities, only the portion of 147
the project consisting of the nonretail facilities is eligible for 148
a tax credit and only the excess income tax revenue from the 149
nonretail facilities shall be considered when computing the amount 150
of the tax credit. If a warehouse facility is part of a 151
point-of-final-purchase retail facility and supplies only that 152
facility, the warehouse facility is not eligible for a tax credit. 153
Catalog distribution centers are not considered 154
point-of-final-purchase retail facilities for the purposes of this 155
division, and are eligible for tax credits under this section. 156

(G) Financial statements and other information submitted to 157
the department of development services or the tax credit authority 158
by an applicant or recipient of a tax credit under this section, 159
and any information taken for any purpose from such statements or 160
information, are not public records subject to section 149.43 of 161
the Revised Code. However, the chairperson of the authority may 162
make use of the statements and other information for purposes of 163
issuing public reports or in connection with court proceedings 164
concerning tax credit agreements under this section. Upon the 165
request of the tax commissioner or, if the applicant or recipient 166
is an insurance company, upon the request of the superintendent of 167
insurance, the chairperson of the authority shall provide to the 168
commissioner or superintendent any statement or information 169
submitted by an applicant or recipient of a tax credit in 170
connection with the credit. The commissioner or superintendent 171
shall preserve the confidentiality of the statement or 172
information. 173

(H) A taxpayer claiming a credit under this section shall 174
submit to the tax commissioner or, if the taxpayer is an insurance 175
company, to the superintendent of insurance, a copy of the 176
director of ~~development~~'s development services' certificate of 177

verification under division (D)(7) of this section with the 178
taxpayer's tax report or return for the taxable year or for the 179
calendar year that includes the tax period. Failure to submit a 180
copy of the certificate with the report or return does not 181
invalidate a claim for a credit if the taxpayer submits a copy of 182
the certificate to the commissioner or superintendent within sixty 183
days after the commissioner or superintendent requests it. 184

(I) The director of development services, after consultation 185
with the tax commissioner and the superintendent of insurance and 186
in accordance with Chapter 119. of the Revised Code, shall adopt 187
rules necessary to implement this section. The rules may provide 188
for recipients of tax credits under this section to be charged 189
fees to cover administrative costs of the tax credit program. The 190
fees collected shall be credited to the tax incentive programs 191
operating fund created in section 122.174 of the Revised Code. At 192
the time the director gives public notice under division (A) of 193
section 119.03 of the Revised Code of the adoption of the rules, 194
the director shall submit copies of the proposed rules to the 195
chairpersons of the standing committees on economic development in 196
the senate and the house of representatives. 197

(J) For the purposes of this section, a taxpayer may include 198
a partnership, a corporation that has made an election under 199
subchapter S of chapter one of subtitle A of the Internal Revenue 200
Code, or any other business entity through which income flows as a 201
distributive share to its owners. A partnership, S-corporation, or 202
other such business entity may elect to pass the credit received 203
under this section through to the persons to whom the income or 204
profit of the partnership, S-corporation, or other entity is 205
distributed. The election shall be made on the annual report 206
required under division (D)(6) of this section. The election 207
applies to and is irrevocable for the credit for which the report 208
is submitted. If the election is made, the credit shall be 209

apportioned among those persons in the same proportions as those 210
in which the income or profit is distributed. 211

(K) If the director of development services determines that a 212
taxpayer who has received a credit under this section is not 213
complying with the requirement under division (D)(3) of this 214
section, the director shall notify the tax credit authority of the 215
noncompliance. After receiving such a notice, and after giving the 216
taxpayer an opportunity to explain the noncompliance, the tax 217
credit authority may require the taxpayer to refund to this state 218
a portion of the credit in accordance with the following: 219

(1) If the taxpayer maintained operations at the project 220
location for a period less than or equal to the term of the 221
credit, an amount not exceeding one hundred per cent of the sum of 222
any credits allowed and received under this section; 223

(2) If the taxpayer maintained operations at the project 224
location for a period longer than the term of the credit, but less 225
than the greater of seven years or the term of the credit plus 226
three years, an amount not exceeding seventy-five per cent of the 227
sum of any credits allowed and received under this section. 228

In determining the portion of the tax credit to be refunded 229
to this state, the tax credit authority shall consider the effect 230
of market conditions on the taxpayer's project and whether the 231
taxpayer continues to maintain other operations in this state. 232
After making the determination, the authority shall certify the 233
amount to be refunded to the tax commissioner or superintendent of 234
insurance, as appropriate. If the amount is certified to the 235
commissioner, the commissioner shall make an assessment for that 236
amount against the taxpayer under Chapter 5726., 5733., 5747., or 237
5751. of the Revised Code. If the amount is certified to the 238
superintendent, the superintendent shall make an assessment for 239
that amount against the taxpayer under Chapter 5725. or 5729. of 240
the Revised Code. The time limitations on assessments under those 241

chapters do not apply to an assessment under this division, but 242
the commissioner or superintendent, as appropriate, shall make the 243
assessment within one year after the date the authority certifies 244
to the commissioner or superintendent the amount to be refunded. 245

(L) On or before the first day of August each year, the 246
director of development services shall submit a report to the 247
governor, the president of the senate, and the speaker of the 248
house of representatives on the tax credit program under this 249
section. The report shall include information on the number of 250
agreements that were entered into under this section during the 251
preceding calendar year, a description of the project that is the 252
subject of each such agreement, and an update on the status of 253
projects under agreements entered into before the preceding 254
calendar year. 255

(M) There is hereby created the tax credit authority, which 256
consists of the director of development services and four other 257
members appointed as follows: the governor, the president of the 258
senate, and the speaker of the house of representatives each shall 259
appoint one member who shall be a specialist in economic 260
development; the governor also shall appoint a member who is a 261
specialist in taxation. Of the initial appointees, the members 262
appointed by the governor shall serve a term of two years; the 263
members appointed by the president of the senate and the speaker 264
of the house of representatives shall serve a term of four years. 265
Thereafter, terms of office shall be for four years. Initial 266
appointments to the authority shall be made within thirty days 267
after January 13, 1993. Each member shall serve on the authority 268
until the end of the term for which the member was appointed. 269
Vacancies shall be filled in the same manner provided for original 270
appointments. Any member appointed to fill a vacancy occurring 271
prior to the expiration of the term for which the member's 272
predecessor was appointed shall hold office for the remainder of 273

that term. Members may be reappointed to the authority. Members of 274
the authority shall receive their necessary and actual expenses 275
while engaged in the business of the authority. The director of 276
development services shall serve as chairperson of the authority, 277
and the members annually shall elect a vice-chairperson from among 278
themselves. Three members of the authority constitute a quorum to 279
transact and vote on the business of the authority. The majority 280
vote of the membership of the authority is necessary to approve 281
any such business, including the election of the vice-chairperson. 282

The director of development services may appoint a 283
professional employee of the department of development services to 284
serve as the director's substitute at a meeting of the authority. 285
The director shall make the appointment in writing. In the absence 286
of the director from a meeting of the authority, the appointed 287
substitute shall serve as chairperson. In the absence of both the 288
director and the director's substitute from a meeting, the 289
vice-chairperson shall serve as chairperson. 290

(N) For purposes of the credits granted by this section 291
against the taxes imposed under sections 5725.18 and 5729.03 of 292
the Revised Code, "taxable year" means the period covered by the 293
taxpayer's annual statement to the superintendent of insurance. 294

Sec. 122.171. (A) As used in this section: 295

(1) "Capital investment project" means a plan of investment 296
at a project site for the acquisition, construction, renovation, 297
or repair of buildings, machinery, or equipment, or for 298
capitalized costs of basic research and new product development 299
determined in accordance with generally accepted accounting 300
principles, but does not include any of the following: 301

(a) Payments made for the acquisition of personal property 302
through operating leases; 303

(b) Project costs paid before January 1, 2002;	304
(c) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.	305 306 307 308
(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:	309 310
(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;	311 312 313 314
(b) The taxpayer makes or causes to be made payments for the capital investment project of one of the following:	315 316
(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;	317 318 319 320 321 322
(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development <u>services</u> by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;	323 324 325 326 327 328 329
(iii) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, at least five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year	330 331 332 333 334

or tax period with respect to which the credit is granted. 335

(c) The taxpayer had a capital investment project reviewed 336
and approved by the tax credit authority as provided in divisions 337
(C), (D), and (E) of this section. 338

(3) "Full-time equivalent employees" means the quotient 339
obtained by dividing the total number of hours for which employees 340
were compensated for employment in the project by two thousand 341
eighty. "Full-time equivalent employees" shall exclude hours that 342
are counted for a credit under section 122.17 of the Revised Code. 343

(4) "Income tax revenue" means the total amount withheld 344
under section 5747.06 of the Revised Code by the taxpayer during 345
the taxable year, or during the calendar year that includes the 346
tax period, from the compensation of all employees employed in the 347
project whose hours of compensation are included in calculating 348
the number of full-time equivalent employees. 349

(5) "Manufacturer" has the same meaning as in section 350
5739.011 of the Revised Code. 351

(6) "Project site" means an integrated complex of facilities 352
in this state, as specified by the tax credit authority under this 353
section, within a fifteen-mile radius where a taxpayer is 354
primarily operating as an eligible business. 355

(7) "Related member" has the same meaning as in section 356
5733.042 of the Revised Code as that section existed on the 357
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 358
general assembly, September 29, 1997. 359

(8) "Taxable year" includes, in the case of a domestic or 360
foreign insurance company, the calendar year ending on the 361
thirty-first day of December preceding the day the superintendent 362
of insurance is required to certify to the treasurer of state 363
under section 5725.20 or 5729.05 of the Revised Code the amount of 364
taxes due from insurance companies. 365

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, the superintendent of insurance in the case of an insurance company, and director of development services under division (C) of this section, the tax credit authority may grant the following credits against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code:

(1) A nonrefundable credit to an eligible business;

(2) A refundable credit to an eligible business meeting the following conditions, provided that the director of budget and management, tax commissioner, superintendent of insurance in the case of an insurance company, and director of development services have recommended the granting of the credit to the tax credit authority before July 1, 2011:

(a) The business retains at least one thousand full-time equivalent employees at the project site.

(b) The business makes or causes to be made payments for a capital investment project of at least twenty-five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted.

(c) In 2010, the business received a written offer of financial incentives from another state of the United States that the director determines to be sufficient inducement for the business to relocate the business' operations from this state to that state.

(3) A refundable credit to an eligible business with a total 397
annual payroll of at least twenty million dollars, provided that 398
the tax credit authority grants the tax credit on or after July 1, 399
2011, and before January 1, 2014. 400

The credits authorized in divisions (B)(1), (2), and (3) of 401
this section may be granted for a period up to fifteen taxable 402
years or, in the case of the tax levied by section 5751.02 of the 403
Revised Code, for a period of up to fifteen calendar years. The 404
credit amount for a taxable year or a calendar year that includes 405
the tax period for which a credit may be claimed equals the income 406
tax revenue for that year multiplied by the percentage specified 407
in the agreement with the tax credit authority. The percentage may 408
not exceed seventy-five per cent. The credit shall be claimed in 409
the order required under section 5725.98, 5726.98, 5729.98, 410
5733.98, 5747.98, or 5751.98 of the Revised Code. In determining 411
the percentage and term of the credit, the tax credit authority 412
shall consider both the number of full-time equivalent employees 413
and the value of the capital investment project. The credit amount 414
may not be based on the income tax revenue for a calendar year 415
before the calendar year in which the tax credit authority 416
specifies the tax credit is to begin, and the credit shall be 417
claimed only for the taxable years or tax periods specified in the 418
eligible business' agreement with the tax credit authority. In no 419
event shall the credit be claimed for a taxable year or tax period 420
terminating before the date specified in the agreement. Any credit 421
granted under this section against the tax imposed by section 422
5733.06 or 5747.02 of the Revised Code, to the extent not fully 423
utilized against such tax for taxable years ending prior to 2008, 424
shall automatically be converted without any action taken by the 425
tax credit authority to a credit against the tax levied under 426
Chapter 5751. of the Revised Code for tax periods beginning on or 427
after July 1, 2008, provided that the person to whom the credit 428
was granted is subject to such tax. The converted credit shall 429

apply to those calendar years in which the remaining taxable years 430
specified in the agreement end. 431

If a nonrefundable credit allowed under division (B)(1) of 432
this section for a taxable year or tax period exceeds the 433
taxpayer's tax liability for that year or period, the excess may 434
be carried forward for the three succeeding taxable or calendar 435
years, but the amount of any excess credit allowed in any taxable 436
year or tax period shall be deducted from the balance carried 437
forward to the succeeding year or period. 438

(C) A taxpayer that proposes a capital investment project to 439
retain jobs in this state may apply to the tax credit authority to 440
enter into an agreement for a tax credit under this section. The 441
director of development services shall prescribe the form of the 442
application. After receipt of an application, the authority shall 443
forward copies of the application to the director of budget and 444
management, the tax commissioner, the superintendent of insurance 445
in the case of an insurance company, and the director of 446
development services, each of whom shall review the application to 447
determine the economic impact the proposed project would have on 448
the state and the affected political subdivisions and shall submit 449
a summary of their determinations and recommendations to the 450
authority. 451

(D) Upon review and consideration of the determinations and 452
recommendations described in division (C) of this section, the tax 453
credit authority may enter into an agreement with the taxpayer for 454
a credit under this section if the authority determines all of the 455
following: 456

(1) The taxpayer's capital investment project will result in 457
the retention of employment in this state. 458

(2) The taxpayer is economically sound and has the ability to 459
complete the proposed capital investment project. 460

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.

(5) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, the taxpayer's capital investment project will be located in the political subdivision in which the taxpayer maintains its principal place of business.

(E) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated income tax revenue to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4)(a) In the case of a credit granted under division (B)(1) of this section, a requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, or a requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit;

(b) In the case of a credit granted under division (B)(2) of 491
this section, a requirement that the taxpayer retain at least one 492
thousand full-time equivalent employees at the project site and 493
within this state for the entire term of the credit; 494

(c) In the case of a credit granted under division (B)(3) of 495
this section, either of the following: 496

(i) A requirement that the taxpayer retain at least five 497
hundred full-time equivalent employees at the project site and 498
within this state for the entire term of the credit and a 499
requirement that the taxpayer maintain an annual payroll of at 500
least twenty million dollars for the entire term of the credit; 501

(ii) A requirement that the taxpayer maintain an annual 502
payroll of at least thirty-five million dollars for the entire 503
term of the credit. 504

(5) A requirement that the taxpayer annually report to the 505
director of development services employment, tax withholding, 506
capital investment, and other information the director needs to 507
perform the director's duties under this section. 508

(6) A requirement that the director of development services 509
annually review the annual reports of the taxpayer to verify the 510
information reported under division (E)(5) of this section and 511
compliance with the agreement. Upon verification, the director 512
shall issue a certificate to the taxpayer stating that the 513
information has been verified and identifying the amount of the 514
credit for the taxable year or calendar year that includes the tax 515
period. In determining the number of full-time equivalent 516
employees, no position shall be counted that is filled by an 517
employee who is included in the calculation of a tax credit under 518
section 122.17 of the Revised Code. 519

(7) A provision providing that the taxpayer may not relocate 520
a substantial number of employment positions from elsewhere in 521

this state to the project site unless the director of development 522
services determines that the taxpayer notified the legislative 523
authority of the county, township, or municipal corporation from 524
which the employment positions would be relocated. 525

For purposes of this section, the movement of an employment 526
position from one political subdivision to another political 527
subdivision shall be considered a relocation of an employment 528
position unless the movement is confined to the project site. The 529
transfer of an employment position from one political subdivision 530
to another political subdivision shall not be considered a 531
relocation of an employment position if the employment position in 532
the first political subdivision is replaced by another employment 533
position. 534

(8) A waiver by the taxpayer of any limitations periods 535
relating to assessments or adjustments resulting from the 536
taxpayer's failure to comply with the agreement. 537

(F) If a taxpayer fails to meet or comply with any condition 538
or requirement set forth in a tax credit agreement, the tax credit 539
authority may amend the agreement to reduce the percentage or term 540
of the credit. The reduction of the percentage or term may take 541
effect in the current taxable or calendar year. 542

(G) Financial statements and other information submitted to 543
the department of development services or the tax credit authority 544
by an applicant for or recipient of a tax credit under this 545
section, and any information taken for any purpose from such 546
statements or information, are not public records subject to 547
section 149.43 of the Revised Code. However, the chairperson of 548
the authority may make use of the statements and other information 549
for purposes of issuing public reports or in connection with court 550
proceedings concerning tax credit agreements under this section. 551
Upon the request of the tax commissioner, or the superintendent of 552
insurance in the case of an insurance company, the chairperson of 553

the authority shall provide to the commissioner or superintendent 554
any statement or other information submitted by an applicant for 555
or recipient of a tax credit in connection with the credit. The 556
commissioner or superintendent shall preserve the confidentiality 557
of the statement or other information. 558

(H) A taxpayer claiming a tax credit under this section shall 559
submit to the tax commissioner or, in the case of an insurance 560
company, to the superintendent of insurance, a copy of the 561
director of ~~development's~~ development services' certificate of 562
verification under division (E)(6) of this section with the 563
taxpayer's tax report or return for the taxable year or for the 564
calendar year that includes the tax period. Failure to submit a 565
copy of the certificate with the report or return does not 566
invalidate a claim for a credit if the taxpayer submits a copy of 567
the certificate to the commissioner or superintendent within sixty 568
days after the commissioner or superintendent requests it. 569

(I) For the purposes of this section, a taxpayer may include 570
a partnership, a corporation that has made an election under 571
subchapter S of chapter one of subtitle A of the Internal Revenue 572
Code, or any other business entity through which income flows as a 573
distributive share to its owners. A partnership, S-corporation, or 574
other such business entity may elect to pass the credit received 575
under this section through to the persons to whom the income or 576
profit of the partnership, S-corporation, or other entity is 577
distributed. The election shall be made on the annual report 578
required under division (E)(5) of this section. The election 579
applies to and is irrevocable for the credit for which the report 580
is submitted. If the election is made, the credit shall be 581
apportioned among those persons in the same proportions as those 582
in which the income or profit is distributed. 583

(J) If the director of development services determines that a 584
taxpayer that received a ~~tax credit under~~ certificate under 585

division (E)(6) of this section is not complying with the 586
requirement under division (E)(3) of this section, the director 587
shall notify the tax credit authority of the noncompliance. After 588
receiving such a notice, and after giving the taxpayer an 589
opportunity to explain the noncompliance, the authority may 590
terminate the agreement and require the taxpayer, or any related 591
member or members that claimed the tax credit under division (N) 592
of this section, to refund to the state all or a portion of the 593
credit claimed in previous years, as follows: 594

(1) If the taxpayer maintained operations at the project site 595
for less than or equal to the term of the credit, an amount not to 596
exceed one hundred per cent of the sum of any tax credits allowed 597
and received under this section. 598

(2) If the taxpayer maintained operations at the project site 599
longer than the term of the credit, but less than the greater of 600
(a) the term of the credit plus three years, or (b) seven years, 601
the amount required to be refunded shall not exceed seventy-five 602
per cent of the sum of any tax credits allowed and received under 603
this section. 604

In determining the portion of the credit to be refunded to 605
this state, the authority shall consider the effect of market 606
conditions on the taxpayer's project and whether the taxpayer 607
continues to maintain other operations in this state. After making 608
the determination, the authority shall certify the amount to be 609
refunded to the tax commissioner or the superintendent of 610
insurance. If the taxpayer, or any related member or members who 611
claimed the tax credit under division (N) of this section, is not 612
an insurance company, the commissioner shall make an assessment 613
for that amount against the taxpayer under Chapter 5726., 5733., 614
5747., or 5751. of the Revised Code. If the taxpayer, or any 615
related member or members that claimed the tax credit under 616
division (N) of this section, is an insurance company, the 617

superintendent of insurance shall make an assessment under section 618
5725.222 or 5729.102 of the Revised Code. The time limitations on 619
assessments under those chapters and sections do not apply to an 620
assessment under this division, but the commissioner or 621
superintendent shall make the assessment within one year after the 622
date the authority certifies to the commissioner or superintendent 623
the amount to be refunded. 624

(K) The director of development services, after consultation 625
with the tax commissioner and the superintendent of insurance and 626
in accordance with Chapter 119. of the Revised Code, shall adopt 627
rules necessary to implement this section. The rules may provide 628
for recipients of tax credits under this section to be charged 629
fees to cover administrative costs of the tax credit program. The 630
fees collected shall be credited to the tax incentive programs 631
operating fund created in section 122.174 of the Revised Code. At 632
the time the director gives public notice under division (A) of 633
section 119.03 of the Revised Code of the adoption of the rules, 634
the director shall submit copies of the proposed rules to the 635
chairpersons of the standing committees on economic development in 636
the senate and the house of representatives. 637

(L) On or before the first day of August of each year, the 638
director of development services shall submit a report to the 639
governor, the president of the senate, and the speaker of the 640
house of representatives on the tax credit program under this 641
section. The report shall include information on the number of 642
agreements that were entered into under this section during the 643
preceding calendar year, a description of the project that is the 644
subject of each such agreement, and an update on the status of 645
projects under agreements entered into before the preceding 646
calendar year. 647

(M)(1) The aggregate amount of tax credits issued under 648
division (B)(1) of this section during any calendar year for 649

capital investment projects reviewed and approved by the tax 650
credit authority may not exceed the following amounts: 651

(a) For 2010, thirteen million dollars; 652

(b) For 2011 through 2023, the amount of the limit for the 653
preceding calendar year plus thirteen million dollars; 654

(c) For 2024 and each year thereafter, one hundred 655
ninety-five million dollars. 656

(2) The aggregate amount of tax credits authorized under 657
divisions (B)(2) and (3) of this section and allowed to be claimed 658
by taxpayers in any calendar year for capital improvement projects 659
reviewed and approved by the tax credit authority in 2011, 2012, 660
and 2013 combined shall not exceed twenty-five million dollars. An 661
amount equal to the aggregate amount of credits first authorized 662
in calendar year 2011, 2012, and 2013 may be claimed over the 663
ensuing period up to fifteen years, subject to the terms of 664
individual tax credit agreements. 665

The limitations in division (M) of this section do not apply 666
to credits for capital investment projects approved by the tax 667
credit authority before July 1, 2009. 668

(N) This division applies only to an eligible business that 669
is part of a group of taxpayers that includes a diversified 670
savings and loan holding company as defined in 12 U.S.C. 1467a, as 671
that section existed on January 1, 2012, or a grandfathered 672
unitary savings and loan holding company as defined in 12 U.S.C. 673
1467b. Notwithstanding any contrary provision of the agreement 674
between such an eligible business and the tax credit authority, 675
any credit granted under this section against the tax imposed by 676
section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the 677
Revised Code to the eligible business, at the election of the 678
eligible business and without any action by the tax credit 679
authority, may be shared by the taxpayer or any related member or 680

members that comprise the eligible business, which taxpayer or 681
related members may claim the credit against the taxes imposed by 682
section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of 683
the Revised Code. Credits shall be claimed by the eligible 684
business in sequential order, as applicable, first claiming the 685
credits to the fullest extent possible against the tax that the 686
certificate holder is subject to, then against the tax imposed by, 687
sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and 688
lastly 5726.02 of the Revised Code. The credits may be allocated 689
among the taxpayer and related members in such manner as the 690
eligible business elects, but subject to the sequential order 691
required under this division. This division applies to credits 692
granted before, on, or after the effective date of H.B. 510 of the 693
129th general assembly. Credits granted before that effective date 694
that are shared and allocated under this division may be claimed 695
in those calendar years in which the remaining taxable years 696
specified in the agreement end. 697

Sec. 122.85. (A) As used in this section and in sections 698
5726.55, 5733.59 and, 5747.66, and 5751.54 of the Revised Code: 699

(1) "Tax credit-eligible production" means a motion picture 700
production certified by the director of development services under 701
division (B) of this section as qualifying the motion picture 702
company for a tax credit under section 5726.55, 5733.59 or, 703
5747.66, or 5751.54 of the Revised Code. 704

(2) "Certificate owner" means a motion picture company to 705
which a tax credit certificate is issued. 706

(3) "Motion picture company" means an individual, 707
corporation, partnership, limited liability company, or other form 708
of business association producing a motion picture. 709

(4) "Eligible production expenditures" means expenditures 710
made after June 30, 2009, for goods or services purchased and 711

consumed in this state by a motion picture company directly for 712
the production of a tax credit-eligible production. 713

"Eligible production expenditures" includes, but is not 714
limited to, expenditures for resident and nonresident cast and 715
crew wages, accommodations, costs of set construction and 716
operations, editing and related services, photography, sound 717
synchronization, lighting, wardrobe, makeup and accessories, film 718
processing, transfer, sound mixing, special and visual effects, 719
music, location fees, and the purchase or rental of facilities and 720
equipment. 721

(5) "Motion picture" means entertainment content created in 722
whole or in part within this state for distribution or exhibition 723
to the general public, including, but not limited to, 724
feature-length films; documentaries; long-form, specials, 725
miniseries, series, and interstitial television programming; 726
interactive web sites; sound recordings; videos; music videos; 727
interactive television; interactive games; ~~videogames~~ video games; 728
commercials; any format of digital media; and any trailer, pilot, 729
video teaser, or demo created primarily to stimulate the sale, 730
marketing, promotion, or exploitation of future investment in 731
either a product or a motion picture by any means and media in any 732
digital media format, film, or videotape, provided the motion 733
picture qualifies as a motion picture. "Motion picture" does not 734
include any television program created primarily as news, weather, 735
or financial market reports, a production featuring current events 736
or sporting events, an awards show or other gala event, a 737
production whose sole purpose is fundraising, a long-form 738
production that primarily markets a product or service or in-house 739
corporate advertising or other similar productions, a production 740
for purposes of political advocacy, or any production for which 741
records are required to be maintained under 18 U.S.C. 2257 with 742
respect to sexually explicit content. 743

(B) For the purpose of encouraging and developing a strong film industry in this state, the director of development services may certify a motion picture produced by a motion picture company as a tax credit-eligible production. In the case of a television series, the director may certify the production of each episode of the series as a separate tax credit-eligible production. A motion picture company shall apply for certification of a motion picture as a tax credit-eligible production on a form and in the manner prescribed by the director. Each application shall include the following information:

(1) The name and telephone number of the motion picture production company;

(2) The name and telephone number of the company's contact person;

(3) A list of the first preproduction date through the last production date in Ohio;

(4) The Ohio production office address and telephone number;

(5) The total production budget of the motion picture;

(6) The total budgeted eligible production expenditures and the percentage that amount is of the total production budget of the motion picture;

(7) The total percentage of the motion picture being shot in Ohio;

(8) The level of employment of cast and crew who reside in Ohio;

(9) A synopsis of the script;

(10) The shooting script;

(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;

(12) Documentation of financial ability to undertake and complete the motion picture; 773
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(13) Estimated value of the tax credit based upon total budgeted eligible production expenditures; 775
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(14) Any other information considered necessary by the director. 777
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Within ninety days after certification of a motion picture as a tax credit-eligible production, and any time thereafter upon the ~~director's~~ director of development services' request, the motion picture company shall present to the director ~~of development~~ sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director ~~of development~~ may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for certification. 779
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(C)(1) A motion picture company whose motion picture has been certified as a tax credit-eligible production may apply to the director of development services on or after July 1, 2009, for a refundable credit against the tax imposed by section 5726.02, 5733.06 ~~or~~, 5747.02, or 5751.02 of the Revised Code. The director in consultation with the tax commissioner shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application. 791
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The credit is determined as follows: 799

(a) If the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures as finally determined under division (D) of this section, whichever is least, 800
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is less than or equal to three hundred thousand dollars, no credit 804
is allowed; 805

(b) If the total budgeted eligible production expenditures 806
stated in the application submitted under division (B) of this 807
section or the actual eligible production expenditures as finally 808
determined under division (D) of this section, whichever is least, 809
is greater than three hundred thousand dollars, the credit equals 810
the sum of the following, subject to the limitation in division 811
(C)(4) of this section: 812

(i) Twenty-five per cent of the least of such budgeted or 813
actual eligible expenditure amounts excluding budgeted or actual 814
eligible expenditures for resident cast and crew wages; 815

(ii) Thirty-five per cent of budgeted or actual eligible 816
expenditures for resident cast and crew wages. 817

(2) Except as provided in division (C)(4) of this section, if 818
the director of development services approves a motion picture 819
company's application for a credit, the director shall issue a tax 820
credit certificate to the company. The director in consultation 821
with the tax commissioner shall prescribe the form and manner of 822
issuing certificates. The director shall assign a unique 823
identifying number to each tax credit certificate and shall record 824
the certificate in a register devised and maintained by the 825
director for that purpose. The certificate shall state the amount 826
of the eligible production expenditures on which the credit is 827
based and the amount of the credit. Upon the issuance of a 828
certificate, the director shall certify to the tax commissioner 829
the name of the applicant, the amount of eligible production 830
expenditures shown on the certificate, and any other information 831
required by the rules adopted to administer this section. 832

(3) The amount of eligible production expenditures for which 833
a tax credit may be claimed is subject to inspection and 834

examination by the tax commissioner or employees of the 835
commissioner under section 5703.19 of the Revised Code and any 836
other applicable law. Once the eligible production expenditures 837
are finally determined under section 5703.19 of the Revised Code 838
and division (D) of this section, the credit amount is not subject 839
to adjustment unless the director determines an error was 840
committed in the computation of the credit amount. 841

(4) No tax credit certificate may be issued before the 842
completion of the tax credit-eligible production. For the fiscal 843
biennium beginning July 1, 2009, and ending June 30, 2011, not 844
more than thirty million dollars of tax credit may be allowed, of 845
which not more than ten million dollars of tax credit may be 846
allowed in the first year of the biennium. In succeeding fiscal 847
biennia, not more than twenty million dollars of tax credit may be 848
allowed per fiscal biennium, and not more than ten million dollars 849
may be allowed in the first year of the biennium. At any time, not 850
more than five million dollars of tax credit may be allowed per 851
tax credit-eligible production. 852

(D) A motion picture company whose motion picture has been 853
certified as a tax credit-eligible production shall engage, at the 854
company's expense, an independent certified public accountant to 855
examine the company's production expenditures to identify the 856
expenditures that qualify as eligible production expenditures. The 857
certified public accountant shall issue a report to the company 858
and to the director of development services certifying the 859
company's eligible production expenditures and any other 860
information required by the director. Upon receiving and examining 861
the report, the director may disallow any expenditure the director 862
determines is not an eligible production expenditure. If the 863
director disallows an expenditure, the director shall issue a 864
written notice to the motion picture production company stating 865
that the expenditure is disallowed and the reason for the 866

disallowance. Upon examination of the report and disallowance of 867
any expenditures, the director shall determine finally the lesser 868
of the total budgeted eligible production expenditures stated in 869
the application submitted under division (B) of this section or 870
the actual eligible production expenditures for the purpose of 871
computing the amount of the credit. 872

(E) No credit shall be allowed under section 5726.55, 5733.59 873
~~or~~, 5747.66, or 5751.54 of the Revised Code unless the director 874
has reviewed the report and made the determination prescribed by 875
division (D) of this section. 876

(F) This state reserves the right to refuse the use of this 877
state's name in the credits of any tax credit-eligible motion 878
picture production. 879

(G)(1) The director of development services in consultation 880
with the tax commissioner shall adopt rules for the administration 881
of this section, including rules setting forth and governing the 882
criteria for determining whether a motion picture production is a 883
tax credit-eligible production; activities that constitute the 884
production of a motion picture; reporting sufficient evidence of 885
reviewable progress; expenditures that qualify as eligible 886
production expenditures; a competitive process for approving 887
credits; and consideration of geographic distribution of credits. 888
The rules shall be adopted under Chapter 119. of the Revised Code. 889

(2) The director may require a reasonable application fee to 890
cover administrative costs of the tax credit program. The fees 891
collected shall be credited to the motion picture tax credit 892
program operating fund, which is hereby created in the state 893
treasury. The motion picture tax credit program operating fund 894
shall consist of all grants, gifts, fees, and contributions made 895
to the director ~~of development~~ for marketing and promotion of the 896
motion picture industry within this state. The director ~~of~~ 897
~~development~~ shall use money in the fund to pay expenses related to 898

the administration of the Ohio film office and the credit 899
authorized by this section and sections 5726.55., 5733.59 and, 900
5747.66, and 5751.54 of the Revised Code. 901

Sec. 145.114. (A) As used in this section and in section 902
145.116 of the Revised Code: 903

(1) "Agent" means a dealer, as defined in section 1707.01 of 904
the Revised Code, who is licensed under sections 1707.01 to 905
1707.45 of the Revised Code or under comparable laws of another 906
state or of the United States. 907

(2) "Minority business enterprise" has the same meaning as in 908
section 122.71 of the Revised Code. 909

(3) "Ohio-qualified agent" means an agent designated as such 910
by the public employees retirement board. 911

(4) "Ohio-qualified investment manager" means an investment 912
manager designated as such by the public employees retirement 913
board. 914

(5) "Principal place of business" means an office in which 915
the agent regularly provides securities or investment advisory 916
services and solicits, meets with, or otherwise communicates with 917
clients. 918

(B) The public employees retirement board shall, for the 919
purposes of this section, designate an agent as an Ohio-qualified 920
agent if the agent meets all of the following requirements: 921

(1) The agent is subject to taxation under Chapter 5725., 922
5726., 5733., ~~or 5747.~~ or 5751. of the Revised Code; 923

(2) The agent is authorized to conduct business in this 924
state; 925

(3) The agent maintains a principal place of business in this 926
state and employs at least five residents of this state. 927

(C) The public employees retirement board shall adopt and 928
implement a written policy to establish criteria and procedures 929
used to select agents to execute securities transactions on behalf 930
of the retirement system. The policy shall address each of the 931
following: 932

(1) Commissions charged by the agent, both in the aggregate 933
and on a per share basis; 934

(2) The execution speed and trade settlement capabilities of 935
the agent; 936

(3) The responsiveness, reliability, and integrity of the 937
agent; 938

(4) The nature and value of research provided by the agent; 939

(5) Any special capabilities of the agent. 940

(D)(1) The board shall, at least annually, establish a policy 941
with the goal to increase utilization by the board of 942
Ohio-qualified agents for the execution of domestic equity and 943
fixed income trades on behalf of the retirement system, when an 944
Ohio-qualified agent offers quality, services, and safety 945
comparable to other agents otherwise available to the board and 946
meets the criteria established under division (C) of this section. 947

(2) The board shall review, at least annually, the 948
performance of the agents that execute securities transactions on 949
behalf of the board. 950

(3) The board shall determine whether an agent is an 951
Ohio-qualified agent, meets the criteria established by the board 952
pursuant to division (C) of this section, and offers quality, 953
services, and safety comparable to other agents otherwise 954
available to the board. The board's determination shall be final. 955

(E) The board shall, at least annually, submit to the Ohio 956
retirement study council a report containing the following 957

information:	958
(1) The name of each agent designated as an Ohio-qualified agent under this section;	959 960
(2) The name of each agent that executes securities transactions on behalf of the board;	961 962
(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	963 964 965 966
(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;	967 968 969
(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	970 971 972 973
(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.	974 975
Sec. 145.116. (A) The public employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:	976 977 978 979
(1) The investment manager is subject to taxation under Chapter 5725., <u>5726.</u> , 5733., or 5747., <u>or 5751.</u> of the Revised Code;	980 981 982
(2) The investment manager meets one of the following requirements:	983 984
(a) Has its corporate headquarters or principal place of business in this state;	985 986

(b) Employs at least five hundred individuals in this state;	987
(c) Has a principal place of business in this state and employs at least 20 residents of this state.	988 989
(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:	990 991 992 993 994 995
(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;	996 997
(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.	998 999 1000
(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.	1001 1002 1003 1004 1005
(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:	1006 1007 1008
(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;	1009 1010
(2) The name of each investment manager with which the board contracts;	1011 1012
(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;	1013 1014 1015 1016

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 149.311. (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as a an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner of a an historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging a an historic building;

(b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;

(c) New building construction costs.

(3) "Owner" of a an historic building means a person holding the fee simple interest in the building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Certificate owner" means the owner of a an historic building to which a rehabilitation tax credit certificate was issued under this section.

(5) "Registered historic district" means a an historic district listed in the national register of historic places under 16 U.S.C. 470a, a an historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(6) "Rehabilitation" means the process of repairing or altering a an historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(7) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner not to exceed sixty months during which rehabilitation occurs. Each stage shall be reviewed as a phase of a rehabilitation as determined under 26 C.F.R. 1.48-12 or a successor to that section.

(8) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(B) The owner of a an historic building may apply to the

director of development services for a rehabilitation tax credit 1077
certificate for qualified rehabilitation expenditures paid or 1078
incurred after April 4, 2007, for rehabilitation of a an historic 1079
building. The form and manner of filing such applications shall be 1080
prescribed by rule of the director ~~of development~~. Each 1081
application shall state the amount of qualified rehabilitation 1082
expenditures the applicant estimates will be paid or incurred. The 1083
director may require applicants to furnish documentation of such 1084
estimates. 1085

The director, after consultation with the tax commissioner 1086
and in accordance with Chapter 119. of the Revised Code, shall 1087
adopt rules that establish all of the following: 1088

(1) Forms and procedures by which applicants may apply for 1089
rehabilitation tax credit certificates; 1090

(2) Criteria for reviewing, evaluating, and approving 1091
applications for certificates within the limitations under 1092
division (D) of this section, criteria for assuring that the 1093
certificates issued encompass a mixture of high and low qualified 1094
rehabilitation expenditures, and criteria for issuing certificates 1095
under division (C)(3)(b) of this section; 1096

(3) Eligibility requirements for obtaining a certificate 1097
under this section; 1098

(4) The form of rehabilitation tax credit certificates; 1099

(5) Reporting requirements and monitoring procedures; 1100

(6) Procedures and criteria for conducting cost-benefit 1101
analyses of historic buildings that are the subjects of 1102
applications filed under this section. The purpose of a 1103
cost-benefit analysis shall be to determine whether rehabilitation 1104
of the historic building will result in a net revenue gain in 1105
state and local taxes once the building is used. 1106

(7) Any other rules necessary to implement and administer 1107
this section. 1108

(C) The director of development services shall review the 1109
applications with the assistance of the state historic 1110
preservation officer and determine whether all of the following 1111
criteria are met: 1112

(1) That the building that is the subject of the application 1113
is a an historic building and the applicant is the owner of the 1114
building; 1115

(2) That the rehabilitation will satisfy standards prescribed 1116
by the United States secretary of the interior under 16 U.S.C. 1117
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 1118
that section; 1119

(3) That receiving a rehabilitation tax credit certificate 1120
under this section is a major factor in: 1121

(a) The applicant's decision to rehabilitate the historic 1122
building; or 1123

(b) To increase the level of investment in such 1124
rehabilitation. 1125

An applicant shall demonstrate to the satisfaction of the 1126
state historic preservation officer and director of development 1127
services that the rehabilitation will satisfy the standards 1128
described in division (C)(2) of this section before the applicant 1129
begins the physical rehabilitation of the historic building. 1130

(D)(1) If the director of development services determines 1131
that an application meets the criteria in divisions (C)(1), (2), 1132
and (3) of this section, the director shall conduct a cost-benefit 1133
analysis for the historic building that is the subject of the 1134
application to determine whether rehabilitation of the historic 1135
building will result in a net revenue gain in state and local 1136

taxes once the building is used. The director shall consider the 1137
results of the cost-benefit analysis in determining whether to 1138
approve the application. The director shall also consider the 1139
potential economic impact and the regional distributive balance of 1140
the credits throughout the state. The director may approve an 1141
application only after completion of the cost-benefit analysis. 1142

(2) A rehabilitation tax credit certificate shall not be 1143
issued for an amount greater than the estimated amount furnished 1144
by the applicant on the application for such certificate and 1145
approved by the director. The director shall not approve more than 1146
a total of sixty million dollars of rehabilitation tax credits per 1147
fiscal year but the director may reallocate unused tax credits 1148
from a prior fiscal year for new applicants and such reallocated 1149
credits shall not apply toward the dollar limit of this division. 1150

(3) For rehabilitations with a rehabilitation period not 1151
exceeding twenty-four months as provided in division (A)(7)(a) of 1152
this section, a rehabilitation tax credit certificate shall not be 1153
issued before the rehabilitation of the historic building is 1154
completed. 1155

(4) For rehabilitations with a rehabilitation period not 1156
exceeding sixty months as provided in division (A)(7)(b) of this 1157
section, a rehabilitation tax credit certificate shall not be 1158
issued before a stage of rehabilitation is completed. After all 1159
stages of rehabilitation are completed, if the director cannot 1160
determine that the criteria in division (C) of this section are 1161
satisfied for all stages of rehabilitations, the director shall 1162
certify this finding to the tax commissioner, and any 1163
rehabilitation tax credits received by the applicant shall be 1164
repaid by the applicant and may be collected by assessment as 1165
unpaid tax by the commissioner. 1166

(5) The director of development services shall require the 1167
applicant to provide a third-party cost certification by a 1168

certified public accountant of the actual costs attributed to the 1169
rehabilitation of the historic building when qualified 1170
rehabilitation expenditures exceed two hundred thousand dollars. 1171

If an applicant whose application is approved for receipt of 1172
a rehabilitation tax credit certificate fails to provide to the 1173
director ~~of development~~ sufficient evidence of reviewable 1174
progress, including a viable financial plan, copies of final 1175
construction drawings, and evidence that the applicant has 1176
obtained all historic approvals within twelve months after the 1177
date the applicant received notification of approval, and if the 1178
applicant fails to provide evidence to the director ~~of development~~ 1179
that the applicant has secured and closed on financing for the 1180
rehabilitation within eighteen months after receiving notification 1181
of approval, the director may rescind the approval of the 1182
application. The director shall notify the applicant if the 1183
approval has been rescinded. Credits that would have been 1184
available to an applicant whose approval was rescinded shall be 1185
available for other qualified applicants. Nothing in this division 1186
prohibits an applicant whose approval has been rescinded from 1187
submitting a new application for a rehabilitation tax credit 1188
certificate. 1189

(E) Issuance of a certificate represents a finding by the 1190
director of development services of the matters described in 1191
divisions (C)(1), (2), and (3) of this section only; issuance of a 1192
certificate does not represent a verification or certification by 1193
the director of the amount of qualified rehabilitation 1194
expenditures for which a tax credit may be claimed under section 1195
5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the 1196
Revised Code. The amount of qualified rehabilitation expenditures 1197
for which a tax credit may be claimed is subject to inspection and 1198
examination by the tax commissioner or employees of the 1199
commissioner under section 5703.19 of the Revised Code and any 1200

other applicable law. Upon the issuance of a certificate, the 1201
director shall certify to the tax commissioner, in the form and 1202
manner requested by the tax commissioner, the name of the 1203
applicant, the amount of qualified rehabilitation expenditures 1204
shown on the certificate, and any other information required by 1205
the rules adopted under this section. 1206

(F)(1) On or before the first day of April each year, the 1207
director of development services and tax commissioner jointly 1208
shall submit to the president of the senate and the speaker of the 1209
house of representatives a report on the tax credit program 1210
established under this section and sections 5725.151, 5725.34, 1211
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The 1212
report shall present an overview of the program and shall include 1213
information on the number of rehabilitation tax credit 1214
certificates issued under this section during the preceding fiscal 1215
year, an update on the status of each historic building for which 1216
an application was approved under this section, the dollar amount 1217
of the tax credits granted under sections 5725.151, 5725.34, 1218
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and 1219
any other information the director and commissioner consider 1220
relevant to the topics addressed in the report. 1221

(2) On or before December 1, 2015, the director of 1222
development services and tax commissioner jointly shall submit to 1223
the president of the senate and the speaker of the house of 1224
representatives a comprehensive report that includes the 1225
information required by division (F)(1) of this section and a 1226
detailed analysis of the effectiveness of issuing tax credits for 1227
rehabilitating historic buildings. The report shall be prepared 1228
with the assistance of an economic research organization jointly 1229
chosen by the director and commissioner. 1230

(G) There is hereby created in the state treasury the 1231
historic rehabilitation tax credit operating fund. The director of 1232

development services is authorized to charge reasonable 1233
application and other fees in connection with the administration 1234
of tax credits authorized by this section and sections 5725.151, 1235
5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the Revised 1236
Code. Any such fees collected shall be credited to the fund and 1237
used to pay reasonable costs incurred by the department of 1238
development services in administering this section and sections 1239
5725.151, 5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the 1240
Revised Code. 1241

The Ohio historic preservation office is authorized to charge 1242
reasonable fees in connection with its review and approval of 1243
applications under this section. Any such fees collected shall be 1244
credited to the fund and used to pay administrative costs incurred 1245
by the Ohio historic preservation office pursuant to this section. 1246

Sec. 150.01. (A) As used in this chapter: 1247

(1) "Authority" means the Ohio venture capital authority 1248
created under section 150.02 of the Revised Code. 1249

(2) "Issuer" means a port authority organized and existing 1250
under applicable provisions of Chapter 4582. of the Revised Code 1251
that, pursuant to an agreement entered into under division (E) of 1252
section 150.02 of the Revised Code, issues or issued obligations 1253
to fund one or more loans to the program fund. 1254

(3) "Lender" means any person that lends money to the program 1255
fund as provided in this chapter and includes any issuer and any 1256
trustee. 1257

(4) "Loss" means a loss incurred with respect to a lender's 1258
loan to the program fund. Such a loss is incurred only if and to 1259
the extent a program administrator fails to satisfy its 1260
obligations to the lender to make timely payments of principal or 1261
interest as provided in the loan agreement between the lender and 1262

the program administrator. "Loss" does not include either of the 1263
following: 1264

(a) Any loss incurred by the program fund, including a loss 1265
attributable to any investment made by a program administrator; 1266

(b) Any loss of the capital required to be provided by a 1267
program administrator, or income accruing to that capital, under 1268
the agreement entered into under division (B) of section 150.05 of 1269
the Revised Code. 1270

(5) "Ohio-based business enterprise" means a person that is 1271
engaged in business, that employs at least one individual on a 1272
full-time or part-time basis at a place of business in this state, 1273
including a person engaged in business if that person is a 1274
self-employed individual, and that is in the seed or early stage 1275
of business development requiring initial or early stage funding 1276
or is an established business enterprise developing new methods or 1277
technologies. 1278

(6) "Ohio-based venture capital fund" means a venture capital 1279
fund having its principal office in this state, where the majority 1280
of the fund's staff are employed and where at least one investment 1281
professional is employed who has at least five years of experience 1282
in venture capital investment. 1283

(7) "Program fund" means the fund created under section 1284
150.03 of the Revised Code. 1285

(8) "Research and development purposes" has the same meaning 1286
as used in Section 2p of Article VIII, Ohio Constitution, and 1287
includes the development of sites and facilities in this state for 1288
and in support of those research and development purposes. 1289

(9) "Trustee" means a trust company or a bank with corporate 1290
trust powers, in either case having a place of business in this 1291
state, being a taxpayer under Chapter 5707., 5725., 5726., 5727., 1292
5729., 5733., or 5747 of the Revised Code at the time it may claim 1293

and receive a tax credit under division (E) of section 150.07 of 1294
the Revised Code, and acting in its capacity as a trustee pursuant 1295
to a trust agreement under which an issuer issues obligations to 1296
fund loans to the program fund. 1297

(B) The general assembly declares that its purpose in 1298
enacting Chapter 150. of the Revised Code is to increase the 1299
amount of private investment capital available in this state for 1300
Ohio-based business enterprises in the seed or early stages of 1301
business development and requiring initial or early stage funding, 1302
as well as established Ohio-based business enterprises developing 1303
new methods or technologies, including the promotion of research 1304
and development purposes, thereby increasing employment, creating 1305
additional wealth, and otherwise benefiting the economic welfare 1306
of the people of this state. Accordingly, it is the intention of 1307
the general assembly that the program fund make investments in 1308
support of Ohio-based business enterprises in accordance with the 1309
investment policy authorized and required under section 150.03 of 1310
the Revised Code, and that the Ohio venture capital authority 1311
focus its investment policy principally on venture capital funds 1312
investing in such Ohio-based business enterprises. The general 1313
assembly finds and determines that this chapter and the investment 1314
policy, and actions taken under and consistent therewith, will 1315
promote and implement the public purposes of Section 2p of Article 1316
VIII, Ohio Constitution. 1317

Sec. 150.07. (A) For the purpose stated in section 150.01 of 1318
the Revised Code, the authority may authorize a lender to claim 1319
one of the refundable tax credits allowed under section 5707.031, 1320
5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 of the 1321
Revised Code. The credits shall be authorized by a written 1322
contract with the lender. The contract shall specify the terms 1323
under which the lender may claim the credit, including the amount 1324
of loss, if any, the lender must incur before the lender may claim 1325

the credit; specify that the credit shall not exceed the amount of 1326
the loss; and specify that the lender may claim the credit only 1327
for a loss certified by a program administrator to the authority 1328
under the procedures prescribed under division (B)(6) of section 1329
150.05 of the Revised Code. The program administrator shall 1330
provide to the authority an estimate of the amount of tax credits, 1331
if any, that are likely, in the administrator's reasonable 1332
judgment, to be claimed by a lender during the current and next 1333
succeeding state fiscal years. The estimate shall be provided at 1334
the same time each year that the administrator is required to 1335
report the annual audit to the authority under section 150.05 of 1336
the Revised Code. 1337

(B) Tax credits may be authorized at any time after the 1338
authority establishes the investment policy under section 150.03 1339
of the Revised Code, but a tax credit so authorized may not be 1340
claimed before July 1, 2007, or after June 30, 2026, except, with 1341
respect to loans made from the proceeds of obligations issued 1342
under section 4582.71 of the Revised Code, a tax credit may not be 1343
claimed before July 1, 2012, or after June 30, 2036. 1344

(C)(1) Upon receiving certification of a lender's loss from a 1345
program administrator pursuant to the procedures in the investment 1346
policy, the authority shall issue a tax credit certificate to the 1347
lender, except as otherwise provided in division (D) of this 1348
section. 1349

(2) If the lender is a pass-through entity, as defined in 1350
section 5733.04 of the Revised Code, then each equity investor in 1351
the lender pass-through entity shall be entitled to claim one of 1352
the tax credits allowed under division (A) of this section for 1353
that equity investor's taxable year in which or with which ends 1354
the taxable year of the lender pass-through entity in an amount 1355
based on the equity investor's distributive or proportionate share 1356

of the credit amount set forth in the certificate issued by the 1357
authority. If all equity investors of the lender pass-through 1358
entity are not eligible to claim a credit against the same tax set 1359
forth in division (A) of this section, then each equity investor 1360
may elect to claim a credit against the tax to which the equity 1361
investor is subject to in an amount based on the equity investor's 1362
distributive or proportionate share of the credit amount set forth 1363
in the certificate issued by the authority. 1364

(3) The certificate shall state the amount of the credit and 1365
the calendar year under section 5707.031, 5725.19, 5727.241, or 1366
5729.08, the tax year under section 5726.53 or 5733.49, or the 1367
taxable year under section 5747.80 of the Revised Code for which 1368
the credit may be claimed. The authority, in conjunction with the 1369
tax commissioner, shall develop a system for issuing tax credit 1370
certificates for the purpose of verifying that any credit claimed 1371
is a credit issued under this section and is properly taken in the 1372
year specified in the certificate and in compliance with division 1373
(B) of this section. 1374

(D) The authority shall not, in any fiscal year, issue tax 1375
credit certificates under this section in a total amount exceeding 1376
twenty million dollars. The authority shall not issue tax credit 1377
certificates under this section in a total amount exceeding three 1378
hundred eighty million dollars. 1379

(E) Notwithstanding any other section of this chapter or any 1380
provision of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1381
5747. of the Revised Code, if provided by the terms of an 1382
agreement entered into by the issuer and the authority under 1383
division (E) of section 150.02 of the Revised Code, and subject to 1384
the limitations of divisions (B) and (D) of this section, a 1385
trustee shall have the right, for the benefit of the issuer, to 1386
receive and claim the credits authorized under division (A) of 1387
this section solely for the purpose provided for in section 150.04 1388

of the Revised Code, and the trustee shall be entitled to file a 1389
tax return, an amended tax return, or an estimated tax return at 1390
such times as are permitted or required under the applicable 1391
provisions of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1392
5747. of the Revised Code for the purpose of claiming credits 1393
issued to the trustee. The trustee shall receive the proceeds of 1394
such a tax credit for the benefit of the issuer, and shall apply 1395
the proceeds solely to satisfy a loss or restore a reserve as 1396
provided in section 150.04 of the Revised Code. Nothing in this 1397
section shall require a trustee to file a tax return under any 1398
chapter for any purpose other than claiming such credits if the 1399
trustee is not otherwise required to make such a filing. 1400

The general assembly may from time to time modify or repeal 1401
any of the taxes against which the credits authorized under 1402
division (A) of this section may be claimed, and may authorize 1403
those credits to be claimed for the purposes provided for in 1404
section 150.04 of the Revised Code with respect to any other tax 1405
imposed by this state; provided, that if any obligations issued 1406
under section 4582.71 of the Revised Code are then outstanding and 1407
such modification or repeal would have the effect of impairing any 1408
covenant made in or pursuant to an agreement under division (E) of 1409
section 150.02 of the Revised Code regarding the maintenance or 1410
restoration of reserves established and maintained with a trustee 1411
consistent with division (B)(2) of section 150.04 of the Revised 1412
Code and such agreement, the state shall provide other security to 1413
the extent necessary to avoid or offset the impairment of such 1414
covenant. 1415

Sec. 150.10. (A) On the first day of January of the second 1416
year after the date of entering into an agreement under section 1417
150.05 of the Revised Code and of each ensuing year, the authority 1418
shall file with the clerk of the house of representatives, the 1419
clerk of the senate, and the chairpersons of the house and senate 1420

standing committees predominantly concerned with economic 1421
development a written report on the Ohio venture capital program. 1422
The report shall include all the following: 1423

(1) A description of the details of the investment policy 1424
established or modified in accordance with sections 150.03 and 1425
150.04 of the Revised Code; 1426

(2) The authority's assessment of the program's achievement 1427
of its purpose stated in section 150.01 of the Revised Code; 1428

(3) The value of tax credit certificates issued by the 1429
authority under section 150.07 of the Revised Code in each fiscal 1430
year ending on or before the preceding thirtieth day of June; 1431

(4) The amount of tax credits claimed pursuant to section 1432
5707.031, 5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 1433
of the Revised Code, as to the respective taxes involved; 1434

(5) The financial status of the Ohio venture capital fund; 1435

(6) The names of venture capital funds in which money from 1436
the program fund has been invested and the locations of their 1437
principal offices, and the names of the enterprises in which each 1438
of those venture capital funds has invested such money and the 1439
locations of those enterprises' principal offices; 1440

(7) Any recommendations for modifying the program to better 1441
achieve the purpose stated in section 150.01 of the Revised Code. 1442

(B) During each year that a report is issued under division 1443
(A) of this section, the chairperson of the authority, or another 1444
member of the authority designated by the chairperson as the 1445
authority's representative, shall be required to appear in person 1446
before the standing committees of the house and senate 1447
predominantly concerned with economic development to give 1448
testimony concerning the status of the Ohio venture capital 1449
program. 1450

Sec. 715.013. (A) Except as otherwise expressly authorized by 1451
the Revised Code, no municipal corporation shall levy a tax that 1452
is the same as or similar to a tax levied under Chapter 322., 1453
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 1454
5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 5737., 1455
5739., 5741., 5743., or 5749. of the Revised Code. 1456

(B) This section does not prohibit a municipal corporation 1457
from levying a tax on any of the following: 1458

(1) Amounts received for admission to any place; 1459

(2) The income of an electric company or combined company, as 1460
defined in section 5727.01 of the Revised Code; 1461

(3) On and after January 1, 2004, the income of a telephone 1462
company, as defined in section 5727.01 of the Revised Code. 1463

Sec. 742.114. (A) As used in this section and in section 1464
742.116 of the Revised Code: 1465

(1) "Agent" means a dealer, as defined in section 1707.01 of 1466
the Revised Code, who is licensed under sections 1707.01 to 1467
1707.45 of the Revised Code or under comparable laws of another 1468
state or of the United States. 1469

(2) "Minority business enterprise" has the same meaning as in 1470
section 122.71 of the Revised Code. 1471

(3) "Ohio-qualified agent" means an agent designated as such 1472
by the board of trustees of the fund. 1473

(4) "Ohio-qualified investment manager" means an investment 1474
manager designated as such by the board of trustees of the fund. 1475

(5) "Principal place of business" means an office in which 1476
the agent regularly provides securities or investment advisory 1477
services and solicits, meets with, or otherwise communicates with 1478
clients. 1479

(B) The board of trustees of the fund shall, for the purposes 1480
of this section, designate an agent as an Ohio-qualified agent if 1481
the agent meets all of the following requirements: 1482

(1) The agent is subject to taxation under Chapter 5725., 1483
5726., 5733., ~~or~~ 5747., or 5751. of the Revised Code; 1484

(2) The agent is authorized to conduct business in this 1485
state; 1486

(3) The agent maintains a principal place of business in this 1487
state and employs at least five residents of this state. 1488

(C) The board shall adopt and implement a written policy to 1489
establish criteria and procedures used to select agents to execute 1490
securities transactions on behalf of the retirement system. The 1491
policy shall address each of the following: 1492

(1) Commissions charged by the agent, both in the aggregate 1493
and on a per share basis; 1494

(2) The execution speed and trade settlement capabilities of 1495
the agent; 1496

(3) The responsiveness, reliability, and integrity of the 1497
agent; 1498

(4) The nature and value of research provided by the agent; 1499

(5) Any special capabilities of the agent. 1500

(D)(1) The board shall, at least annually, establish a policy 1501
with the goal to increase utilization by the board of 1502
Ohio-qualified agents for the execution of domestic equity and 1503
fixed-income trades on behalf of the retirement system, when an 1504
Ohio-qualified agent offers quality, services, and safety 1505
comparable to other agents otherwise available to the board and 1506
meets the criteria established under division (C) of this section. 1507

(2) The board shall review, at least annually, the 1508
performance of the agents that execute securities transactions on 1509

behalf of the board. 1510

(3) The board shall determine whether an agent is an 1511
Ohio-qualified agent, meets the criteria established by the board 1512
pursuant to division (C) of this section, and offers quality, 1513
services, and safety comparable to other agents otherwise 1514
available to the board. The board's determination shall be final. 1515

(E) The board shall, at least annually, submit to the Ohio 1516
retirement study council a report containing the following 1517
information: 1518

(1) The name of each agent designated as an Ohio-qualified 1519
agent under this section; 1520

(2) The name of each agent that executes securities 1521
transactions on behalf of the board; 1522

(3) The amount of equity and fixed-income trades that are 1523
executed by Ohio-qualified agents, expressed as a percentage of 1524
all equity and fixed-income trades that are executed by agents on 1525
behalf of the board; 1526

(4) The compensation paid to Ohio-qualified agents, expressed 1527
as a percentage of total compensation paid to all agents that 1528
execute securities transactions on behalf of the board; 1529

(5) The amount of equity and fixed-income trades that are 1530
executed by agents that are minority business enterprises, 1531
expressed as a percentage of all equity and fixed-income trades 1532
that are executed by agents on behalf of the board; 1533

(6) Any other information requested by the Ohio retirement 1534
study council regarding the board's use of agents. 1535

Sec. 742.116. (A) The board of trustees of the pension fund 1536
shall, for the purposes of this section, designate an investment 1537
manager as an Ohio-qualified investment manager if the investment 1538
manager meets all of the following requirements: 1539

- (1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code; 1540
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1542
- (2) The investment manager meets one of the following requirements: 1543
1544
- (a) Has its corporate headquarters or principal place of business in this state; 1545
1546
- (b) Employs at least five hundred individuals in this state; 1547
- (c) Has a principal place of business in this state and employs at least 20 residents of this state. 1548
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- (B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following: 1550
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- (a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products; 1556
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- (b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria. 1558
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- (2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final. 1561
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- (C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information: 1566
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- (1) The name of each investment manager designated as an 1569

Ohio-qualified investment manager under this section;	1570
(2) The name of each investment manager with which the board contracts;	1571 1572
(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;	1573 1574 1575 1576
(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;	1577 1578 1579
(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.	1580 1581
Sec. 3307.152. (A) As used in this section and in section 3307.154 of the Revised Code:	1582 1583
(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.	1584 1585 1586 1587
(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.	1588 1589
(3) "Ohio-qualified agent" means an agent designated as such by the state teachers retirement board.	1590 1591
(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state teachers retirement board.	1592 1593
(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.	1594 1595 1596 1597
(B) The state teachers retirement board shall, for the	1598

purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state.

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state teachers retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

~~(a)~~(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

~~(b)~~(2) The execution speed and trade settlement capabilities of the agent;

~~(c)~~(3) The responsiveness, reliability, and integrity of the agent;

~~(d)~~(4) The nature and value of research provided by the agent;

~~(e)~~(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the

performance of the agents that execute securities transactions on 1629
behalf of the board. 1630

(3) The board shall determine whether an agent is an 1631
Ohio-qualified agent, meets the criteria established by the board 1632
pursuant to division (C) of this section, and offers quality, 1633
services, and safety comparable to other agents otherwise 1634
available to the board. The board's determination shall be final. 1635

(E) The board shall, at least annually, submit to the Ohio 1636
retirement study council a report containing the following 1637
information: 1638

(1) The name of each agent designated as an Ohio-qualified 1639
agent under this section; 1640

(2) The name of each agent that executes securities 1641
transactions on behalf of the board; 1642

(3) The amount of equity and fixed-income trades that are 1643
executed by Ohio-qualified agents, expressed as a percentage of 1644
all equity and fixed-income trades that are executed by agents on 1645
behalf of the board; 1646

(4) The compensation paid to Ohio-qualified agents, expressed 1647
as a percentage of total compensation paid to all agents that 1648
execute securities transactions on behalf of the board; 1649

(5) The amount of equity and fixed-income trades that are 1650
executed by agents that are minority business enterprises, 1651
expressed as a percentage of all equity and fixed-income trades 1652
that are executed by agents on behalf of the board; 1653

(6) Any other information requested by the Ohio retirement 1654
study council regarding the board's use of agents. 1655

Sec. 3307.154. (A) The state teachers retirement board shall, 1656
for the purposes of this section, designate an investment manager 1657
as an Ohio-qualified investment manager if the investment manager 1658

meets all of the following requirements: 1659

(1) The investment manager is subject to taxation under 1660
Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised 1661
Code. 1662

(2) The investment manager meets one of the following 1663
requirements: 1664

(a) Has its corporate headquarters or principal place of 1665
business in this state; 1666

(b) Employs at least five hundred individuals in this state; 1667

(c) Has a principal place of business in this state and 1668
employs at least twenty residents of this state. 1669

(B)(1) The board shall, at least annually, establish a policy 1670
with the goal to increase utilization by the board of 1671
Ohio-qualified investment managers, when an Ohio-qualified 1672
investment manager offers quality, services, and safety comparable 1673
to other investment managers otherwise available to the board. The 1674
policy shall also provide for the following: 1675

(a) A process whereby the board can develop a list of 1676
Ohio-qualified investment managers and their investment products; 1677

(b) A process whereby the board can give public notice to 1678
Ohio-qualified investment managers of the board's search for an 1679
investment manager that includes the board's search criteria. 1680

(2) The board shall determine whether an investment manager 1681
is an Ohio-qualified investment manager and whether the investment 1682
manager offers quality, services, and safety comparable to other 1683
investment managers otherwise available to the board. The board's 1684
determination shall be final. 1685

(C) The board shall, at least annually, submit to the Ohio 1686
retirement study council a report containing the following 1687

information:	1688
(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;	1689 1690
(2) The name of each investment manager with which the board contracts;	1691 1692
(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;	1693 1694 1695 1696
(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;	1697 1698 1699
(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.	1700 1701
Sec. 3309.157. (A) As used in this section and in section 3309.159 of the Revised Code:	1702 1703
(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.	1704 1705 1706 1707
(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.	1708 1709
(3) "Ohio-qualified agent" means an agent designated as such by the school employees retirement board.	1710 1711
(4) "Ohio-qualified investment manager" means an investment manager designated as such by the school employees retirement board.	1712 1713 1714
(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory	1715 1716

services and solicits, meets with, or otherwise communicates with 1717
clients. 1718

(B) The school employees retirement board shall, for the 1719
purposes of this section, designate an agent as an Ohio-qualified 1720
agent if the agent meets all of the following requirements: 1721

(1) The agent is subject to taxation under Chapter 5725., 1722
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code. 1723

(2) The agent is authorized to conduct business in this 1724
state. 1725

(3) The agent maintains a principal place of business in this 1726
state and ~~employees~~ employs at least five residents of this state. 1727

(C) The school employees retirement board shall adopt and 1728
implement a written policy to establish criteria and procedures 1729
used to select agents to execute securities transactions on behalf 1730
of the retirement system. The policy shall address each of the 1731
following: 1732

~~(a)~~(1) Commissions charged by the agent, both in the 1733
aggregate and on a per share basis; 1734

~~(b)~~(2) The execution speed and trade settlement capabilities 1735
of the agent; 1736

~~(c)~~(3) The responsiveness, reliability, and integrity of the 1737
agent; 1738

~~(d)~~(4) The nature and value of research provided by the 1739
agent; 1740

~~(e)~~(5) Any special capabilities of the agent. 1741

(D)(1) The board shall, at least annually, establish a policy 1742
with the goal to increase utilization by the board of 1743
Ohio-qualified agents for the execution of domestic equity and 1744
fixed income trades on behalf of the retirement system, when an 1745
Ohio-qualified agent offers quality, services, and safety 1746

comparable to other agents otherwise available to the board and 1747
meets the criteria established under division (C) of this section. 1748

(2) The board shall review, at least annually, the 1749
performance of the agents that execute securities transactions on 1750
behalf of the board. 1751

(3) The board shall determine whether an agent is an 1752
Ohio-qualified agent, meets the criteria established by the board 1753
pursuant to division (C) of this section, and offers quality, 1754
services, and safety comparable to other agents otherwise 1755
available to the board. The board's determination shall be final. 1756

(E) The board shall, at least annually, submit to the Ohio 1757
retirement study council a report containing the following 1758
information: 1759

(1) The name of each agent designated as an Ohio-qualified 1760
agent under this section; 1761

(2) The name of each agent that executes securities 1762
transactions on behalf of the board; 1763

(3) The amount of equity and fixed-income trades that are 1764
executed by Ohio-qualified agents, expressed as a percentage of 1765
all equity and fixed-income trades that are executed by agents on 1766
behalf of the board; 1767

(4) The compensation paid to Ohio-qualified agents, expressed 1768
as a percentage of total compensation paid to all agents that 1769
execute securities transactions on behalf of the board; 1770

(5) The amount of equity and fixed-income trades that are 1771
executed by agents that are minority business enterprises, 1772
expressed as a percentage of all equity and fixed-income trades 1773
that are executed by agents on behalf of the board; 1774

(6) Any other information requested by the Ohio retirement 1775
study council regarding the board's use of agents. 1776

Sec. 3309.159. (A) The school employees retirement board 1777
shall, for the purposes of this section, designate an investment 1778
manager as an Ohio-qualified investment manager if the investment 1779
manager meets all of the following requirements: 1780

(1) The investment manager is subject to taxation under 1781
Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised 1782
Code. 1783

(2) The investment manager meets one of the following 1784
requirements: 1785

(a) Has its corporate headquarters or principal place of 1786
business in this state; 1787

(b) Employs at least five hundred individuals in this state; 1788

(c) Has a principal place of business in this state and 1789
employs at least ~~20~~ twenty residents of this state. 1790

(B)(1) The board shall, at least annually, establish a policy 1791
with the goal to increase utilization by the board of 1792
Ohio-qualified investment managers, when an Ohio-qualified 1793
investment manager offers quality, services, and safety comparable 1794
to other investment managers otherwise available to the board. The 1795
policy shall also provide for the following: 1796

(a) A process whereby the board can develop a list of 1797
Ohio-qualified investment managers and their investment products; 1798

(b) A process whereby the board can give public notice to 1799
Ohio-qualified investment managers of the board's search for an 1800
investment manager that includes the board's search criteria. 1801

(2) The board shall determine whether an investment manager 1802
is an Ohio-qualified investment manager and whether the investment 1803
manager offers quality, services, and safety comparable to other 1804
investment managers otherwise available to the board. The board's 1805
determination shall be final. 1806

(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 5505.068. (A) As used in this section and in section 5505.0610 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state highway patrol retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state highway patrol retirement board.

(5) "Principal place of business" means an office in which
the agent regularly provides securities or investment advisory
services and solicits, meets with, or otherwise communicates with
clients.

(B) The state highway patrol retirement board shall, for the
purposes of this section, designate an agent as an Ohio-qualified
agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725.,
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this
state;

(3) The agent maintains a principal place of business in this
state and employs at least five residents of this state.

(C) The state highway patrol retirement board shall adopt and
implement a written policy to establish criteria and procedures
used to select agents to execute securities transactions on behalf
of the retirement system. The policy shall address each of the
following:

(1) Commissions charged by the agent, both in the aggregate
and on a per share basis;

(2) The execution speed and trade settlement capabilities of
the agent;

(3) The responsiveness, reliability, and integrity of the
agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy
with the goal to increase utilization by the board of
Ohio-qualified agents for the execution of domestic equity and
fixed income trades on behalf of the retirement system, when an

Ohio-qualified agent offers quality, services, and safety	1866
comparable to other agents otherwise available to the board and	1867
meets the criteria established under division (C) of this section.	1868
(2) The board shall review, at least annually, the	1869
performance of the agents that execute securities transactions on	1870
behalf of the board.	1871
(3) The board shall determine whether an agent is an	1872
Ohio-qualified agent, meets the criteria established by the board	1873
pursuant to division (C) of this section, and offers quality,	1874
services, and safety comparable to other agents otherwise	1875
available to the board. The board's determination shall be final.	1876
(E) The board shall, at least annually, submit to the Ohio	1877
retirement study council a report containing the following	1878
information:	1879
(1) The name of each agent designated as an Ohio-qualified	1880
agent under this section;	1881
(2) The name of each agent that executes securities	1882
transactions on behalf of the board;	1883
(3) The amount of equity and fixed-income trades that are	1884
executed by Ohio-qualified agents, expressed as a percentage of	1885
all equity and fixed-income trades that are executed by agents on	1886
behalf of the board;	1887
(4) The compensation paid to Ohio-qualified agents, expressed	1888
as a percentage of total compensation paid to all agents that	1889
execute securities transactions on behalf of the board;	1890
(5) The amount of equity and fixed-income trades that are	1891
executed by agents that are minority business enterprises,	1892
expressed as a percentage of all equity and fixed-income trades	1893
that are executed by agents on behalf of the board;	1894
(6) Any other information requested by the Ohio retirement	1895

study council regarding the board's use of agents. 1896

Sec. 5505.0610. (A) The state highway patrol retirement board 1897
shall, for the purposes of this section, designate an investment 1898
manager as an Ohio-qualified investment manager if the investment 1899
manager meets all of the following requirements: 1900

(1) The investment manager is subject to taxation under 1901
Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised 1902
Code. 1903

(2) The investment manager meets one of the following 1904
requirements: 1905

(a) Has its corporate headquarters or principal place of 1906
business in this state; 1907

(b) Employs at least five hundred individuals in this state; 1908

(c) Has a principal place of business in this state and 1909
employs at least ~~20~~ twenty residents of this state. 1910

(B)(1) The board shall, at least annually, establish a policy 1911
with the goal to increase utilization by the board of 1912
Ohio-qualified investment managers, when an Ohio-qualified 1913
investment manager offers quality, services, and safety comparable 1914
to other investment managers otherwise available to the board. The 1915
policy shall also provide for the following: 1916

(a) A process whereby the board can develop a list of 1917
Ohio-qualified investment managers and their investment products; 1918

(b) A process whereby the board can give public notice to 1919
Ohio-qualified investment managers of the board's search for an 1920
investment manager that includes the board's search criteria. 1921

(2) The board shall determine whether an investment manager 1922
is an Ohio-qualified investment manager and whether the investment 1923
manager offers quality, services, and safety comparable to other 1924

investment managers otherwise available to the board. The board's 1925
determination shall be final. 1926

(C) The board shall, at least annually, submit to the Ohio 1927
retirement study council a report containing the following 1928
information: 1929

(1) The name of each investment manager designated as an 1930
Ohio-qualified investment manager under this section; 1931

(2) The name of each investment manager with which the board 1932
contracts; 1933

(3) The amount of assets managed by Ohio-qualified investment 1934
managers, expressed as a percentage of the total assets held by 1935
the retirement system and as a percentage of assets managed by 1936
investment managers with which the board has contracted; 1937

(4) The compensation paid to Ohio-qualified investment 1938
managers, expressed as a percentage of total compensation paid to 1939
all investment managers with which the board has contracted; 1940

(5) Any other information requested by the Ohio retirement 1941
study council regarding the board's use of investment managers. 1942

Sec. 5701.12. (A) The effective date to which this section 1943
refers is the effective date of this section as enacted by H.B. 1944
510 of the 129th general assembly. 1945

(B) Any reference in Title LVII to "consolidated reports of 1946
condition and income" or "call report" means the consolidated 1947
reports of condition and income as those reports existed on the 1948
effective date. 1949

(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means 1950
the FR Y-9 financial statements as those financial statements 1951
existed on the effective date. 1952

(D) This section does not apply to any reference in Title 1953

LVII of the Revised Code to "consolidated reports of condition and 1954
income," "call report," "FR Y-9," or "Y-9" as of a date certain 1955
specifying the day, month, and year. 1956

Sec. 5703.052. (A) There is hereby created in the state 1957
treasury the tax refund fund, from which refunds shall be paid for 1958
taxes illegally or erroneously assessed or collected, or for any 1959
other reason overpaid, that are levied by Chapter 4301., 4305., 1960
5726., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 1961
5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 1962
3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 1963
5727.811 of the Revised Code. Refunds for fees illegally or 1964
erroneously assessed or collected, or for any other reason 1965
overpaid, that are levied by sections 3734.90 to 3734.9014 of the 1966
Revised Code also shall be paid from the fund. Refunds for amounts 1967
illegally or erroneously assessed or collected by the tax 1968
commissioner, or for any other reason overpaid, that are due under 1969
section 1509.50 of the Revised Code shall be paid from the fund. 1970
However, refunds for taxes levied under section 5739.101 of the 1971
Revised Code shall not be paid from the tax refund fund, but shall 1972
be paid as provided in section 5739.104 of the Revised Code. 1973

(B)(1) Upon certification by the tax commissioner to the 1974
treasurer of state of a tax refund, a fee refund, or an other 1975
amount refunded, or by the superintendent of insurance of a 1976
domestic or foreign insurance tax refund, the treasurer of state 1977
shall place the amount certified to the credit of the fund. The 1978
certified amount transferred shall be derived from current 1979
receipts of the same tax, fee, or other amount from which the 1980
refund arose. If current receipts from the tax, fee, or other 1981
amount from which the refund arose are inadequate to make the 1982
transfer of the amount so certified, the treasurer of state shall 1983
transfer such certified amount from current receipts of the sales 1984
tax levied by section 5739.02 of the Revised Code. 1985

(2) When the treasurer of state provides for the payment of a refund of a tax, fee, or other amount from the current receipts of the sales tax, and the refund is for a tax, fee, or other amount that is not levied by the state, the tax commissioner shall recover the amount of that refund from the next distribution of that tax, fee, or other amount that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax, fee, or other amount, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed twenty-four months.

Sec. 5703.053. As used in this section, "postal service" means the United States postal service.

An application to the tax commissioner for a tax refund under section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the Revised Code or division (B) of section 5703.05 of the Revised Code, or a fee refunded under section 3734.905 of the Revised Code, that is received after the last day for filing under such section shall be considered to have been filed in a timely manner if:

(A) The application is delivered by the postal service and the earliest postal service postmark on the cover in which the application is enclosed is not later than the last day for filing the application;

(B) The application is delivered by the postal service, the only postmark on the cover in which the application is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the application, and the

application is received within seven days of such last day; or 2017

(C) The application is delivered by the postal service, no 2018
postmark date was affixed to the cover in which the application is 2019
enclosed or the date of the postmark so affixed is not legible, 2020
and the application is received within seven days of the last day 2021
for making the application. 2022

Sec. 5703.70. (A) On the filing of an application for refund 2023
under section 3734.905, 4307.05, 4307.07, 5726.30, 5727.28, 2024
5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 2025
5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 2026
5743.53, 5749.08, 5751.08, or 5753.06 of the Revised Code, or an 2027
application for compensation under section 5739.061 of the Revised 2028
Code, if the tax commissioner determines that the amount of the 2029
refund or compensation to which the applicant is entitled is less 2030
than the amount claimed in the application, the commissioner shall 2031
give the applicant written notice by ordinary mail of the amount. 2032
The notice shall be sent to the address shown on the application 2033
unless the applicant notifies the commissioner of a different 2034
address. The applicant shall have sixty days from the date the 2035
commissioner mails the notice to provide additional information to 2036
the commissioner or request a hearing, or both. 2037

(B) If the applicant neither requests a hearing nor provides 2038
additional information to the tax commissioner within the time 2039
prescribed by division (A) of this section, the commissioner shall 2040
take no further action, and the refund or compensation amount 2041
denied becomes final. 2042

(C)(1) If the applicant requests a hearing within the time 2043
prescribed by division (A) of this section, the tax commissioner 2044
shall assign a time and place for the hearing and notify the 2045
applicant of such time and place, but the commissioner may 2046
continue the hearing from time to time as necessary. After the 2047

hearing, the commissioner may make such adjustments to the refund 2048
or compensation as the commissioner finds proper, and shall issue 2049
a final determination thereon. 2050

(2) If the applicant does not request a hearing, but provides 2051
additional information, within the time prescribed by division (A) 2052
of this section, the commissioner shall review the information, 2053
make such adjustments to the refund or compensation as the 2054
commissioner finds proper, and issue a final determination 2055
thereon. 2056

(3) The commissioner shall serve a copy of the final 2057
determination made under division (C)(1) or (2) of this section on 2058
the applicant in the manner provided in section 5703.37 of the 2059
Revised Code, and the decision is final, subject to appeal under 2060
section 5717.02 of the Revised Code. 2061

(D) The tax commissioner shall certify to the director of 2062
budget and management and treasurer of state for payment from the 2063
tax refund fund created by section 5703.052 of the Revised Code, 2064
the amount of the refund to be refunded under division (B) or (C) 2065
of this section. The commissioner also shall certify to the 2066
director and treasurer of state for payment from the general 2067
revenue fund the amount of compensation to be paid under division 2068
(B) or (C) of this section. 2069

Sec. 5707.03. Annual taxes are hereby levied on the kinds of 2070
intangible property, enumerated in this section, on the intangible 2071
property tax list in the office of the treasurer of state at the 2072
following rates: 2073

(A) On investments, five per cent of income yield or of 2074
income as provided by section 5711.10 of the Revised Code for the 2075
1983, 1984, and 1985 return years and no tax for subsequent return 2076
years; 2077

(B) On unproductive investments, two mills on the dollar for the 1983, 1984, and 1985 return years and no tax for subsequent return years; 2078
2079
2080

(C) On deposits, one and three-eighths mills on the dollar for the 1982 and 1983 return years and no tax for subsequent return years; 2081
2082
2083

(D) On shares of, and capital employed by, dealers in intangibles, eight mills on the dollar for return years prior to 2014 and no tax under this section for subsequent return years; 2084
2085
2086

(E) On money, credits, and all other taxable intangibles, three mills on the dollar for the 1983, 1984, and 1985 return years and no tax for subsequent return years. 2087
2088
2089

The object and distribution of such taxes shall be as provided in section 5725.24 of the Revised Code. 2090
2091

Sec. 5709.76. (A) All of the following are exempt from taxes levied by the state and its subdivisions: 2092
2093

(1) Public obligations; 2094

(2) Interest or interest equivalent on public obligations and on purchase obligations; 2095
2096

(3) The transfer, and any profit made on the sale, exchange, or other disposition, of public obligations. 2097
2098

(B) The exemptions granted by division (A) of this section apply to public obligations and purchase obligations issued, incurred, or entered into before, on, or after ~~the effective date of this section~~ March 29, 1988, but only for taxable years ending on or after the later of July 1, 1988, or ~~the effective date of this section~~ March 29, 1988. 2099
2100
2101
2102
2103
2104

(C) This section supplements, and does not restrict, limit, or impair, any exemption from taxation otherwise provided for in 2105
2106

the Ohio Constitution, the Revised Code, or other laws.	2107
(D) As used in this section:	2108
(1) "Fractionalized interests in purchase obligations" means participations, shares, or other instruments or agreements, separate from the purchase obligations themselves, evidencing ownership of interests in purchase obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of the state or a subdivision pursuant to purchase obligations, and does not include interests or shares in qualified investment trusts.	2109 2110 2111 2112 2113 2114 2115 2116
(2) "Interest or interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time, as determined for federal income tax purposes, and includes those portions of a qualified investment trust's distributions to its shareholders or beneficial owners, whether distributed or deemed distributed in cash or in trust shares or interests, that are attributable to the trust's receipt of interest or interest equivalent.	2117 2118 2119 2120 2121 2122 2123 2124 2125 2126
(3) "Internal Revenue Code" has the same meaning as in division (H) of section 5747.01 of the Revised Code.	2127 2128
(4) "Qualified investment trust" or "trust" means a unit investment trust, grantor trust, or regulated investment company, if at all times at least fifty per cent of the value of the total assets of the trust or company consists of public securities or purchase obligations, or similar obligations of other states or their subdivisions.	2129 2130 2131 2132 2133 2134
(5) "Public obligations" means public securities, fractionalized interests in purchase obligations, and any obligation or evidence of obligation to pay interest or interest	2135 2136 2137

equivalent on public securities or on fractionalized interests in 2138
purchase obligations, and does not include purchase obligations. 2139

(6) "Public securities" means bonds, notes, certificates of 2140
indebtedness, commercial paper, and other instruments in writing 2141
issued by the state or a subdivision, or by any nonprofit 2142
corporation authorized to issue public securities for or on behalf 2143
of the state or a subdivision, to evidence the obligation of the 2144
state, subdivision, or nonprofit corporation to repay money 2145
borrowed by, or to pay at any future time other money obligations 2146
of, the state, subdivision, or nonprofit corporation, and does not 2147
include purchase obligations. Public securities may be in the form 2148
of either certificated securities or uncertificated securities, as 2149
those terms are defined in section 1308.01 of the Revised Code. 2150

(7) "Purchase obligations" means interest-bearing obligations 2151
of the state or a subdivision to make payments under installment 2152
sale, lease, lease purchase, or similar types of agreements. 2153

(8) "Regulated investment company" means a regulated 2154
investment company as defined in section 851 of the Internal 2155
Revenue Code. 2156

(9) "State" means the state, state officers, and state 2157
agencies, including commissions, institutions, boards, agencies, 2158
authorities, or other instrumentalities. 2159

(10) "Subdivision" means any local taxing authority, 2160
political or governmental subdivision, body corporate and politic, 2161
or other local public or governmental entity in the state, any 2162
combination or consortium of two or more of those subdivisions, 2163
and any public division, district, commission, authority, 2164
department, board, officer, or institution of any one or more of 2165
those subdivisions. 2166

(11) "Taxes" means any direct or indirect taxes, including 2167
income, ad valorem, transfer, and excise taxes, and including the 2168

tax on the net income measure of the issued and outstanding shares 2169
of a corporation under Chapter 5733. of the Revised Code. "Taxes" 2170
does not mean any of the following: 2171

(a) The tax on the net worth measure of the issued and 2172
outstanding shares of corporations and financial institutions 2173
under Chapter 5733. of the Revised Code; 2174

(b) The tax on the value of the gross estate under Chapter 2175
5731. of the Revised Code; 2176

(c) The tax on the value of the capital and surplus of a 2177
domestic insurance company under Chapter 5725. of the Revised 2178
Code; 2179

(d) The tax on the shares of and capital employed by dealers 2180
in intangibles under Chapter 5725. and section 5707.03 of the 2181
Revised Code; 2182

(e) The tax levied on the basis of the total equity capital 2183
of financial institutions under Chapter 5726. of the Revised Code. 2184

Sec. 5711.22. (A) Deposits not taxed at the source shall be 2185
listed and assessed at their amount in dollars on the day they are 2186
required to be listed. Moneys shall be listed and assessed at the 2187
amount thereof in dollars on hand on the day that they are 2188
required to be listed. In listing investments, the amount of the 2189
income yield of each for the calendar year next preceding the date 2190
of listing shall, except as otherwise provided in this chapter, be 2191
stated in dollars and cents and the assessment thereof shall be at 2192
the amount of such income yield; but any property defined as 2193
investments in either division (A) or (B) of section 5701.06 of 2194
the Revised Code that has not been outstanding for the full 2195
calendar year next preceding the date of listing, except shares of 2196
stock of like kind as other shares of the same corporation 2197
outstanding for the full calendar year next preceding the date of 2198

listing, or which has yielded no income during such calendar year 2199
shall be listed and assessed as unproductive investments, at their 2200
true value in money on the day that such investments are required 2201
to be listed. 2202

Credits and other taxable intangibles shall be listed and 2203
assessed at their true value in money on the day as of which the 2204
same are required to be listed. 2205

Shares of stock of a bank holding company, as defined in 2206
Title 12 U.S.C.A., section 1841, that are required to be listed 2207
for taxation under this division and upon which dividends were 2208
paid during the year of their issuance, which dividends are 2209
subject to taxation under the provisions of Chapter 5747. of the 2210
Revised Code, shall be exempt from the intangibles tax for the 2211
year immediately succeeding their issuance. If such shares bear 2212
dividends the first calendar year after their issuance, which 2213
dividends are subject to taxation under the provisions of Chapter 2214
5747. of the Revised Code, it shall be deemed that the 2215
nondelinquent intangible property tax pursuant to division (A) of 2216
section 5707.04 of the Revised Code was paid on those dividends 2217
paid that first calendar year after the issuance of the shares. 2218

(B) For tax years before tax year 2009, boilers, machinery, 2219
equipment, and personal property the true value of which is 2220
determined under division (B) of section 5711.21 of the Revised 2221
Code shall be listed and assessed at an amount equal to the sum of 2222
the products determined under divisions (B)(1), (2), and (3) of 2223
this section: 2224

(1) Multiply the portion of the true value determined under 2225
division (B)(1) of section 5711.21 of the Revised Code by the 2226
assessment rate for the tax year in division (G) of this section; 2227

(2) Multiply the portion of the true value determined under 2228
division (B)(2) of section 5711.21 of the Revised Code by the 2229

assessment rate in section 5727.111 of the Revised Code that is 2230
applicable to the production equipment of an electric company; 2231

(3) Multiply the portion of the true value determined under 2232
division (B)(3) of section 5711.21 of the Revised Code by the 2233
assessment rate in section 5727.111 of the Revised Code that is 2234
applicable to the property of an electric company that is not 2235
production equipment. 2236

(C) For tax years before tax year 2009, personal property 2237
leased to a public utility or interexchange telecommunications 2238
company as defined in section 5727.01 of the Revised Code and used 2239
directly in the rendition of a public utility service as defined 2240
in division (P) of section 5739.01 of the Revised Code shall be 2241
listed and assessed at the same percentage of true value in money 2242
that such property is required to be assessed by section 5727.111 2243
of the Revised Code if owned by the public utility or 2244
interexchange telecommunications company. 2245

(D)(1) Merchandise or an agricultural product shipped from 2246
outside this state and held in this state in a warehouse or a 2247
place of storage without further manufacturing or processing and 2248
for storage only and for shipment outside this state, but that 2249
does not qualify as "not used in business in this state" under 2250
division (B)(1) or (2) of section 5701.08 of the Revised Code, is 2251
nevertheless not used in business in this state for property tax 2252
purposes. 2253

(2) Merchandise or an agricultural product owned by a 2254
qualified out-of-state person shipped from outside this state and 2255
held in this state in a public warehouse without further 2256
manufacturing or processing and for temporary storage only and for 2257
shipment inside this state, but that does not qualify as "not used 2258
in business in this state" under division (B)(1) or (2) of section 2259
5701.08 of the Revised Code, is nevertheless not used in business 2260
in this state for property tax purposes. 2261

(3) As used in division (D)(2) of this section:	2262
(a) "Qualified out-of-state person" means a person that does not own, lease, or use property, other than merchandise or an agricultural product described in this division, in this state, and does not have employees, agents, or representatives in this state;	2263 2264 2265 2266 2267
(b) "Public warehouse" means a warehouse in this state that is not subject to the control of or under the supervision of the owner of the merchandise or agricultural product stored in it, or staffed by the owner's employees, and from which the property is to be shipped inside this state.	2268 2269 2270 2271 2272
(E) Personal property valued pursuant to section 5711.15 of the Revised Code and personal property required to be listed on the average basis by division (B) of section 5711.16 of the Revised Code, except property described in division (D) of this section, business fixtures, and furniture not held for sale in the course of business, shall be listed and assessed at twenty-three per cent of its true value in money for tax year 2005 and at the percentage of such true value specified in division (G) of this section for tax year 2006 and each tax year thereafter.	2273 2274 2275 2276 2277 2278 2279 2280 2281
(F) All manufacturing equipment as defined in section 5711.16 of the Revised Code shall be listed and assessed at the following percentage of its true value in money:	2282 2283 2284
(1) For all such property not previously used in business in this state by the owner thereof, or by related member or predecessor of the owner, other than as inventory, before January 1, 2005, zero per cent of true value;	2285 2286 2287 2288
(2) For all other such property, at the percentage of true value specified in division (G) of this section for tax year 2005 and each tax year thereafter.	2289 2290 2291
(G) Unless otherwise provided by law, all other personal	2292

property used in business that has not been legally regarded as an	2293
improvement on land and considered in arriving at the value of the	2294
real property assessed for taxation shall be listed and assessed	2295
at the following percentages of true value in money:	2296
(1) For tax year 2005, twenty-five per cent of true value;	2297
(2) For tax year 2006, eighteen and three-fourths per cent of	2298
true value;	2299
(3) For tax year 2007, twelve and one-half per cent of true	2300
value;	2301
(4) For tax year 2008, six and one-fourth per cent of true	2302
value;	2303
(5) For tax year 2009 and each tax year thereafter, zero per	2304
cent of true value.	2305
(H)(1) For tax year 2007 and thereafter, all personal	2306
property used by a telephone company, telegraph company, or	2307
interexchange telecommunications company shall be listed as	2308
provided in this chapter and assessed at the following percentages	2309
of true value in money:	2310
(a) For tax year 2007, twenty per cent of true value;	2311
(b) For tax year 2008, fifteen per cent of true value;	2312
(c) For tax year 2009, ten per cent of true value;	2313
(d) For tax year 2010, five per cent of true value;	2314
(e) For tax year 2011 and each tax year thereafter, zero per	2315
cent of true value.	2316
(2) The property owned by a telephone, telegraph, or	2317
telecommunications company shall be apportioned to each	2318
appropriate taxing district as provided in section 5727.15 of the	2319
Revised Code.	2320
(I) During and after the tax year in which the assessment	2321

rate equals zero per cent, the property described in division (E), 2322
(F), (G), or (H) of this section shall not be listed for taxation. 2323

(J) Divisions (E), (F), (G), and (H) of this section apply to 2324
the property of a person described in divisions (E)(3) ~~to (10)~~, 2325
(4), and (5) of section 5751.01 of the Revised Code. Division (J) 2326
of this section does not prevent the application of the exemption 2327
of property from taxation under section 5725.25 or 5725.26 of the 2328
Revised Code. 2329

Sec. 5725.02. The For report years prior to 2014, the cashier 2330
or other principal accounting officer of each bank, the secretary 2331
or other principal accounting officer of each other incorporated 2332
financial institution, and the manager or owner of each 2333
unincorporated financial institution shall return to the 2334
department of taxation between the first and second Mondays of 2335
March, annually, a report exhibiting in detail, and under 2336
appropriate heads, the resources and liabilities of such 2337
institution at the close of business on the thirty-first day of 2338
December next preceding. 2339

The report of each financial institution shall also show the 2340
aggregate balances of the taxable deposits of its depositors in 2341
each county in which the institution maintained an office for the 2342
receipt of deposits, at the end of business on the day fixed by 2343
the tax commissioner pursuant to section 5725.05 of the Revised 2344
Code. The report shall show also the names and addresses of all 2345
depositors whose deposits were wholly withdrawn from such 2346
institution between the day so fixed and the date on which notice 2347
of the fixing was received by such institution, or if no such 2348
notice was received, then between the day fixed and the first day 2349
of January next following, and the amount of taxable deposits of 2350
each such ~~depositer~~ depositor on the day fixed. 2351

Sec. 5725.14. (A) As used in this section and section 5725.15	2352
of the Revised Code:	2353
(1) "Billing address" of a customer means one of the	2354
following:	2355
(a) The customer's address as set forth in any notice,	2356
statement, bill, or similar acknowledgment shall be presumed to be	2357
the address where the customer is located with respect to the	2358
transaction for which the dealer issued the notice, statement,	2359
bill, or acknowledgment.	2360
(b) If the dealer issues any notice, statement, bill, or	2361
similar acknowledgment electronically to an address other than a	2362
street address or post office box address or if the dealer does	2363
not issue such a notice, statement, bill, or acknowledgment, the	2364
customer's street address as set forth in the records of the	2365
dealer at the time of the transaction shall be presumed to be the	2366
address where the customer is located.	2367
(2) "Commissions" includes but is not limited to brokerage	2368
commissions, asset management fees, and similar fees charged in	2369
the regular course of business to a customer for the maintenance	2370
and management of the customer's account.	2371
(3) "Gross receipts" means one of the following:	2372
(a) In the case of a dealer in intangibles principally	2373
engaged in the business of lending money or discounting loans, the	2374
aggregate amount of loans effected or discounted;	2375
(b) In the case of a dealer in intangibles principally	2376
engaged in the business of selling or buying stocks, bonds, or	2377
other similar securities either on the dealer's own account or as	2378
agent for another, the aggregate amount of all commissions	2379
charged.	2380
(B) Each dealer in intangibles shall return to the tax	2381

commissioner between the first and second Mondays of March, 2382
annually for return years prior to 2014, a report exhibiting in 2383
detail, and under appropriate heads, the dealer's resources and 2384
liabilities at the close of business on the thirty-first day of 2385
December next preceding. In the case of an unincorporated dealer 2386
in intangibles, such report shall also exhibit the amount or value 2387
as of the date of conversion of all property within the year 2388
preceding the date of listing, and on or after the first day of 2389
November converted into bonds or other securities not taxed to the 2390
extent such nontaxable bonds or securities may be shown in the 2391
dealer's resources on such date, without deduction for 2392
indebtedness created in the purchase of such nontaxable bonds or 2393
securities. 2394

If a dealer in intangibles maintains separate business 2395
offices, whether within this state only or within and without this 2396
state, the report shall also show the gross receipts from business 2397
done at each such office during the year ending on the 2398
thirty-first day of December next preceding. 2399

For the purposes of this section and section 5725.15 of the 2400
Revised Code, business is considered done at an office when it 2401
originates at such office, but the receipts from business 2402
originating at one office and consummated at another office shall 2403
be divided equitably between such offices. 2404

(C) For the purposes of this section and section 5725.15 of 2405
the Revised Code, in the case of a dealer in intangibles 2406
principally engaged in the business of selling or buying stocks, 2407
bonds, or other similar securities either on the dealer's own 2408
account or as agent for another, the dealer's capital, surplus, 2409
and undivided profits employed in this state shall bear the same 2410
ratio to the dealer's total capital, surplus, and undivided 2411
profits employed everywhere as the amount described in division 2412
(C)(1) of this section bears to the amount described in division 2413

(C)(2) of this section:	2414
(1) The sum of the commissions earned during the year covered	2415
by the report from transactions with respect to brokerage accounts	2416
owned by customers having billing addresses in this state;	2417
(2) The sum of the commissions earned during that year from	2418
transactions with respect to brokerage accounts owned by all of	2419
the dealer's customers.	2420
(D) An incorporated dealer in intangibles which owns or	2421
controls fifty-one per cent or more of the common stock of another	2422
incorporated dealer in intangibles may, under uniform regulations	2423
prescribed by the tax commissioner, make a consolidated return for	2424
the purpose of sections 5725.01 to 5725.26, inclusive, of the	2425
Revised Code. In such case the parent corporation making such	2426
return is not required to include in its resources any of the	2427
stocks, securities, or other obligations of its subsidiary	2428
dealers, nor permitted to include in its liabilities any of its	2429
own securities or other obligations belonging to its subsidiaries.	2430
Sec. 5725.16. On or before the first Monday of May, annually	2431
<u>for return years prior to 2014</u> , the tax commissioner shall certify	2432
to the treasurer of state the assessment of the shares or property	2433
representing capital, or apportionment of either, of each dealer	2434
in intangibles doing business in the state, showing separately the	2435
amount representing capital employed in each county.	2436
The treasurer of state shall place the amounts certified on	2437
the intangible property tax list in his <u>the treasurer of state's</u>	2438
office in the names of the dealers represented by those	2439
certificates.	2440
Any certificate of abatement issued pursuant to section	2441
5703.05 of the Revised Code for the overpayment of the tax on	2442
shares or property representing capital of a dealer in intangibles	2443

may be tendered by the payee or transferee thereof to the 2444
treasurer of state as payment for any taxes allocable to the 2445
county in which the claim for overpayment arose. 2446

Sec. 5725.26. The real estate of a financial institution or 2447
dealer in intangibles shall be taxed in the place where it is 2448
located, the same as the real estate of persons is taxed, but the 2449
taxes provided for in Chapters 5725. ~~and, 5726.,~~ 5733., ~~and 5751.~~ 2450
of the Revised Code, shall be in lieu of all other taxes on the 2451
other property and assets of such institution or dealer, except 2452
personal property taxable under Chapter 5711. of the Revised Code 2453
and leased, or held for the purpose of leasing, to others if the 2454
owner or lessor of the property acquired it for the sole purpose 2455
of leasing it to others. 2456

For reports required to be filed under section 5725.14 of the 2457
Revised Code in 2003 and thereafter, nothing in this section shall 2458
be construed to exempt the property of any dealer in intangibles 2459
under section 5725.13 of the Revised Code from the tax imposed 2460
under section 5707.03 of the Revised Code. 2461

Sec. 5725.33. (A) Except as otherwise provided in this 2462
section, terms used in this section have the same meaning as 2463
section 45D of the Internal Revenue Code, any related proposed, 2464
temporary or final regulations promulgated under the Internal 2465
Revenue Code, any rules or guidance of the internal revenue 2466
service or the United States department of the treasury, and any 2467
related rules or guidance issued by the community development 2468
financial institutions fund of the United States department of the 2469
treasury, as such law, regulations, rules, and guidance exist on 2470
~~the effective date of the enactment of this section by H.B. 1 of~~ 2471
~~the 128th general assembly~~ October 16, 2009. 2472

As used in this section: 2473

(1) "Adjusted purchase price" means the amount paid for 2474
qualified equity investments multiplied by the qualified 2475
low-income community investments made by the issuer in projects 2476
located in this state as a percentage of the total amount of 2477
qualified low-income community investments made by the issuer in 2478
projects located in all states on the credit allowance date during 2479
the applicable tax year, subject to divisions (B)(1) and (2) of 2480
this section. 2481

(2) "Applicable percentage" means zero per cent for each of 2482
the first two credit allowance dates, seven per cent for the third 2483
credit allowance date, and eight per cent for the four following 2484
credit allowance dates. 2485

(3) "Credit allowance date" means the date, on or after 2486
January 1, 2010, a qualified equity investment is made and each of 2487
the six anniversary dates thereafter. For qualified equity 2488
investments made after ~~the effective date of this section~~ October 2489
16, 2009, but before January 1, 2010, the initial credit allowance 2490
date is January 1, 2010, and each of the six anniversary dates 2491
thereafter is on the first day of January of each year. 2492

(4) "Qualified active low-income community business" excludes 2493
any business that derives or projects to derive fifteen per cent 2494
or more of annual revenue from the rental or sale of real 2495
property, except any business that is a special purpose entity 2496
principally owned by a principal user of that property formed 2497
solely for the purpose of renting, either directly or indirectly, 2498
or selling real property back to such principal user if such 2499
principal user does not derive fifteen per cent or more of its 2500
gross annual revenue from the rental or sale of real property. 2501

(5) "Qualified community development entity" includes only 2502
entities: 2503

(a) That have entered into an allocation agreement with the 2504

community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;

(b) Whose service area includes any portion of this state;
and

(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.

(6) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:

(a) Is acquired after ~~the effective date of the enactment of this section~~ October 16, 2009, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment.

"Qualified equity investment" includes any equity investment that would, but for division (A)(6)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the

credit allowance date occurring in the calendar year for which the 2535
tax is due. The credit shall equal the applicable percentage of 2536
the adjusted purchase price of qualified low-income community 2537
investments, subject to divisions (B)(1) and (2) of this section: 2538

(1) For the purpose of calculating the amount of qualified 2539
low-income community investments held by a qualified community 2540
development entity, an investment shall be considered held by a 2541
qualified community development entity even if the investment has 2542
been sold or repaid, provided that, at any time before the seventh 2543
anniversary of the issuance of the qualified equity investment, 2544
the qualified community development entity reinvests an amount 2545
equal to the capital returned to or received or recovered by the 2546
qualified community development entity from the original 2547
investment, exclusive of any profits realized and costs incurred 2548
in the sale or repayment, in another qualified low-income 2549
community investment within twelve months of the receipt of such 2550
capital. If the qualified low-income community investment is sold 2551
or repaid after the sixth anniversary of the issuance of the 2552
qualified equity investment, the qualified low-income community 2553
investment shall be considered held by the ~~qualified~~ qualified 2554
community development entity through the seventh anniversary of 2555
the qualified equity investment's issuance. 2556

(2) The qualified low-income community investment made in 2557
this state shall equal the sum of the qualified low-income 2558
community investments in each qualified active low-income 2559
community business in this state, not to exceed two million five 2560
hundred sixty-four thousand dollars, in which the qualified 2561
community development entity invests, including such investments 2562
in any such businesses in this state related to that qualified 2563
active low-income community business through majority ownership or 2564
control. 2565

The credit shall be claimed in the order prescribed by 2566

section 5725.98 of the Revised Code. If the amount of the credit 2567
exceeds the amount of tax otherwise due after deducting all other 2568
credits in that order, the excess may be carried forward and 2569
applied to the tax due for not more than four ensuing years. 2570

By claiming a tax credit under this section, an insurance 2571
company waives its rights under section 5725.222 of the Revised 2572
Code with respect to the time limitation for the assessment of 2573
taxes as it relates to credits claimed that later become subject 2574
to recapture under division (E) of this section. 2575

(C) The amount of qualified equity investments on the basis 2576
of which credits may be claimed under this section and sections 2577
5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed 2578
the amount, estimated by the director of development, that would 2579
cause the total amount of credits allowed each fiscal year to 2580
exceed ten million dollars, computed without regard to the 2581
potential for taxpayers to carry tax credits forward to later 2582
years. 2583

(D) If any amount of the federal tax credit allowed for a 2584
qualified equity investment for which a credit was received under 2585
this section is recaptured under section 45D of the Internal 2586
Revenue Code, or if the director of development services 2587
determines that an investment for which a tax credit is claimed 2588
under this section is not a qualified equity investment or that 2589
the proceeds of an investment for which a tax credit is claimed 2590
under this section are used to make qualified low-income community 2591
investments other than in a qualified active low-income community 2592
business, all or a portion of the credit received on account of 2593
that investment shall be paid by the insurance company that 2594
received the credit to the superintendent of insurance. The amount 2595
to be recovered shall be determined by the director of development 2596
services pursuant to rules adopted under division (E) of this 2597
section. The director shall certify any amount due under this 2598

division to the superintendent of insurance, and the 2599
superintendent shall notify the treasurer of state of the amount 2600
due. Upon notification, the treasurer shall invoice the insurance 2601
company for the amount due. The amount due is payable not later 2602
than thirty days after the date the treasurer invoices the 2603
insurance company. The amount due shall be considered to be tax 2604
due under section 5725.18 of the Revised Code, and may be 2605
collected by assessment without regard to the time limitations 2606
imposed under section 5725.222 of the Revised Code for the 2607
assessment of taxes by the superintendent. All amounts collected 2608
under this division shall be credited as revenue from the tax 2609
levied under section 5725.18 of the Revised Code. 2610

(E) The tax credits authorized under this section and 2611
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 2612
be administered by the department of development services. The 2613
director of development services, in consultation with the tax 2614
commissioner and the superintendent of insurance, pursuant to 2615
Chapter 119. of the Revised Code, shall adopt rules for the 2616
administration of this section and sections 5726.54, 5729.16, and 2617
5733.58 of the Revised Code. The rules shall provide for 2618
determining the recovery of credits under division (D) of this 2619
section, ~~division (D) of section~~ and under sections 5726.54, 2620
5729.16, and ~~section~~ 5733.58 of the Revised Code, including 2621
prorating the amount of the credit to be recovered on any 2622
reasonable basis, the manner in which credits may be allocated 2623
among claimants, and the amount of any application or other fees 2624
to be charged in connection with a recovery. 2625

(F) There is hereby created in the state treasury the new 2626
markets tax credit operating fund. The director of development 2627
services is authorized to charge reasonable application and other 2628
fees in connection with the administration of tax credits 2629
authorized by this section and sections 5726.54, 5729.16, and 2630

5733.58 of the Revised Code. Any such fees collected shall be 2631
credited to the fund. The director of development services shall 2632
use money in the fund to pay expenses related to the 2633
administration of tax credits authorized under sections 5725.33, 2634
5726.54, 5729.16, and 5733.58 of the Revised Code. 2635

Sec. 5726.01. As used in this chapter: 2636

(A) "Bank organization" means any of the following: 2637

(1) A national bank organized and operating as a national 2638
bank association pursuant to the "National Bank Act," 13 Stat. 100 2639
(1864), 12 U.S.C. 21, et seq.; 2640

(2) A federal savings association or federal savings bank 2641
chartered under 12 U.S.C. 1464; 2642

(3) A bank, banking association, trust company, savings and 2643
loan association, savings bank, or other banking institution that 2644
is organized or incorporated under the laws of the United States, 2645
any state, or a foreign country; 2646

(4) Any corporation organized and operating pursuant to 12 2647
U.S.C. 611, et seq.; 2648

(5) Any agency or branch of a foreign bank, as those terms 2649
are defined in 12 U.S.C. 3101; 2650

(6) An entity licensed as a small business investment company 2651
under the "Small Business Investment Act of 1958," 72 Stat. 689, 2652
15 U.S.C. 661, et seq.; 2653

(7) A company chartered under the "Farm Credit Act of 1933," 2654
48 Stat. 257, or a successor of such a company. 2655

"Bank organization" does not include an institution organized 2656
under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a 2657
successor of such an institution, an insurance company, or a 2658
credit union. 2659

(B) "Call report" means the consolidated reports of condition and income prescribed by the federal financial institutions examination council that a person is required to file with a federal regulatory agency pursuant to 12 U.S.C. 161, 12 U.S.C. 324, or 12 U.S.C. 1817.

(C) "Credit union" means a nonprofit cooperative financial institution organized or chartered under the laws of this state, any other state, or the United States.

(D) "Document of creation" means the articles of incorporation of a corporation, articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name.

(E) "Financial institution" means a bank organization or a holding company of a bank organization, except when one of the following applies:

(1) If two or more entities are consolidated for the purposes of filing an FR Y-9, "financial institution" means a group consisting of all entities that are included in the FR Y-9.

(2) If two or more entities are consolidated for the purposes of filing a call report, "financial institution" means a group consisting of all entities that are included in the call report and that are not included in a group described in division (E)(1) of this section.

"Financial institution" does not include a diversified savings and loan holding company as defined in 12 U.S.C. 1467a, as that section existed on January 1, 2012, or a grandfathered unitary savings and loan holding company as defined in 12 U.S.C. 1467b.

(F) "FR Y-9" means the consolidated or parent-only financial statements that a holding company is required to file with the federal reserve board pursuant to 12 U.S.C. 1844. In the case of a holding company required to file both consolidated and parent-only financial statements, "FR Y-9" means the consolidated financial statements that the holding company is required to file.

(G) "Gross receipts" means all items of income, without deduction for expenses. If the reporting person for a taxpayer is a holding company, "gross receipts" includes all items of income reported on the FR Y-9 filed by the holding company. If the reporting person for a taxpayer is a bank organization, "gross receipts" includes all items of income reported on the call report filed by the bank organization.

(H) "Insurance company" means every corporation, association, and society engaged in the business of insurance of any character, or engaged in the business of entering into contracts substantially amounting to insurance of any character, or of indemnifying or guaranteeing against loss or damage, or acting as surety on bonds or undertakings. "Insurance company" also includes any health insuring corporation as defined in section 1751.01 of the Revised Code.

(I) "Reporting person" means one of the following:

(1) In the case of a financial institution described in division (E)(1) of this section, the top-tier holding company required to file an FR Y-9 unless the top-tier holding company is a diversified savings and loan holding company, as defined in 12 U.S.C. 1467a, as that section existed on January 1, 2012, or a grandfathered unitary savings and loan holding company as defined in 12 U.S.C. 1467b. If the top-tier holding company is such a holding company, then the reporting person shall be the bank organization.

(2) In the case of a financial institution described in 2722
division (E)(2) of this section, the bank organization required to 2723
file the call report. 2724

(J) "Tax year" means the calendar year for which the tax 2725
levied under section 5726.02 of the Revised Code is required to be 2726
paid. 2727

(K) "Taxable year" means the calendar year preceding the year 2728
in which an annual report is required to be filed under section 2729
5726.03 of the Revised Code. 2730

(L) "Taxpayer" means a financial institution subject to the 2731
tax levied under section 5726.02 of the Revised Code. 2732

(M) "Total equity capital" means the sum of the common stock 2733
at par value, perpetual preferred stock and related surplus, other 2734
surplus not related to perpetual preferred stock, retained 2735
earnings, accumulated other comprehensive income, treasury stock, 2736
unearned employee stock ownership plan shares, and other equity 2737
components of a financial institution. "Total equity capital" 2738
shall include any noncontrolling (minority) interests in 2739
consolidated subsidiaries that are financial institutions, as 2740
reported on a financial institution's FR Y-9 or call report, but 2741
shall not include such interests in consolidated subsidiaries that 2742
are not financial institutions. 2743

(N) "Total Ohio equity capital" means the portion of the 2744
total equity capital of a financial institution apportioned to 2745
Ohio pursuant to section 5726.05 of the Revised Code. 2746

(O) "Holding company" does not include a diversified savings 2747
and loan holding company as defined in 12 U.S.C. 1467a, as that 2748
section existed on January 1, 2012, or a grandfathered unitary 2749
savings and loan holding company as defined in 12 U.S.C. 1467b. 2750

Sec. 5726.02. (A) For the purpose of funding the needs of 2751

this state and its local governments beginning with the tax year 2752
that commences on January 1, 2014, and continuing for every tax 2753
year thereafter, there is hereby levied a tax on each financial 2754
institution for the privilege of doing business in this state. A 2755
financial institution is subject to the tax imposed under this 2756
chapter for each calendar year that the financial institution 2757
conducts business as a financial institution in this state or 2758
otherwise has nexus in or with this state under the Constitution 2759
of the United States on the first day of January of that calendar 2760
year. 2761

(B) The amount of tax a financial institution is required to 2762
pay under this chapter shall equal the greater of the minimum tax 2763
required under division (A)(1) of section 5726.04 of the Revised 2764
Code or the amount by which the tax calculated under division 2765
(A)(2) of that section exceeds any credits allowed against the 2766
tax. 2767

Sec. 5726.03. (A)(1) Annually, on or before the thirty-first 2768
day of March, or on or before a later date as extended under 2769
division (B) of this section, the reporting person for each 2770
taxpayer shall make a report in writing to the tax commissioner, 2771
in such form as the commissioner prescribes, and shall remit to 2772
the commissioner the amount of tax shown to be due on the report. 2773
The remittance shall be made payable to the treasurer of state. 2774
The commissioner shall make available, on the official internet 2775
web site of the department of taxation, copies of the forms 2776
prescribed by the commissioner for the purpose of making the 2777
annual report. 2778

(2) An annual report shall be signed by the president, 2779
vice-president, secretary, treasurer, general manager, 2780
superintendent, or managing agent in this state of the reporting 2781
person. 2782

(3) An annual report shall contain the facts, figures, computations, and attachments that result in the determination of the amount of tax due from a taxpayer under this chapter. 2783
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(B) The tax commissioner may extend the period of time for filing an annual report to the fifteenth day of the month following the due date, including extensions thereof, for the filing of the federal corporate income tax return for the taxable year. The extension of time to file an annual report shall not extend the time for payment of the tax. Any tax not paid on or before the due date for such payment shall be subject to penalty and interest as provided in this chapter. 2786
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(C)(1) In the case of a financial institution described in division (E)(1) of section 5726.01 of the Revised Code, the annual report filed for a taxable year shall list, and include information related to, each person includable in an FR Y-9 filed by the reporting person for that taxable year. 2794
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(2) In the case of a financial institution described in division (E)(2) of section 5726.01 of the Revised Code, the annual report for a taxable year shall list, and include information related to, each person includable in a call report filed by the reporting person for that taxable year. 2799
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(D)(1) The reporting person for a taxpayer shall remit each tax payment and, if required by the commissioner, file each annual or estimated tax report electronically. The commissioner may require reporting persons to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file reports and remit the tax, or may provide another means for reporting persons to file and remit the tax electronically. 2804
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(2) The payment of taxes as provided in division (D) of this section shall not affect a taxpayer's obligation to file an annual report required under division (A) of this section. 2811
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(3) The reporting person for a taxpayer that is required to remit tax payments electronically under this section may apply to the tax commissioner, in the manner prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse the taxpayer from the requirements of division (D) of this section for good cause. 2814
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(4) If the reporting person for a taxpayer that is required to remit tax payments or file reports electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following: 2820
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(a) For either of the first two reports the person so fails, five per cent of the amount of the payment that was required to be remitted; 2824
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(b) For the third and any subsequent reports the person so fails, ten per cent of the amount of the payment that was required to be remitted. 2827
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The penalty imposed under this section is in addition to any other penalty or charge imposed under this chapter and shall be considered as revenue arising from the tax levied under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5726.20 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty and may adopt rules governing such abatements. 2830
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Sec. 5726.04. (A) The tax levied on a financial institution under this chapter shall be the greater of the following: 2837
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(1) A minimum tax equal to one thousand dollars; 2839

(2) The product of the total Ohio equity capital of the financial institution, as determined under this section, multiplied by eight mills for each dollar of the first two hundred million dollars of total Ohio equity capital, by four mills for 2840
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each dollar of total Ohio equity capital greater than two hundred million and less than one billion three hundred million one dollars, and by two and one-half mills for each dollar of total Ohio equity capital in excess of one billion three hundred million dollars. 2844
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(B) The total equity capital of a financial institution shall equal the total equity capital shown on the reporting person's FR Y-9 or call report as of the end of the taxable year. 2849
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(C) For the purposes of this section, "total Ohio equity capital" means the product of the total equity capital of a financial institution as of the end of a taxable year multiplied by the Ohio apportionment ratio calculated for the financial institution under section 5726.05 of the Revised Code. 2852
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(D) All payments received from the tax levied under this chapter shall be credited to the general revenue fund. 2857
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(E)(1) As used in this division: 2859

(a) "First target tax amount" means two hundred million dollars. 2860
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(b) "Second target tax amount" means one hundred six per cent of the first target tax amount or, if applicable, the first target tax amount as adjusted under division (E)(2) or (3) of this section. 2862
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(c) "Amount of taxes collected" means the amount of taxes received by the tax commissioner from the tax levied under this chapter for a tax year, less any amounts refunded to taxpayers for the same tax year. 2866
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(2) If, for the tax year beginning on January 1, 2014, the total amount of taxes collected from all taxpayers under this chapter is greater than one hundred ten per cent of the first target tax amount, the tax commissioner shall decrease each tax 2870
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rate provided in division (A)(2) of this section by a percentage 2874
equal to the percentage by which the amount of taxes collected 2875
exceeded the first target tax amount. 2876

(3) If, for the tax year beginning on January 1, 2014, the 2877
total amount of taxes collected from all taxpayers under this 2878
chapter is less than ninety per cent of the target tax amount, the 2879
tax commissioner shall increase the tax rate for each dollar of 2880
total Ohio equity capital in excess of one billion three hundred 2881
million dollars as provided in division (A)(2) of this section by 2882
a percentage equal to the difference of (a) the percentage by 2883
which the first target tax amount exceeded the amount of taxes 2884
collected minus (b) ten per cent of the first target tax amount. 2885

(4) If, for the tax year beginning on January 1, 2016, the 2886
total amount of taxes collected from all taxpayers under this 2887
chapter is greater than one hundred ten per cent of the second 2888
target tax amount, the tax commissioner shall decrease each tax 2889
rate in effect on January 1, 2016, by a percentage equal to the 2890
percentage by which the amount of taxes collected exceeded the 2891
second target tax amount. 2892

(5) If, for the tax year beginning on January 1, 2016, the 2893
total amount of taxes collected from all taxpayers under this 2894
chapter is less than ninety per cent of the second target tax 2895
amount, the tax commissioner shall increase the tax rate for each 2896
dollar of total Ohio equity capital in excess of one billion three 2897
hundred million dollars as provided in division (A)(2) of this 2898
section by a percentage equal to the difference of (a) the 2899
percentage by which the second target tax amount exceeded the 2900
amount of taxes collected minus (b) ten per cent of the second 2901
target tax amount. 2902

(6) Tax rates adjusted pursuant to division (E)(2), (3), (4), 2903
or (5) of this section shall be rounded to the nearest one-tenth 2904
of one mill per dollar. The tax commissioner shall publish the new 2905

tax rates by journal entry and provide notice of the new tax rates 2906
to taxpayers. The new tax rates adjusted pursuant to division 2907
(E)(2) or (3) of this section shall apply to tax years beginning 2908
on or after January 1, 2015. The new tax rates adjusted pursuant 2909
to division (E)(4) or (5) of this section shall apply to tax years 2910
beginning on or after January 1, 2017. 2911

Sec. 5726.05. (A) An apportionment factor shall be used to 2912
determine the total Ohio equity capital of a financial 2913
institution. The factor shall be based upon the gross receipts 2914
generated by the financial institution and reported in the same 2915
manner as provided for the determination of the financial 2916
institution's total equity capital for a tax year under division 2917
(B) of section 5726.04 of the Revised Code. 2918

(B) The apportionment factor is a fraction, the numerator of 2919
which is the total gross receipts of the financial institution in 2920
this state during the taxable year and the denominator of which is 2921
the total gross receipts of the financial institution everywhere 2922
during the taxable year. Gross receipts generated by a financial 2923
institution shall be sitused to this state in the proportion that 2924
the customers' benefit in this state with respect to the services 2925
received bears to the customers' benefit everywhere with respect 2926
to the services received. The physical location where the customer 2927
ultimately uses or receives the benefit of what was received shall 2928
be paramount in determining the proportion of the benefit in this 2929
state to the benefit everywhere. The method of calculating gross 2930
receipts for purposes of the denominator shall be the same as the 2931
method used in determining gross receipts for purposes of the 2932
numerator. 2933

(C) The following are examples of gross receipts to be 2934
included in the numerator of the apportionment factor: 2935

(1) Receipts from the lease, sublease, rental, or subrental 2936

<u>of real property located in this state;</u>	2937
<u>(2) Receipts from the lease, sublease, rental, or subrental</u>	2938
<u>of tangible personal property to the extent such property is used</u>	2939
<u>in this state;</u>	2940
<u>(3) Interest, fees, penalties, or any other charge received</u>	2941
<u>from loans secured by real property located within this state;</u>	2942
<u>(4) Interest, fees, penalties, or any other charge received</u>	2943
<u>from loans not secured by real property if the borrower is located</u>	2944
<u>in this state;</u>	2945
<u>(5) The amount of positive net gains from the sale of loans</u>	2946
<u>secured by real property located in this state;</u>	2947
<u>(6) The amount of positive net gains from the sale of loans</u>	2948
<u>not secured by real property if the borrower is located in this</u>	2949
<u>state;</u>	2950
<u>(7) Interest, annual fees, penalties, or any other charges</u>	2951
<u>received from credit card receivables and from cardholders if the</u>	2952
<u>billing address of the cardholder is located in this state;</u>	2953
<u>(8) The amount of positive net gains from the sale of credit</u>	2954
<u>card receivables if the billing address of the cardholder is</u>	2955
<u>located in this state;</u>	2956
<u>(9) Reimbursement fees of a credit card issuer if the billing</u>	2957
<u>address of the cardholder is located in this state;</u>	2958
<u>(10) Receipts from merchant discounts if the merchant is</u>	2959
<u>located in this state;</u>	2960
<u>(11) Loan servicing fees derived from loans secured by real</u>	2961
<u>property located in this state;</u>	2962
<u>(12) Loan servicing fees derived from loans not secured by</u>	2963
<u>real property if the borrower is located in this state;</u>	2964
<u>(13) Loan servicing fees derived from servicing loans from</u>	2965

other financial institutions if the borrower is located in this 2966
state; 2967

(14) Receipts not otherwise listed herein if the payor of 2968
those receipts is located in this state. 2969

(D) Receipts from investment assets and activities and 2970
trading assets and activities, including interest and dividends, 2971
are in this state to the extent the financial institution's 2972
customers are in this state. This shall be determined by applying 2973
the gross receipts factor calculated in division (B) of this 2974
section to the investment assets and activities and trading assets 2975
and activities. "Investment assets and activities and trading 2976
assets and activities" includes interest, dividends, and other 2977
income from assets and activities, including, but not limited to: 2978
investment securities; trading account assets; federal funds; 2979
securities purchased and sold under agreements to resell or 2980
repurchase; options; futures contracts; forward contracts; 2981
notional principal contracts such as swaps; equities; foreign 2982
currency transactions; amounts in the matched book and in the 2983
arbitrage book, but excluding amounts otherwise sourced in this 2984
section. 2985

(E) If the apportionment provisions of this section do not 2986
fairly represent the extent of the taxpayer's business activity in 2987
this state, the taxpayer may request, or the tax commissioner may 2988
require or permit, an alternative method. Such a request must be 2989
made within any applicable statute of limitations set forth in 2990
this chapter. 2991

(F) A financial institution's "gross receipts" for purposes 2992
of the calculation required by division (B) of this section shall 2993
be determined using the financial institution's method of 2994
accounting for income tax purposes. If a financial institution's 2995
method of accounting is changed for income tax purposes, its 2996
method of accounting for purposes of the calculation required by 2997

division (B) of this section shall be changed accordingly. 2998

(G) The tax commissioner shall adopt administrative rules to 2999
provide additional guidance for the application of this section. 3000

Sec. 5726.06. (A) The reporting person for a taxpayer shall 3001
file estimated tax reports and remit the amount of tax estimated 3002
to be due for a tax year to the tax commissioner as follows: 3003

(1) The minimum tax required under division (A)(1) of section 3004
5726.04 of the Revised Code or one-third of the estimated tax, 3005
whichever is greater, on or before the thirty-first day of January 3006
of the tax year; 3007

(2) One-half of the amount by which the estimated tax exceeds 3008
the amount paid under division (A)(1) of this section on or before 3009
the thirty-first day of March of the tax year; 3010

(3) One-half of the amount by which the estimated tax exceeds 3011
the amount paid under division (A)(1) of this section on or before 3012
the thirty-first day of May of the tax year. 3013

(B)(1) The reporting person for a taxpayer shall remit the 3014
estimated tax electronically as provided in division (D) of 3015
section 5726.03 of the Revised Code. Remittance shall be made 3016
payable to the treasurer of state. 3017

(2) The tax commissioner shall immediately forward to the 3018
treasurer of state all amounts received under this section, and 3019
the treasurer of state shall credit all payments of such estimated 3020
tax as provided in division (D) of section 5726.04 of the Revised 3021
Code. 3022

(C)(1) If a taxpayer was not subject to the tax imposed by 3023
section 5726.02 of the Revised Code for the preceding tax year, 3024
"estimated tax" for purposes of division (A)(1) of this section 3025
means ninety per cent of the qualifying net tax for the tax year. 3026
If a taxpayer was subject to the tax for the preceding tax year, 3027

"estimated tax" for purposes of division (A)(1) of this section 3028
means the lesser of one hundred per cent of the taxpayer's 3029
qualifying net tax for the preceding tax year or ninety per cent 3030
of the qualifying net tax for the tax year. 3031

(2) If the taxpayer did not file a report under section 3032
5726.02 of the Revised Code for the tax year or failed to prepare 3033
and file the report in good faith for the tax year, "qualifying 3034
net tax" as used in division (C)(1) of this section for that tax 3035
year means the amount described in division (C)(2)(a) of this 3036
section. Otherwise, "qualifying net tax" as used in division 3037
(C)(1) of this section for that tax year means the lesser of the 3038
amount described in division (C)(2)(a) or (b) of this section. 3039

(a) The tax imposed by section 5726.02 of the Revised Code 3040
for that tax year reduced by the credits listed in section 5726.98 3041
of the Revised Code. If the credits exceed the total tax, the 3042
qualifying net tax is the minimum tax. 3043

(b) The lesser of the tax shown on the report, prepared and 3044
filed in good faith, reduced by the credits shown on that report, 3045
or the tax shown on an amended report, prepared and filed in good 3046
faith, reduced by the credits shown on that amended report. If the 3047
credits shown exceed the total tax shown, the qualifying net tax 3048
is the minimum tax. 3049

Sec. 5726.07. (A) In the case of an underpayment of estimated 3050
taxes required to be paid under section 5726.06 of the Revised 3051
Code, interest upon the amount of underpayment, calculated at the 3052
rate per annum prescribed by section 5703.47 of the Revised Code 3053
for the period of underpayment, shall be added to the tax due for 3054
the tax year for which the estimated tax is paid. 3055

(B) The amount of underpayment upon which such interest is 3056
computed equals the amount by which division (B)(1) of this 3057
section exceeds division (B)(2) of this section. 3058

(1) The amount of the estimated tax payment that would be required to be paid if the total estimated tax due were equal to the amount of tax shown to be due on the annual report filed for the tax year or, if no report was filed, the total amount of tax due for the tax year; 3059
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(2) The amount, if any, of the estimated tax that has been paid on or before the last day prescribed for such payment. 3064
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(C) The period of underpayment for which such interest is computed shall run from the date the estimated tax payment was required to be made to the date the payment is made. 3066
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For purposes of this section, a payment of estimated tax on any payment date shall be considered a payment of any previous underpayment only to the extent that such payment exceeds the amount of payment currently due. 3069
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Sec. 5726.08. Except as otherwise provided in this section, if any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is, after such period or date, delivered by United States mail to the agency, officer, or office with which such report, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the postmark stamped on the cover in which such report, claim, statement, or other document, or payment is mailed shall be deemed the date of delivery or the date of payment. 3073
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If a payment is made electronically, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments. 3084
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As used in this section, "the date of the postmark" means, in 3088

the event there is more than one date on the cover, the earliest 3089
date imprinted on the cover by the post office. 3090

Sec. 5726.10. The tax commissioner shall enforce and 3091
administer this chapter. In addition to any other powers conferred 3092
upon the commissioner by law, the commissioner may do any of the 3093
following: 3094

(A) Prescribe all forms required to be filed pursuant to this 3095
chapter; 3096

(B) Promulgate such rules and regulations as the commissioner 3097
finds necessary to carry out this chapter; 3098

(C) Appoint and employ such personnel as are necessary to 3099
carry out the duties imposed upon the commissioner by this 3100
chapter. 3101

Sec. 5726.20. (A) The tax commissioner may make an 3102
assessment, based on any information in the commissioner's 3103
possession, against any person that fails to file a return or 3104
report or pay any tax as required by this chapter. The reporting 3105
person for a taxpayer shall file the annual report required under 3106
section 5726.02 of the Revised Code and remit the tax imposed by 3107
this chapter. Each person included in the annual report of the 3108
taxpayer is jointly and severally liable for the tax imposed by 3109
this chapter and any penalties and interest thereon. If the 3110
reporting person fails, for any reason, to file and remit any tax, 3111
the amount due may be collected by assessment against the 3112
reporting person and against any or all other persons required to 3113
be included in the annual report of the taxpayer in the manner 3114
provided by this section. The commissioner shall give the person 3115
assessed written notice of the assessment as provided in section 3116
5703.37 of the Revised Code. With the notice, the commissioner 3117
shall provide instructions on the manner in which to petition for 3118

reassessment and request a hearing with respect to the petition. 3119

(B) No assessment shall be made or issued against a person 3120
under this section more than four years after the later of the 3121
final date the report subject to assessment was required to be 3122
filed or the date such report was filed. Such time limit may be 3123
extended if both the person and the commissioner consent in 3124
writing to the extension or if an agreement waiving or extending 3125
the time limit has been entered into pursuant to section 122.171 3126
of the Revised Code. Any such extension shall extend the four-year 3127
time limit prescribed in division (A) of section 5726.30 of the 3128
Revised Code for the same period of time. There shall be no bar or 3129
limit to an assessment against a person that fails to file a 3130
report subject to assessment as required by this chapter, or that 3131
files a fraudulent report. 3132

(C) Unless the person assessed, within sixty days after 3133
service of the notice of assessment, files with the tax 3134
commissioner, either in person or by certified mail, a written 3135
petition for reassessment signed by the person or the person's 3136
authorized agent having knowledge of the facts, the assessment 3137
shall become final, and the amount of the assessment is due and 3138
payable from the person assessed to the treasurer of state. A 3139
petition shall indicate the objections of the person assessed, but 3140
additional objections may be raised in writing if received by the 3141
commissioner prior to the date shown on the final determination. 3142
If a petition for reassessment has been properly filed, the 3143
commissioner shall proceed under section 5703.60 of the Revised 3144
Code. 3145

(D)(1) After an assessment becomes final, if any portion of 3146
the assessment, including any accrued interest, remains unpaid, a 3147
certified copy of the tax commissioner's entry making the 3148
assessment final may be filed in the office of the clerk of the 3149

court of common pleas in the county in which the person resides or 3150
has its principal place of business in this state, or in the 3151
office of the clerk of court of common pleas of Franklin county. 3152

(2) Immediately upon the filing of the entry, the clerk shall 3153
enter judgment for the state against the person assessed in the 3154
amount shown on the entry. The judgment may be filed by the clerk 3155
in a loose-leaf book entitled, "special judgments for the 3156
financial institution tax" and shall have the same effect as other 3157
judgments. Execution shall issue upon the judgment at the request 3158
of the tax commissioner, and all laws applicable to sales on 3159
execution shall apply to sales made under the judgment. 3160

(3) The portion of the assessment not paid within sixty days 3161
after the day the assessment was issued shall bear interest at the 3162
rate per annum prescribed by section 5703.47 of the Revised Code 3163
from the date the tax commissioner issues the assessment until the 3164
date the assessment is paid. Interest shall be paid in the same 3165
manner as the tax and may be collected by the issuance of an 3166
assessment under this section. 3167

(E) If the tax commissioner believes that collection of the 3168
tax imposed by this chapter will be jeopardized unless proceedings 3169
to collect or secure collection of the tax are instituted without 3170
delay, the commissioner may issue a jeopardy assessment against 3171
the person liable for the tax. Immediately upon the issuance of 3172
the jeopardy assessment, the commissioner shall file an entry with 3173
the clerk of the court of common pleas in the manner prescribed by 3174
division (D) of this section. Notice of the jeopardy assessment 3175
shall be served on the person assessed or the person's authorized 3176
agent in the manner provided in section 5703.37 of the Revised 3177
Code within five days of the filing of the entry with the clerk. 3178
The total amount assessed shall be immediately due and payable, 3179
unless the person assessed files a petition for reassessment in 3180
accordance with division (C) of this section and provides security 3181

in a form satisfactory to the commissioner and in an amount 3182
sufficient to satisfy the unpaid balance of the assessment. Full 3183
or partial payment of the assessment shall not prejudice the 3184
commissioner's consideration of the petition for reassessment. 3185

(F) The tax commissioner shall immediately forward to the 3186
treasurer of state all amounts the commissioner receives under 3187
this section. Such amounts shall be considered as revenue arising 3188
from the tax imposed by this chapter. 3189

(G) If the tax commissioner possesses information indicating 3190
that the amount of tax a taxpayer is required to pay under this 3191
chapter exceeds the amount the reporting person for the taxpayer 3192
paid, the tax commissioner may audit a sample of the taxpayer's 3193
gross receipts over a representative period of time to ascertain 3194
the amount of tax due, and may issue an assessment based on the 3195
audit. The tax commissioner shall make a good faith effort to 3196
reach agreement with the taxpayer in selecting a representative 3197
sample. The tax commissioner may apply a sampling method only if 3198
the commissioner has prescribed the method by rule. 3199

(H) If the whereabouts of a person subject to this chapter is 3200
not known to the tax commissioner, the secretary of state is 3201
hereby deemed to be that person's agent for purposes of service of 3202
process or notice of any assessment, action, or proceedings 3203
instituted in this state against the person under this chapter. 3204
Such process or notice shall be served on such person by the 3205
commissioner or by an agent of the commissioner by leaving a true 3206
and attested copy of the process or notice at the office of the 3207
secretary of state at least fifteen days before the return day of 3208
such process or notice, and by sending a copy of the process or 3209
notice to such person by ordinary mail, with an endorsement 3210
thereon of the service upon the secretary of state, addressed to 3211
such person at the person's last known address. 3212

Sec. 5726.21. (A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply: 3213
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(1) If a taxpayer required to file any report under this chapter fails to make and file the report within the time prescribed, including any extensions of time granted by the tax commissioner, a penalty may be imposed not exceeding the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent of the tax required to be shown on the report, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the report is filed. 3216
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(2) If a taxpayer fails to pay the amount of tax required to be paid under this chapter, except for estimated tax under section 5726.06 of the Revised Code, by the dates prescribed in this chapter for payment, a penalty may be imposed not exceeding fifteen per cent of the delinquent payment. 3226
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(3) If a taxpayer files what purports to be a report required by this chapter that does not contain information upon which the substantial correctness of the report may be judged or contains information that on its face indicates that the report is substantially incorrect, and the filing of the report in that manner is due to a position that is frivolous or a desire that is apparent from the report to delay or impede the administration of the tax levied under this chapter, a penalty of up to five hundred dollars may be imposed. 3231
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(4) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any report required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per 3240
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cent of the tax required to be shown on the report. 3244

(5) If a taxpayer makes a false or fraudulent claim for a 3245
refund under this chapter, a penalty may be imposed not exceeding 3246
the greater of one thousand dollars or one hundred per cent of the 3247
claim. 3248

(B) The tax commissioner may collect any penalty imposed by 3249
this section in the same manner as the tax levied under this 3250
chapter. Penalties so collected shall be considered as revenue 3251
arising from the tax levied under this chapter. 3252

(C) For purposes of this section, the tax required to be 3253
shown on the report shall be reduced by the amount of any part of 3254
the tax paid on or before the date, including extensions of the 3255
date, prescribed for filing the report. 3256

(D) The tax commissioner may abate all or a portion of any 3257
penalties imposed under this section and may adopt rules governing 3258
such abatements. 3259

Sec. 5726.30. (A) The tax commissioner shall refund the 3260
amount of taxes imposed under this chapter that a person overpaid, 3261
paid illegally or erroneously, or paid on an illegal or erroneous 3262
assessment. The person shall file an application for refund with 3263
the tax commissioner, on the form prescribed by the commissioner, 3264
within four years after the date of the illegal or erroneous 3265
payment of the tax, or within any additional period allowed under 3266
division (B) of section 5726.20 of the Revised Code. The applicant 3267
shall provide the amount of the requested refund along with the 3268
claimed reasons for, and documentation to support, the issuance of 3269
a refund. 3270

For purposes of this division, a payment that an applicant 3271
made before the due date or extended due date for filing the 3272
report to which the payment relates shall be deemed to have been 3273

made on the due date or extended due date of the report. 3274

(B) Upon the filing of a refund application, the tax 3275
commissioner shall determine the amount of refund to which the 3276
applicant is entitled. If the amount is not less than that 3277
claimed, the commissioner shall certify the amount to the director 3278
of budget and management and treasurer of state for payment from 3279
the tax refund fund created under section 5703.052 of the Revised 3280
Code. If the amount is less than that claimed, the commissioner 3281
shall proceed in accordance with section 5703.70 of the Revised 3282
Code. 3283

(C)(1) Except as provided in division (C)(2) of this section, 3284
interest on a refund applied for under this section, computed at 3285
the rate provided for in section 5703.47 of the Revised Code, 3286
shall be allowed from the later of the date the tax was paid or 3287
the date the tax payment was due until the refund is paid. 3288

(2) No interest shall be allowed under this section on an 3289
amount refunded to a person to the extent that the refund results 3290
from the allowance of a refundable credit against the tax imposed 3291
by section 5726.02 of the Revised Code. 3292

Sec. 5726.31. As used in this section, "debt to this state" 3293
means unpaid taxes due the state, unpaid workers' compensation 3294
premiums due under section 4123.35 of the Revised Code, unpaid 3295
unemployment compensation contributions due under section 4141.25 3296
of the Revised Code, unpaid unemployment compensation payments in 3297
lieu of contributions due under section 4141.241 of the Revised 3298
Code, unpaid claims certified under section 131.02 or 131.021 of 3299
the Revised Code, unpaid fees payable to the state or to the clerk 3300
of courts pursuant to section 4505.06 of the Revised Code or any 3301
unpaid charge, penalty, or interest arising from any of the 3302
foregoing. 3303

If a person entitled to a refund under section 5726.30 of the 3304

Revised Code owes any debt to this state, the amount refundable 3305
may be applied in satisfaction of the debt. If the amount 3306
refundable is less than the amount of the debt, it may be applied 3307
in partial satisfaction of the debt. If the amount refundable is 3308
greater than the amount of the debt, the amount remaining after 3309
satisfaction of the debt shall be refunded. If the taxpayer has 3310
more than one such debt, any debt subject to section 5739.33 or 3311
division (G) of section 5747.07 of the Revised Code shall be 3312
satisfied first. 3313

Except as provided in section 131.021 of the Revised Code, 3314
this section applies only to debts that have become final. For the 3315
purposes of this section, a debt becomes final when, under the 3316
applicable law, any time provided for petition for reassessment, 3317
request for reconsideration, or other appeal of the legality or 3318
validity of the amount giving rise to the debt expires without an 3319
appeal having been filed in the manner provided by law. 3320

The tax commissioner may charge each respective agency of the 3321
state for the commissioner's cost in applying refunds to debts due 3322
to the state and may charge the attorney general for the 3323
commissioner's cost in applying refunds to certified claims. The 3324
commissioner may promulgate rules to implement this section. 3325

The commissioner may, with the consent of the reporting 3326
person for a taxpayer, provide for the crediting of the amount of 3327
any refund due to the taxpayer under this chapter for a tax year 3328
against the tax due for any succeeding tax year. 3329

Sec. 5726.32. If any tax due under this chapter is not paid 3330
on or before the date prescribed for its payment, interest shall 3331
be assessed, collected, and paid, in the same manner as the tax, 3332
upon such unpaid amount at the rate per annum prescribed by 3333
section 5703.47 of the Revised Code from the date prescribed for 3334
the payment of the tax until the date the tax is paid or the date 3335

an assessment is issued under section 5726.20 of the Revised Code, 3336
whichever is earlier. Interest so collected shall be considered as 3337
revenue arising from the tax imposed by this chapter. 3338

Sec. 5726.33. (A) As used in this section, "qualifying refund 3339
overpayment" means an amount received by a taxpayer in excess of a 3340
refund claimed or a request for payment made by the reporting 3341
person for the taxpayer on a return, report, or other document 3342
filed with the tax commissioner. 3343

(B) A taxpayer is not liable for any interest or penalty with 3344
respect to the repayment of a qualifying refund overpayment if the 3345
reporting person for the taxpayer pays the entire amount of the 3346
qualifying refund overpayment to the commissioner not later than 3347
thirty days after the taxpayer receives an assessment for the 3348
amount. If the reporting person does not pay the entire amount of 3349
the overpayment to the commissioner within the time prescribed by 3350
this section, interest shall accrue on the amount of the 3351
deficiency pursuant to section 5726.32 of the Revised Code from 3352
the date the commissioner issues the assessment until the date the 3353
deficiency is paid. 3354

Sec. 5726.36. (A) A person shall notify the tax commissioner 3355
when the person is no longer subject to the tax imposed by this 3356
chapter. 3357

(B) If the ownership structure of a financial institution 3358
changes such that a person is no longer includable in the annual 3359
report of the financial institution, the reporting person for the 3360
financial institution shall notify the commissioner of the change 3361
when the reporting person files its next annual report or in 3362
writing prior to the due date of that report. 3363

Sec. 5726.40. If a person, wherever organized, doing business 3364

in this state or owning or issuing all or part of the entity's 3365
capital or property in this state, and required by law to file any 3366
report or return or to pay any tax or fee under Title LVII of the 3367
Revised Code, fails or neglects to make such report or return or 3368
to pay any such tax or fee for ninety days after the time 3369
prescribed by law for making such report or return or for paying 3370
such tax or fee, the tax commissioner shall certify such fact to 3371
the secretary of state. The secretary of state shall thereupon 3372
cancel the document of creation authorizing the person to do 3373
business in this state. Upon such cancellation, all of the powers, 3374
privileges, and franchises conferred upon that person by its 3375
document of creation shall cease, subject to section 1701.88 of 3376
the Revised Code. The secretary of state shall immediately notify 3377
the person of the action taken by the secretary, and shall also 3378
forward for filing a certificate of the action so taken to the 3379
county recorder of the county in which the principal place of 3380
business of the person in this state is located. No fee shall be 3381
charged for the filing. 3382

Sec. 5726.41. No person shall exercise, or attempt to 3383
exercise, any powers, privileges, or franchises under the person's 3384
document of creation after the document is canceled pursuant to 3385
section 5726.40 of the Revised Code. A penalty of one hundred 3386
dollars shall be imposed for each day a violation of this section 3387
occurs, up to a maximum penalty of five thousand dollars. 3388

Sec. 5726.42. (A)(1) A person whose document of creation has 3389
been canceled by the secretary of state pursuant to section 3390
5726.40 the Revised Code shall be reinstated and again entitled to 3391
exercise its rights, privileges, and franchises in this state upon 3392
compliance with all of the following: 3393

(a) Filing with the secretary of state a certificate from the 3394

tax commissioner that the person has complied with all the 3395
requirements of law as to tax reports and paid all taxes, fees, or 3396
penalties due thereon for every year of delinquency; 3397

(b) Payment to the secretary of state of any additional fees 3398
and penalties required to be paid to the secretary of state; 3399

(c) Payment to the secretary of state of an additional fee of 3400
ten dollars. 3401

Upon the person's compliance with this division, the 3402
secretary of state shall cancel the entry of cancellation filed 3403
under section 5726.40 of the Revised Code. 3404

(2) If a reinstatement is not made within one year from the 3405
date of cancellation of the document of creation, and if it 3406
appears that a document of creation has been issued to a person of 3407
the same or similar name as the applicant for reinstatement, the 3408
secretary of state shall require, as a condition prerequisite to 3409
such reinstatement, that the applicant amend its document of 3410
creation by changing the applicant's name. 3411

(B) Any officer, shareholder, creditor, or receiver of a 3412
person may at any time take all steps required by this section to 3413
effect a reinstatement. 3414

(C) The rights, privileges, and franchises of a person whose 3415
document of creation has been reinstated in accordance with this 3416
section are subject to section 1701.922 of the Revised Code. 3417

(D) Notwithstanding a violation of section 5726.41 of the 3418
Revised Code, upon reinstatement of a person's document of 3419
creation in accordance with this section, neither section 5726.40 3420
nor section 5726.41 of the Revised Code shall be applied to 3421
invalidate the exercise or attempt to exercise any right, 3422
privilege, or franchise on behalf of the person by an officer, 3423
agent, or employee of the person after cancellation and prior to 3424
the reinstatement of the document of creation, if the conditions 3425

set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 3426
the Revised Code are met. 3427

Sec. 5726.43. If any financial institution fails to make and 3428
file any return or report required under this chapter, or to pay 3429
the penalties provided by law for failure to make and file such 3430
reports or returns, for a period of ninety days after the time 3431
prescribed by law, the attorney general, on the request of the tax 3432
commissioner, shall commence an action in quo warranto in the 3433
court of appeals of the county in which the reporting person for 3434
the financial institution has its principal place of business in 3435
this state to forfeit and annul the privileges and franchises of 3436
each person included in the annual report of the financial 3437
institution. If the court is satisfied that any such financial 3438
institution is in default, it shall render judgment ousting each 3439
person included in the annual report of the financial institution 3440
from the exercise of its privileges and franchises within this 3441
state, and shall otherwise proceed as provided in sections 2733.01 3442
to 2733.39 of the Revised Code. 3443

Sec. 5726.50. (A) A taxpayer may claim a refundable tax 3444
credit against the tax imposed under this chapter for each person 3445
included in the annual report of the taxpayer that is granted a 3446
credit by the tax credit authority under section 122.17 or 3447
division (B)(2) or (3) of section 122.171 of the Revised Code. 3448
Such a credit shall not be claimed for any tax year following the 3449
calendar year in which a relocation of employment positions occurs 3450
in violation of an agreement entered into under section 122.171 of 3451
the Revised Code. For the purpose of making tax payments under 3452
this chapter, taxes equal to the amount of the refundable credit 3453
shall be considered to be paid on the first day of the tax year. 3454

(B) A taxpayer may claim a nonrefundable tax credit against 3455
the tax imposed under this chapter for each person included in the 3456

annual report of the taxpayer that is granted a credit by the tax 3457
credit authority under division (B)(1) of section 122.171 of the 3458
Revised Code. A taxpayer may claim against the tax imposed by this 3459
chapter any unused portion of the credits authorized under 3460
division (B) of section 5733.0610 of the Revised Code. 3461

(C) The credits authorized in divisions (A) and (B) of this 3462
section shall be claimed in the order required under section 3463
5726.98 of the Revised Code. If the amount of a credit authorized 3464
in division (A) of this section exceeds the tax otherwise due 3465
under section 5726.02 of the Revised Code after deducting all 3466
other credits preceding the credit in the order prescribed in 3467
section 5726.98 of the Revised Code, the excess shall be refunded 3468
to the taxpayer. 3469

Sec. 5726.51. A taxpayer may claim a nonrefundable credit 3470
against the tax imposed under this chapter for each bank 3471
organization that is organized under Title XI of the Revised Code 3472
and included in the annual report of the taxpayer. The credit 3473
shall equal the sum of the annual assessments such bank 3474
organizations paid during the taxable year to the division of 3475
financial institutions pursuant to Title XI of the Revised Code 3476
and the schedule of fees published by the division. A taxpayer may 3477
claim against the tax imposed by this chapter any unused portion 3478
of the credits authorized under section 5733.063 of the Revised 3479
Code. 3480

The credit authorized by this section shall be claimed in the 3481
order required under section 5726.98 of the Revised Code. The 3482
credit shall not be allowed unless there is filed with the 3483
taxpayer's annual report a document certified by the division of 3484
financial institutions verifying the amount of state annual 3485
assessment fees and federal supervisory fees paid by the bank 3486
organizations during the taxable year. 3487

Sec. 5726.52. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code. 3488
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(B) A taxpayer may claim a refundable credit against the tax imposed by this chapter for each person included in the annual report of a taxpayer that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on each certificate, but shall not exceed five million dollars for each certificate. 3491
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The credit shall be claimed for the calendar year specified in the certificate and in the order required under section 5726.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the taxpayer, provided that, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year. A taxpayer may claim against the tax imposed by this chapter any unused portion of the credit authorized under section 5725.151 of the Revised Code, but only to the extent of the five-year carry forward period authorized by that section. 3498
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(C) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the commissioner during that period. 3513
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Sec. 5726.53. A taxpayer may claim a refundable credit 3519
against the tax imposed by this chapter for each person included 3520
in the annual report of the taxpayer that was issued a tax credit 3521
certificate by the Ohio venture capital authority under section 3522
150.07 of the Revised Code. The amount of the credit shall equal 3523
the amount specified in the tax credit certificate. The credit 3524
shall be claimed for the tax year specified in the tax credit 3525
certificate. The taxpayer shall claim the credit in the order 3526
required under section 5726.98 of the Revised Code. If the credit 3527
amount exceeds the tax otherwise due under section 5726.02 of the 3528
Revised Code after deducting all other credits preceding the 3529
credit in the order prescribed in section 5726.98 of the Revised 3530
Code, the excess shall be refunded to the taxpayer. 3531

Sec. 5726.54. (A) Any term used in this section has the same 3532
meaning as in section 5725.33 of the Revised Code. 3533

(B) A taxpayer may claim a nonrefundable credit against the 3534
tax imposed by this chapter for each person included in the annual 3535
report of the taxpayer that holds a qualified equity investment on 3536
a credit allowance date occurring in the calendar year immediately 3537
preceding the tax year for which the tax is due. The credit shall 3538
be computed in the same manner prescribed for the computation of 3539
credits allowed under section 5725.33 of the Revised Code. 3540

By claiming a tax credit under this section, a taxpayer 3541
waives its rights under section 5726.20 of the Revised Code with 3542
respect to the time limitation for the assessment of taxes as it 3543
relates to credits claimed under this section that later become 3544
subject to recapture under division (D) of this section. 3545

A taxpayer may claim against the tax imposed by this chapter 3546
any unused portion of the credits authorized under sections 3547
5725.33 and 5733.58 of the Revised Code, but only to the extent of 3548

the remaining carry forward period authorized by those sections. 3549

The credit shall be claimed in the order prescribed by 3550
section 5726.98 of the Revised Code. If the amount of the credit 3551
exceeds the amount of tax otherwise due after deducting all other 3552
credits preceding the credit in the order prescribed in section 3553
5726.98 of the Revised Code, the excess may be carried forward for 3554
not more than four ensuing tax years. 3555

(C) The total amount of qualified equity investments on the 3556
basis of which credits may be claimed under this section and 3557
sections 5725.33, 5729.16, and 5733.58 of the Revised Code is 3558
subject to the limitation of division (C) of section 5725.33 of 3559
the Revised Code. 3560

(D) If any amount of the federal tax credit allowed for a 3561
qualified equity investment for which a credit was received under 3562
this section is recaptured under section 45D of the Internal 3563
Revenue Code, or if the director of development services 3564
determines that an investment for which a tax credit is claimed 3565
under this section is not a qualified equity investment or that 3566
the proceeds of an investment for which a tax credit is claimed 3567
under this section are used to make qualified low-income community 3568
investments other than in a qualified active low-income community 3569
business, all or a portion of the credit received on account of 3570
that investment shall be paid by the taxpayer that received the 3571
credit to the tax commissioner. The amount to be recovered shall 3572
be determined by the director pursuant to rules adopted under 3573
section 5725.33 of the Revised Code. The director shall certify 3574
any amount due under this division to the tax commissioner, and 3575
the commissioner shall notify the taxpayer of the amount due. The 3576
amount due is payable not later than thirty days after the day the 3577
commissioner issues the notice. The amount due shall be considered 3578
to be tax due under section 5726.02 of the Revised Code, and may 3579
be collected by assessment without regard to the limitations 3580

imposed under section 5726.20 of the Revised Code for the 3581
assessment of taxes by the commissioner. All amounts collected 3582
under this division shall be credited as revenue from the tax 3583
levied under section 5726.02 of the Revised Code. 3584

Sec. 5726.55. (A) Any term used in this section has the same 3585
meaning as in section 122.85 of the Revised Code. 3586

(B) A taxpayer may claim a refundable credit against the tax 3587
imposed under this chapter for each person included in the annual 3588
report of the taxpayer that is a certificate owner of a tax credit 3589
certificate issued under section 122.85 of the Revised Code. The 3590
credit shall be claimed for the taxable year in which the 3591
certificate is issued by the director of development services. The 3592
credit amount equals the amount stated in the certificate. The 3593
credit shall be claimed in the order required under section 3594
5726.98 of the Revised Code. If the credit amount exceeds the tax 3595
otherwise due under section 5726.02 of the Revised Code after 3596
deducting all other credits preceding the credit in the order 3597
prescribed in section 5726.98 of the Revised Code, the excess 3598
shall be refunded to the taxpayer. 3599

(C) Nothing in this section shall allow a taxpayer to claim 3600
more than one credit per tax credit-eligible production. 3601

Sec. 5726.56. (A) As used in this section, "qualified 3602
research expenses" has the same meaning as in section 41 of the 3603
Internal Revenue Code. 3604

(B) A taxpayer may claim a nonrefundable credit against the 3605
tax imposed under this chapter equal to seven per cent of the 3606
excess of (1) the qualified research expenses incurred by the 3607
taxpayer in this state in a taxable year over (2) the average 3608
annual qualified research expenses incurred by the taxpayer in 3609
this state in the three previous taxable years. For the purposes 3610

of this division, "qualified research expenses incurred by the taxpayer" includes the qualified research expenses incurred by all persons included in the annual report of the taxpayer and by any insurance company subject to the tax levied under section 5725.18 or Chapter 5729. of the Revised Code that has more than fifty per cent of its ownership interests directly or indirectly owned or controlled by a person included in the annual report of the taxpayer, even though such an insurance company is not subject to the tax imposed under this chapter.

(C) A taxpayer shall claim the credit allowed under this section in the order prescribed by section 5726.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than seven ensuing tax years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next tax year.

(D) A taxpayer may claim against the tax imposed under this chapter any unused portion of a credit authorized under section 5733.351 of the Revised Code but only to the extent of the remaining portion of the seven-year carry-forward period authorized by that section.

Sec. 5726.57. (A) As used in this section, "qualifying dealer in intangibles" means a dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member on the first day of the financial institution's tax year.

(B) For tax year 2014 there is hereby allowed to each financial institution a nonrefundable credit against the tax imposed by section 5726.02 of the Revised Code. The amount of the

credit shall be computed in accordance with division (C) of this 3642
section. The credit shall be claimed in the order prescribed by 3643
section 5726.98 of the Revised Code. The credit shall not exceed 3644
the amount of tax otherwise due under section 5726.02 of the 3645
Revised Code after deducting any other credits that precede the 3646
credit claimed under this section in that order. 3647

(C) Subject to division (D) of this section, the amount of 3648
the credit equals the lesser of the amount described in division 3649
(C)(1) of this section or in division (C)(2) of this section. 3650

(1) The amount of tax that a qualifying dealer in intangibles 3651
paid under Chapter 5707. of the Revised Code during the calendar 3652
year immediately preceding the financial institution's tax year. 3653
Such amount shall be reduced, but not below zero, by any refunds 3654
of such tax received by the qualifying dealer in intangibles under 3655
Chapter 5703. of the Revised Code during that calendar year. 3656

(2) The product of the amounts described in divisions 3657
(C)(2)(a) to (c) of this section. 3658

(a) The cost of the financial institution's direct investment 3659
in the capital stock of the qualifying dealer in intangibles 3660
calculated on the last day of the financial institution's taxable 3661
year immediately preceding the tax year; 3662

(b) The ratio described in section 5725.15 of the Revised 3663
Code for the calendar year immediately preceding the financial 3664
institution's tax year; 3665

(c) The tax rate imposed under division (D) of section 3666
5707.03 of the Revised Code for the calendar year immediately 3667
preceding the financial institution's tax year. 3668

(D)(1) The principles and concepts described in section 3669
5733.057 of the Revised Code shall apply in determining whether a 3670
dealer in intangibles is a member of a qualifying controlled group 3671
of which the financial institution also is a member and to 3672

ascertain the cost of the financial institution's direct 3673
investment in the capital stock of the qualifying dealer in 3674
intangibles. 3675

(2) Notwithstanding section 5703.56 of the Revised Code to 3676
the contrary, a financial institution claiming the credit provided 3677
by this section has the burden to establish by a preponderance of 3678
the evidence that the doctrines enumerated in that section would 3679
not apply to deny to the financial institution all or a part of 3680
the credit otherwise provided by this section. 3681

Sec. 5726.98. (A) To provide a uniform procedure for 3682
calculating the amount of tax due under section 5726.02 of the 3683
Revised Code, a taxpayer shall claim any credits to which the 3684
taxpayer is entitled under this chapter in the following order: 3685

(1) The bank organization assessment credit under section 3686
5726.51 of the Revised Code; 3687

(2) The nonrefundable job retention credit under division (B) 3688
of section 5726.50 of the Revised Code; 3689

(3) The nonrefundable credit for purchases of qualified 3690
low-income community investments under section 5726.54 of the 3691
Revised Code; 3692

(4) The nonrefundable credit for qualified research expenses 3693
under section 5726.56 of the Revised Code; 3694

(5) The nonrefundable credit for qualifying dealer in 3695
intangibles taxes under section 5726.57 of the Revised Code. 3696

(6) The refundable credit for rehabilitating an historic 3697
building under section 5726.52 of the Revised Code; 3698

(7) The refundable job retention or job creation credit under 3699
division (A) of section 5726.50 of the Revised Code; 3700

(8) The refundable credit under section 5726.53 of the 3701

Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code; 3702
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(9) The refundable motion picture production credit under section 5726.55 of the Revised Code. 3705
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(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. 3707
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Sec. 5726.99. Whoever violates section 5726.41 of the Revised Code shall be fined not less than one hundred dollars or more than one thousand dollars. 3715
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Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign corporations shall be the amount charged against each corporation organized for profit and each nonprofit corporation organized or operating in the same or similar manner as nonprofit corporations organized under Chapter 1729. of the Revised Code, under the laws of any state or country other than this state, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the 3718
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privilege of doing business in this state, owning or using a part 3732
or all of its capital or property in this state, holding a 3733
certificate of compliance with the laws of this state authorizing 3734
it to do business in this state, or otherwise having nexus in or 3735
with this state under the Constitution of the United States, 3736
during the calendar year in which that amount is payable. 3737

(B) A corporation is subject to the tax imposed by section 3738
5733.06 of the Revised Code for each calendar year prior to 2014 3739
that it is so organized, doing business, owning or using a part or 3740
all of its capital or property, holding a certificate of 3741
compliance, or otherwise having nexus in or with this state under 3742
the Constitution of the United States, on the first day of January 3743
of that calendar year. No credit authorized by this chapter may be 3744
claimed for tax year 2014 or any tax year thereafter. 3745

(C) Any corporation subject to this chapter that is not 3746
subject to the federal income tax shall file its returns and 3747
compute its tax liability as required by this chapter in the same 3748
manner as if that corporation were subject to the federal income 3749
tax. 3750

(D) For purposes of this chapter, a federally chartered 3751
financial institution shall be deemed to be organized under the 3752
laws of the state within which its principal office is located. 3753

(E) For purposes of this chapter, any person, as defined in 3754
section 5701.01 of the Revised Code, shall be treated as a 3755
corporation if the person is classified for federal income tax 3756
purposes as an association taxable as a corporation, and an equity 3757
interest in the person shall be treated as capital stock of the 3758
person. 3759

(F) For the purposes of this chapter, "disregarded entity" 3760
has the same meaning as in division (D) of section 5745.01 of the 3761
Revised Code. 3762

(1) A person's interest in a disregarded entity, whether held directly or indirectly, shall be treated as the person's ownership of the assets and liabilities of the disregarded entity, and the income, including gain or loss, shall be included in the person's net income under this chapter.

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

(G) The tax a corporation is required to pay under this chapter shall be as follows:

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code, as that section existed before its amendment by H.B. 510 of the 129th general assembly, that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes

charged under this chapter, without regard to division (G)(2) of	3794
this section, less any credits allowable against such tax.	3795
(2) For all corporations other than those persons described	3796
in division (G)(1)(a) or (b) of this section, the amount under	3797
division (G)(2)(a) of this section applicable to the tax year	3798
specified less the amount under division (G)(2)(b) of this	3799
section:	3800
(a)(i) For tax year 2005, the greater of the minimum payment	3801
required under division (E) of section 5733.06 of the Revised Code	3802
or the difference between all taxes charged the corporation under	3803
this chapter and any credits allowable against such tax;	3804
(ii) For tax year 2006, the greater of the minimum payment	3805
required under division (E) of section 5733.06 of the Revised Code	3806
or four-fifths of the difference between all taxes charged the	3807
corporation under this chapter and any credits allowable against	3808
such tax, except the qualifying pass-through entity tax credit	3809
described in division (A)(30) and the refundable credits described	3810
in divisions (A)(31) to (35) of section 5733.98 of the Revised	3811
Code;	3812
(iii) For tax year 2007, the greater of the minimum payment	3813
required under division (E) of section 5733.06 of the Revised Code	3814
or three-fifths of the difference between all taxes charged the	3815
corporation under this chapter and any credits allowable against	3816
such tax, except the qualifying pass-through entity tax credit	3817
described in division (A)(30) and the refundable credits described	3818
in divisions (A)(31) to (35) of section 5733.98 of the Revised	3819
Code;	3820
(iv) For tax year 2008, the greater of the minimum payment	3821
required under division (E) of section 5733.06 of the Revised Code	3822
or two-fifths of the difference between all taxes charged the	3823
corporation under this chapter and any credits allowable against	3824

such tax, except the qualifying pass-through entity tax credit 3825
described in division (A)(30) and the refundable credits described 3826
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3827
Code; 3828

(v) For tax year 2009, the greater of the minimum payment 3829
required under division (E) of section 5733.06 of the Revised Code 3830
or one-fifth of the difference between all taxes charged the 3831
corporation under this chapter and any credits allowable against 3832
such tax, except the qualifying pass-through entity tax credit 3833
described in division (A)(30) and the refundable credits described 3834
in divisions (A)(31), (32), (33), and (34) of section 5733.98 of 3835
the Revised Code; 3836

(vi) For tax year 2010 and each tax year thereafter, no tax. 3837

(b) A corporation shall subtract from the amount calculated 3838
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 3839
any qualifying pass-through entity tax credit described in 3840
division (A)(30) and any refundable credits described in divisions 3841
(A)(31) to (35) of section 5733.98 of the Revised Code to which 3842
the corporation is entitled. Any unused qualifying pass-through 3843
entity tax credit is not refundable. 3844

(c) For the purposes of computing the amount of a credit that 3845
may be carried forward to a subsequent tax year under division 3846
(G)(2) of this section, a credit is utilized against the tax for a 3847
tax year to the extent the credit applies against the tax for that 3848
tax year, even if the difference is then multiplied by the 3849
applicable fraction under division (G)(2)(a) of this section. 3850

(3) Nothing in division (G) of this section eliminates or 3851
reduces the tax imposed by section 5733.41 of the Revised Code on 3852
a qualifying pass-through entity. 3853

Sec. 5733.02. Annually, for tax years prior to tax year 2014, 3854

between the first day of January and the thirty-first day of March 3855
or on or before the date as extended under section 5733.13 of the 3856
Revised Code, each taxpayer shall make a report in writing to the 3857
tax commissioner in such form as the tax commissioner prescribes, 3858
and shall remit to the commissioner, with the remittance made 3859
payable to the treasurer of state, the amount of the tax as shown 3860
to be due by such report less the amount paid for the year on a 3861
declaration of estimated tax report filed by the taxpayer as 3862
provided by section 5733.021 of the Revised Code. Remittance shall 3863
be made in the form prescribed by the commissioner, including 3864
electronic funds transfer if required by section 5733.022 of the 3865
Revised Code. 3866

The commissioner shall furnish corporations, on request, 3867
copies of the forms prescribed by the commissioner for the purpose 3868
of making such report. A domestic corporation shall not dissolve, 3869
and a foreign corporation shall not withdraw or retire from 3870
business in Ohio, on or after the first day of January in any year 3871
prior to 2014 without making a franchise tax report to the 3872
commissioner and paying or securing the tax charged for the year 3873
in which such dissolution or withdrawal occurs. 3874

The annual corporation report shall be signed by the 3875
president, vice-president, secretary, treasurer, general manager, 3876
superintendent, or managing agent in this state of such 3877
corporation. If a domestic corporation has not completed its 3878
organization, its annual report shall be signed by one of its 3879
incorporators. 3880

The report shall contain the facts, figures, computations, 3881
and attachments that result in the tax charged by this chapter and 3882
determined in the manner provided within the chapter. 3883

Sec. 5733.021. (A) Each taxpayer that does not in January of 3884
any year prior to 2014 file the report and make the payment 3885

required by section 5733.02 of the Revised Code shall make and 3886
file a declaration of estimated tax report for the tax year. 3887

The declaration of estimated tax report shall be filed with 3888
the tax commissioner on or before the last day of January in such 3889
form as prescribed by the tax commissioner, and shall reflect an 3890
estimate of the total amount due under this chapter for the tax 3891
year. 3892

(B) A taxpayer required to file a declaration of estimated 3893
tax report shall make remittance of such estimated tax to the tax 3894
commissioner as follows: 3895

(1) The entire estimated tax at the time of filing the 3896
declaration of estimated tax report, if such estimated tax is not 3897
in excess of the minimum tax as provided in section 5733.06 of the 3898
Revised Code; 3899

(2) If the estimated tax is in excess of the minimum tax: 3900

(a) One-third of the estimated tax at the time of filing the 3901
declaration of estimated tax report; 3902

(b) Two-thirds of the estimated tax on or before the last day 3903
of March of the tax year, if the report required by section 3904
5733.02 of the Revised Code is filed on or before the last day of 3905
March of the tax year. 3906

(3) If the estimated tax is in excess of the minimum tax, and 3907
an extension of time for filing the report required by section 3908
5733.02 of the Revised Code has been granted pursuant to section 3909
5733.13 of the Revised Code: 3910

(a) One-third of the estimated tax at the time of filing the 3911
declaration of estimated tax report; 3912

(b) One-third of the estimated tax on or before the last day 3913
of March of the tax year; 3914

(c) One-third of the estimated tax on or before the last day 3915

of May of the tax year. 3916

Remittance of the estimated tax shall be made payable to the 3917
treasurer of state and shall be made in the form prescribed by the 3918
tax commissioner, including electronic funds transfer if required 3919
by section 5733.022 of the Revised Code. 3920

The tax commissioner shall immediately forward to the 3921
treasurer of state all amounts received under this section, and 3922
the treasurer of state shall credit all payments of such estimated 3923
tax as provided in section 5733.12 of the Revised Code. 3924

(C)(1)(a) For any period of delinquency ending prior to the 3925
first day of June of the tax year, the penalty under division 3926
(A)(2) of section 5733.28 of the Revised Code may be imposed only 3927
on the delinquent portion of the estimated tax required to be paid 3928
under divisions (B)(2)(a) and (b) and (B)(3)(a) and (b) of this 3929
section. 3930

(b) If the taxpayer was not subject to tax for the 3931
immediately preceding tax year, "estimated tax" for purposes of 3932
division (C)(1) of this section is ninety per cent of the 3933
qualifying net tax for the tax year. If the taxpayer was subject 3934
to the tax for the immediately preceding tax year, "estimated tax" 3935
for purposes of division (C)(1) of this section is the lesser of 3936
one hundred per cent of the qualifying net tax for the immediately 3937
preceding tax year or ninety per cent of the qualifying net tax 3938
for the tax year. 3939

(2)(a) For any period of delinquency commencing the first day 3940
of June of the tax year and concluding on the extended due date 3941
pursuant to section 5733.13 of the Revised Code, the penalty under 3942
division (A)(2) of section 5733.28 of the Revised Code may be 3943
imposed only on the delinquent portion of the estimated tax 3944
required to be paid under division (B)(3)(c) of this section. 3945

(b) For purposes of division (C)(2) of this section, 3946

"estimated tax" is ninety per cent of the qualifying net tax for 3947
the tax year. 3948

(3) If the taxpayer did not file a report under section 3949
5733.02 of the Revised Code for the tax year or failed to prepare 3950
and file the report in good faith for the tax year, "qualifying 3951
net tax" as used in division (C) of this section for that tax year 3952
means the amount described in division (C)(3)(a) of this section. 3953
Otherwise, "qualifying net tax" as used in division (C) of this 3954
section for that tax year means the lesser of the amount described 3955
in division (C)(3)(a) or (b) of this section: 3956

(a) The tax imposed by sections 5733.06, 5733.065, and 3957
5733.066 of the Revised Code for that tax year reduced by the 3958
credits listed in section 5733.98 of the Revised Code. If the 3959
credits exceed the total tax, the qualifying net tax is the 3960
minimum tax. 3961

(b) The lesser of the tax shown on the report, prepared and 3962
filed in good faith, reduced by the credits shown on that report, 3963
or the tax shown on an amended report, prepared and filed in good 3964
faith, reduced by the credits shown on that amended report. If the 3965
credits shown exceed the total tax shown, the qualifying net tax 3966
is the minimum tax. 3967

Sec. 5733.06. ~~The~~ For tax years prior to tax year 2014, the 3968
tax hereby charged each corporation subject to this chapter shall 3969
be the greater of the sum of divisions (A) and (B) of this 3970
section, after the reduction, if any, provided by division (J) of 3971
this section, or division (C) of this section, after the 3972
reduction, if any, provided by division (J) of this section, 3973
except that the tax hereby charged each financial institution 3974
subject to this chapter shall be the amount computed under 3975
division (D) of this section: 3976

(A) Except as set forth in division (F) of this section, five 3977

and one-tenth per cent upon the first fifty thousand dollars of 3978
the value of the taxpayer's issued and outstanding shares of stock 3979
as determined under division (B) of section 5733.05 of the Revised 3980
Code; 3981

(B) Except as set forth in division (F) of this section, 3982
eight and one-half per cent upon the value so determined in excess 3983
of fifty thousand dollars; or 3984

(C)(1) Except as otherwise provided under division (G) of 3985
this section, four mills times that portion of the value of the 3986
issued and outstanding shares of stock as determined under 3987
division (C) of section 5733.05 of the Revised Code. For the 3988
purposes of division (C) of this section, division (C)(2) of 3989
section 5733.065, and division (C) of section 5733.066 of the 3990
Revised Code, the value of the issued and outstanding shares of 3991
stock of an eligible corporation for tax year 2003 through tax 3992
year 2007, or of a ~~qualified~~ qualifying holding company, is zero. 3993

(2) As used in division (C) of this section, "eligible 3994
corporation" means a person treated as a corporation for federal 3995
income tax purposes that meets all of the following criteria: 3996

(a) The corporation conducts business for an entire taxable 3997
year as a qualified trade or business as defined by division (C) 3998
of section 122.15 of the Revised Code. 3999

(b) The corporation uses more than fifty per cent of the 4000
corporation's assets, based on net book value, that are located in 4001
Ohio solely to conduct activities that constitute a qualified 4002
trade or business as defined by section 122.15 of the Revised 4003
Code. 4004

(c) The corporation has been formed or organized not more 4005
than three years before the report required to be filed by section 4006
5733.02 of the Revised Code is due, without regard to any 4007
extensions. 4008

(d) The corporation is not a related member, as defined in 4009
section 5733.042 of the Revised Code, at any time during the 4010
taxable year with respect to another person treated as a 4011
corporation for federal income tax purposes. A corporation is not 4012
a related member if during the entire taxable year at least 4013
seventy-five per cent of the corporation's stock is owned directly 4014
or through a pass-through entity by individuals, estates, and 4015
grantor trusts, and the individuals, estates, and grantor trusts 4016
do not directly or indirectly own more than twenty per cent of the 4017
value of another person treated as a corporation for federal 4018
income tax purposes that is conducting a qualified trade or 4019
business. 4020

(D) The tax charged each financial institution subject to 4021
this chapter shall be that portion of the value of the issued and 4022
outstanding shares of stock as determined under division (A) of 4023
section 5733.05 of the Revised Code, multiplied by the following 4024
amounts: 4025

(1) For tax years prior to the 1999 tax year, fifteen mills; 4026

(2) For the 1999 tax year, fourteen mills; 4027

(3) For tax year 2000 and thereafter, thirteen mills. 4028

(E) No tax shall be charged from any corporation that has 4029
been adjudicated bankrupt, or for which a receiver has been 4030
appointed, or that has made a general assignment for the benefit 4031
of creditors, except for the portion of the then current tax year 4032
during which the tax commissioner finds such corporation had the 4033
power to exercise its corporate franchise unimpaired by such 4034
proceedings or act. The minimum payment for each corporation shall 4035
be as follows: 4036

(1) One thousand dollars in the case of a corporation having 4037
gross receipts for the taxable year equal to at least five million 4038
dollars from activities within or outside this state or in the 4039

case of a corporation employing at least three hundred employees 4040
at some time during the taxable year within or outside this state; 4041

(2) Fifty dollars in the case of any other corporation. 4042

The tax charged to corporations under this chapter for the 4043
privilege of engaging in business in this state, which is an 4044
excise tax levied on the value of the issued and outstanding 4045
shares of stock, shall in no manner be construed as prohibiting or 4046
otherwise limiting the powers of municipal corporations, joint 4047
economic development zones created under section 715.691 of the 4048
Revised Code, and joint economic development districts created 4049
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 4050
Revised Code in this state to impose an income tax on the income 4051
of such corporations. 4052

(F) If two or more taxpayers satisfy the ownership or control 4053
requirements of division (A) of section 5733.052 of the Revised 4054
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 4055
amount" for "fifty thousand dollars" in divisions (A) and (B) of 4056
this section. For purposes of this division, "the taxpayer's 4057
pro-rata amount" is an amount that, when added to the other such 4058
taxpayers' pro-rata amounts, does not exceed fifty thousand 4059
dollars. For the purpose of making that computation, the 4060
taxpayer's pro-rata amount shall not be less than zero. Nothing in 4061
this division derogates from or eliminates the requirement to make 4062
the alternative computation of tax under division (C) of this 4063
section. 4064

(G) The tax liability of any corporation under division (C) 4065
of this section shall not exceed one hundred fifty thousand 4066
dollars. 4067

(H)(1) For the purposes of division (H) of this section, 4068
"exiting corporation" means a corporation that satisfies all of 4069
the following conditions: 4070

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year; 4071
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(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year; 4074
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(c) The corporation was not a financial institution on the first day of January immediately following that calendar year; 4077
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(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section; 4079
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(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 4083
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(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), (F), and (G) of this section if the corporation is assumed to be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year to which division (H)(1)(a) of this section refers. 4088
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(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year to which division (H)(1) of this section refers or the immediately preceding calendar year. 4094
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(3) Each exiting corporation shall pay a tax computed by 4101

first allocating and apportioning the unreported net income 4102
pursuant to division (B) of section 5733.05 and section 5733.051 4103
and, if applicable, section 5733.052 of the Revised Code. The 4104
exiting corporation then shall compute the tax due on its 4105
unreported net income allocated and apportioned to this state by 4106
applying divisions (A), (B), and (F) of this section to that 4107
income. 4108

(4) Divisions (C) and (G) of this section, division (D)(2) of 4109
section 5733.065, and division (C) of section 5733.066 of the 4110
Revised Code do not apply to an exiting corporation, but exiting 4111
corporations are subject to every other provision of this chapter. 4112

(5) Notwithstanding division (B) of section 5733.01 or 4113
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 4114
contrary, each exiting corporation shall report and pay the tax 4115
due under division (H) of this section on or before the 4116
thirty-first day of May immediately following the calendar year to 4117
which division (H)(1)(a) of this section refers. The exiting 4118
corporation shall file that report on the form most recently 4119
prescribed by the tax commissioner for the purposes of complying 4120
with sections 5733.02 and 5733.03 of the Revised Code. Upon 4121
request by the corporation, the tax commissioner may extend the 4122
date for filing the report. 4123

(6) If, on account of the application of section 5733.053 of 4124
the Revised Code, net income is subject to the tax imposed by 4125
divisions (A) and (B) of this section, such income shall not be 4126
subject to the tax imposed by division (H)(3) of this section. 4127

(7) The amendments made to division (H) of this section by 4128
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 4129
any transfer, as defined in section 5733.053 of the Revised Code, 4130
for which negotiations began prior to January 1, 2001, and that 4131
was commenced in and completed during calendar year 2001, unless 4132
the taxpayer makes an election prior to December 31, 2001, to 4133

apply those amendments. 4134

(8) The tax commissioner may adopt rules governing division 4135
(H) of this section. 4136

(I) Any reference in the Revised Code to "the tax imposed by 4137
section 5733.06 of the Revised Code" or "the tax due under section 4138
5733.06 of the Revised Code" includes the taxes imposed under 4139
sections 5733.065 and 5733.066 of the Revised Code. 4140

(J)(1) Division (J) of this section applies solely to a 4141
combined company. Section 5733.057 of the Revised Code shall apply 4142
when calculating the adjustments required by division (J) of this 4143
section. 4144

(2) Subject to division (J)(4) of this section, the total tax 4145
calculated in divisions (A) and (B) of this section shall be 4146
reduced by an amount calculated by multiplying such tax by a 4147
fraction, the numerator of which is the total taxable gross 4148
receipts attributed to providing public utility activity other 4149
than as an electric company under section 5727.03 of the Revised 4150
Code for the year upon which the taxable gross receipts are 4151
measured immediately preceding the tax year, and the denominator 4152
of which is the total gross receipts from all sources for the year 4153
upon which the taxable gross receipts are measured immediately 4154
preceding the tax year. Nothing herein shall be construed to 4155
exclude from the denominator any item of income described in 4156
section 5733.051 of the Revised Code. 4157

(3) Subject to division (J)(4) of this section, the total tax 4158
calculated in division (C) of this section shall be reduced by an 4159
amount calculated by multiplying such tax by the fraction 4160
described in division (J)(2) of this section. 4161

(4) In no event shall the reduction provided by division 4162
(J)(2) or (J)(3) of this section exceed the amount of the excise 4163
tax paid in accordance with section 5727.38 of the Revised Code, 4164

for the year upon which the taxable gross receipts are measured 4165
immediately preceding the tax year. 4166

Sec. 5747.01. Except as otherwise expressly provided or 4167
clearly appearing from the context, any term used in this chapter 4168
that is not otherwise defined in this section has the same meaning 4169
as when used in a comparable context in the laws of the United 4170
States relating to federal income taxes or if not used in a 4171
comparable context in those laws, has the same meaning as in 4172
section 5733.40 of the Revised Code. Any reference in this chapter 4173
to the Internal Revenue Code includes other laws of the United 4174
States relating to federal income taxes. 4175

As used in this chapter: 4176

(A) "Adjusted gross income" or "Ohio adjusted gross income" 4177
means federal adjusted gross income, as defined and used in the 4178
Internal Revenue Code, adjusted as provided in this section: 4179

(1) Add interest or dividends on obligations or securities of 4180
any state or of any political subdivision or authority of any 4181
state, other than this state and its subdivisions and authorities. 4182

(2) Add interest or dividends on obligations of any 4183
authority, commission, instrumentality, territory, or possession 4184
of the United States to the extent that the interest or dividends 4185
are exempt from federal income taxes but not from state income 4186
taxes. 4187

(3) Deduct interest or dividends on obligations of the United 4188
States and its territories and possessions or of any authority, 4189
commission, or instrumentality of the United States to the extent 4190
that the interest or dividends are included in federal adjusted 4191
gross income but exempt from state income taxes under the laws of 4192
the United States. 4193

(4) Deduct disability and survivor's benefits to the extent 4194

included in federal adjusted gross income. 4195

(5) Deduct benefits under Title II of the Social Security Act 4196
and tier 1 railroad retirement benefits to the extent included in 4197
federal adjusted gross income under section 86 of the Internal 4198
Revenue Code. 4199

(6) In the case of a taxpayer who is a beneficiary of a trust 4200
that makes an accumulation distribution as defined in section 665 4201
of the Internal Revenue Code, add, for the beneficiary's taxable 4202
years beginning before 2002, the portion, if any, of such 4203
distribution that does not exceed the undistributed net income of 4204
the trust for the three taxable years preceding the taxable year 4205
in which the distribution is made to the extent that the portion 4206
was not included in the trust's taxable income for any of the 4207
trust's taxable years beginning in 2002 or thereafter. 4208

"Undistributed net income of a trust" means the taxable income of 4209
the trust increased by (a)(i) the additions to adjusted gross 4210
income required under division (A) of this section and (ii) the 4211
personal exemptions allowed to the trust pursuant to section 4212
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 4213
deductions to adjusted gross income required under division (A) of 4214
this section, (ii) the amount of federal income taxes attributable 4215
to such income, and (iii) the amount of taxable income that has 4216
been included in the adjusted gross income of a beneficiary by 4217
reason of a prior accumulation distribution. Any undistributed net 4218
income included in the adjusted gross income of a beneficiary 4219
shall reduce the undistributed net income of the trust commencing 4220
with the earliest years of the accumulation period. 4221

(7) Deduct the amount of wages and salaries, if any, not 4222
otherwise allowable as a deduction but that would have been 4223
allowable as a deduction in computing federal adjusted gross 4224
income for the taxable year, had the targeted jobs credit allowed 4225
and determined under sections 38, 51, and 52 of the Internal 4226

Revenue Code not been in effect. 4227

(8) Deduct any interest or interest equivalent on public 4228
obligations and purchase obligations to the extent that the 4229
interest or interest equivalent is included in federal adjusted 4230
gross income. 4231

(9) Add any loss or deduct any gain resulting from the sale, 4232
exchange, or other disposition of public obligations to the extent 4233
that the loss has been deducted or the gain has been included in 4234
computing federal adjusted gross income. 4235

(10) Deduct or add amounts, as provided under section 5747.70 4236
of the Revised Code, related to contributions to variable college 4237
savings program accounts made or tuition units purchased pursuant 4238
to Chapter 3334. of the Revised Code. 4239

(11)(a) Deduct, to the extent not otherwise allowable as a 4240
deduction or exclusion in computing federal or Ohio adjusted gross 4241
income for the taxable year, the amount the taxpayer paid during 4242
the taxable year for medical care insurance and qualified 4243
long-term care insurance for the taxpayer, the taxpayer's spouse, 4244
and dependents. No deduction for medical care insurance under 4245
division (A)(11) of this section shall be allowed either to any 4246
taxpayer who is eligible to participate in any subsidized health 4247
plan maintained by any employer of the taxpayer or of the 4248
taxpayer's spouse, or to any taxpayer who is entitled to, or on 4249
application would be entitled to, benefits under part A of Title 4250
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 4251
301, as amended. For the purposes of division (A)(11)(a) of this 4252
section, "subsidized health plan" means a health plan for which 4253
the employer pays any portion of the plan's cost. The deduction 4254
allowed under division (A)(11)(a) of this section shall be the net 4255
of any related premium refunds, related premium reimbursements, or 4256
related insurance premium dividends received during the taxable 4257
year. 4258

(b) Deduct, to the extent not otherwise deducted or excluded 4259
in computing federal or Ohio adjusted gross income during the 4260
taxable year, the amount the taxpayer paid during the taxable 4261
year, not compensated for by any insurance or otherwise, for 4262
medical care of the taxpayer, the taxpayer's spouse, and 4263
dependents, to the extent the expenses exceed seven and one-half 4264
per cent of the taxpayer's federal adjusted gross income. 4265

(c) Deduct, to the extent not otherwise deducted or excluded 4266
in computing federal or Ohio adjusted gross income, any amount 4267
included in federal adjusted gross income under section 105 or not 4268
excluded under section 106 of the Internal Revenue Code solely 4269
because it relates to an accident and health plan for a person who 4270
otherwise would be a "qualifying relative" and thus a "dependent" 4271
under section 152 of the Internal Revenue Code but for the fact 4272
that the person fails to meet the income and support limitations 4273
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 4274

(d) For purposes of division (A)(11) of this section, 4275
"medical care" has the meaning given in section 213 of the 4276
Internal Revenue Code, subject to the special rules, limitations, 4277
and exclusions set forth therein, and "qualified long-term care" 4278
has the same meaning given in section 7702B(c) of the Internal 4279
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 4280
of this section, "dependent" includes a person who otherwise would 4281
be a "qualifying relative" and thus a "dependent" under section 4282
152 of the Internal Revenue Code but for the fact that the person 4283
fails to meet the income and support limitations under section 4284
152(d)(1)(B) and (C) of the Internal Revenue Code. 4285

(12)(a) Deduct any amount included in federal adjusted gross 4286
income solely because the amount represents a reimbursement or 4287
refund of expenses that in any year the taxpayer had deducted as 4288
an itemized deduction pursuant to section 63 of the Internal 4289
Revenue Code and applicable United States department of the 4290

treasury regulations. The deduction otherwise allowed under 4291
division (A)(12)(a) of this section shall be reduced to the extent 4292
the reimbursement is attributable to an amount the taxpayer 4293
deducted under this section in any taxable year. 4294

(b) Add any amount not otherwise included in Ohio adjusted 4295
gross income for any taxable year to the extent that the amount is 4296
attributable to the recovery during the taxable year of any amount 4297
deducted or excluded in computing federal or Ohio adjusted gross 4298
income in any taxable year. 4299

(13) Deduct any portion of the deduction described in section 4300
1341(a)(2) of the Internal Revenue Code, for repaying previously 4301
reported income received under a claim of right, that meets both 4302
of the following requirements: 4303

(a) It is allowable for repayment of an item that was 4304
included in the taxpayer's adjusted gross income for a prior 4305
taxable year and did not qualify for a credit under division (A) 4306
or (B) of section 5747.05 of the Revised Code for that year; 4307

(b) It does not otherwise reduce the taxpayer's adjusted 4308
gross income for the current or any other taxable year. 4309

(14) Deduct an amount equal to the deposits made to, and net 4310
investment earnings of, a medical savings account during the 4311
taxable year, in accordance with section 3924.66 of the Revised 4312
Code. The deduction allowed by division (A)(14) of this section 4313
does not apply to medical savings account deposits and earnings 4314
otherwise deducted or excluded for the current or any other 4315
taxable year from the taxpayer's federal adjusted gross income. 4316

(15)(a) Add an amount equal to the funds withdrawn from a 4317
medical savings account during the taxable year, and the net 4318
investment earnings on those funds, when the funds withdrawn were 4319
used for any purpose other than to reimburse an account holder 4320
for, or to pay, eligible medical expenses, in accordance with 4321

section 3924.66 of the Revised Code; 4322

(b) Add the amounts distributed from a medical savings 4323
account under division (A)(2) of section 3924.68 of the Revised 4324
Code during the taxable year. 4325

(16) Add any amount claimed as a credit under section 4326
5747.059 or 5747.65 of the Revised Code to the extent that such 4327
amount satisfies either of the following: 4328

(a) The amount was deducted or excluded from the computation 4329
of the taxpayer's federal adjusted gross income as required to be 4330
reported for the taxpayer's taxable year under the Internal 4331
Revenue Code; 4332

(b) The amount resulted in a reduction of the taxpayer's 4333
federal adjusted gross income as required to be reported for any 4334
of the taxpayer's taxable years under the Internal Revenue Code. 4335

(17) Deduct the amount contributed by the taxpayer to an 4336
individual development account program established by a county 4337
department of job and family services pursuant to sections 329.11 4338
to 329.14 of the Revised Code for the purpose of matching funds 4339
deposited by program participants. On request of the tax 4340
commissioner, the taxpayer shall provide any information that, in 4341
the tax commissioner's opinion, is necessary to establish the 4342
amount deducted under division (A)(17) of this section. 4343

(18) Beginning in taxable year 2001 but not for any taxable 4344
year beginning after December 31, 2005, if the taxpayer is married 4345
and files a joint return and the combined federal adjusted gross 4346
income of the taxpayer and the taxpayer's spouse for the taxable 4347
year does not exceed one hundred thousand dollars, or if the 4348
taxpayer is single and has a federal adjusted gross income for the 4349
taxable year not exceeding fifty thousand dollars, deduct amounts 4350
paid during the taxable year for qualified tuition and fees paid 4351
to an eligible institution for the taxpayer, the taxpayer's 4352

spouse, or any dependent of the taxpayer, who is a resident of 4353
this state and is enrolled in or attending a program that 4354
culminates in a degree or diploma at an eligible institution. The 4355
deduction may be claimed only to the extent that qualified tuition 4356
and fees are not otherwise deducted or excluded for any taxable 4357
year from federal or Ohio adjusted gross income. The deduction may 4358
not be claimed for educational expenses for which the taxpayer 4359
claims a credit under section 5747.27 of the Revised Code. 4360

(19) Add any reimbursement received during the taxable year 4361
of any amount the taxpayer deducted under division (A)(18) of this 4362
section in any previous taxable year to the extent the amount is 4363
not otherwise included in Ohio adjusted gross income. 4364

(20)(a)(i) Add five-sixths of the amount of depreciation 4365
expense allowed by subsection (k) of section 168 of the Internal 4366
Revenue Code, including the taxpayer's proportionate or 4367
distributive share of the amount of depreciation expense allowed 4368
by that subsection to a pass-through entity in which the taxpayer 4369
has a direct or indirect ownership interest. 4370

(ii) Add five-sixths of the amount of qualifying section 179 4371
depreciation expense, including a person's proportionate or 4372
distributive share of the amount of qualifying section 179 4373
depreciation expense allowed to any pass-through entity in which 4374
the person has a direct or indirect ownership. For the purposes of 4375
this division, "qualifying section 179 depreciation expense" means 4376
the difference between (I) the amount of depreciation expense 4377
directly or indirectly allowed to the taxpayer under section 179 4378
of the Internal Revenue Code, and (II) the amount of depreciation 4379
expense directly or indirectly allowed to the taxpayer under 4380
section 179 of the Internal Revenue Code as that section existed 4381
on December 31, 2002. 4382

The tax commissioner, under procedures established by the 4383
commissioner, may waive the add-backs related to a pass-through 4384

entity if the taxpayer owns, directly or indirectly, less than 4385
five per cent of the pass-through entity. 4386

(b) Nothing in division (A)(20) of this section shall be 4387
construed to adjust or modify the adjusted basis of any asset. 4388

(c) To the extent the add-back required under division 4389
(A)(20)(a) of this section is attributable to property generating 4390
nonbusiness income or loss allocated under section 5747.20 of the 4391
Revised Code, the add-back shall be sitused to the same location 4392
as the nonbusiness income or loss generated by the property for 4393
the purpose of determining the credit under division (A) of 4394
section 5747.05 of the Revised Code. Otherwise, the add-back shall 4395
be apportioned, subject to one or more of the four alternative 4396
methods of apportionment enumerated in section 5747.21 of the 4397
Revised Code. 4398

(d) For the purposes of division (A) of this section, net 4399
operating loss carryback and carryforward shall not include 4400
five-sixths of the allowance of any net operating loss deduction 4401
carryback or carryforward to the taxable year to the extent such 4402
loss resulted from depreciation allowed by section 168(k) of the 4403
Internal Revenue Code and by the qualifying section 179 4404
depreciation expense amount. 4405

(21)(a) If the taxpayer was required to add an amount under 4406
division (A)(20)(a) of this section for a taxable year, deduct 4407
one-fifth of the amount so added for each of the five succeeding 4408
taxable years. 4409

(b) If the amount deducted under division (A)(21)(a) of this 4410
section is attributable to an add-back allocated under division 4411
(A)(20)(c) of this section, the amount deducted shall be sitused 4412
to the same location. Otherwise, the add-back shall be apportioned 4413
using the apportionment factors for the taxable year in which the 4414
deduction is taken, subject to one or more of the four alternative 4415

methods of apportionment enumerated in section 5747.21 of the 4416
Revised Code. 4417

(c) No deduction is available under division (A)(21)(a) of 4418
this section with regard to any depreciation allowed by section 4419
168(k) of the Internal Revenue Code and by the qualifying section 4420
179 depreciation expense amount to the extent that such 4421
depreciation resulted in or increased a federal net operating loss 4422
carryback or carryforward to a taxable year to which division 4423
(A)(20)(d) of this section does not apply. 4424

(22) Deduct, to the extent not otherwise deducted or excluded 4425
in computing federal or Ohio adjusted gross income for the taxable 4426
year, the amount the taxpayer received during the taxable year as 4427
reimbursement for life insurance premiums under section 5919.31 of 4428
the Revised Code. 4429

(23) Deduct, to the extent not otherwise deducted or excluded 4430
in computing federal or Ohio adjusted gross income for the taxable 4431
year, the amount the taxpayer received during the taxable year as 4432
a death benefit paid by the adjutant general under section 5919.33 4433
of the Revised Code. 4434

(24) Deduct, to the extent included in federal adjusted gross 4435
income and not otherwise allowable as a deduction or exclusion in 4436
computing federal or Ohio adjusted gross income for the taxable 4437
year, military pay and allowances received by the taxpayer during 4438
the taxable year for active duty service in the United States 4439
army, air force, navy, marine corps, or coast guard or reserve 4440
components thereof or the national guard. The deduction may not be 4441
claimed for military pay and allowances received by the taxpayer 4442
while the taxpayer is stationed in this state. 4443

(25) Deduct, to the extent not otherwise allowable as a 4444
deduction or exclusion in computing federal or Ohio adjusted gross 4445
income for the taxable year and not otherwise compensated for by 4446

any other source, the amount of qualified organ donation expenses 4447
incurred by the taxpayer during the taxable year, not to exceed 4448
ten thousand dollars. A taxpayer may deduct qualified organ 4449
donation expenses only once for all taxable years beginning with 4450
taxable years beginning in 2007. 4451

For the purposes of division (A)(25) of this section: 4452

(a) "Human organ" means all or any portion of a human liver, 4453
pancreas, kidney, intestine, or lung, and any portion of human 4454
bone marrow. 4455

(b) "Qualified organ donation expenses" means travel 4456
expenses, lodging expenses, and wages and salary forgone by a 4457
taxpayer in connection with the taxpayer's donation, while living, 4458
of one or more of the taxpayer's human organs to another human 4459
being. 4460

(26) Deduct, to the extent not otherwise deducted or excluded 4461
in computing federal or Ohio adjusted gross income for the taxable 4462
year, amounts received by the taxpayer as retired military 4463
personnel pay for service in the United States army, navy, air 4464
force, coast guard, or marine corps or reserve components thereof, 4465
or the national guard, or received by the surviving spouse or 4466
former spouse of such a taxpayer under the survivor benefit plan 4467
on account of such a taxpayer's death. If the taxpayer receives 4468
income on account of retirement paid under the federal civil 4469
service retirement system or federal employees retirement system, 4470
or under any successor retirement program enacted by the congress 4471
of the United States that is established and maintained for 4472
retired employees of the United States government, and such 4473
retirement income is based, in whole or in part, on credit for the 4474
taxpayer's military service, the deduction allowed under this 4475
division shall include only that portion of such retirement income 4476
that is attributable to the taxpayer's military service, to the 4477
extent that portion of such retirement income is otherwise 4478

included in federal adjusted gross income and is not otherwise 4479
deducted under this section. Any amount deducted under division 4480
(A)(26) of this section is not included in a taxpayer's adjusted 4481
gross income for the purposes of section 5747.055 of the Revised 4482
Code. No amount may be deducted under division (A)(26) of this 4483
section on the basis of which a credit was claimed under section 4484
5747.055 of the Revised Code. 4485

(27) Deduct, to the extent not otherwise deducted or excluded 4486
in computing federal or Ohio adjusted gross income for the taxable 4487
year, the amount the taxpayer received during the taxable year 4488
from the military injury relief fund created in section 5101.98 of 4489
the Revised Code. 4490

(28) Deduct, to the extent not otherwise deducted or excluded 4491
in computing federal or Ohio adjusted gross income for the taxable 4492
year, the amount the taxpayer received as a veterans bonus during 4493
the taxable year from the Ohio department of veterans services as 4494
authorized by Section 2r of Article VIII, Ohio Constitution. 4495

(29) Deduct, to the extent not otherwise deducted or excluded 4496
in computing federal or Ohio adjusted gross income for the taxable 4497
year, any loss from wagering transactions that is allowed as an 4498
itemized deduction under section 165 of the Internal Revenue Code 4499
and that the taxpayer deducted in computing federal taxable 4500
income. 4501

(30) Deduct, to the extent not otherwise deducted or excluded 4502
in computing federal or Ohio adjusted gross income for the taxable 4503
year, any income derived from providing public services under a 4504
contract through a project owned by the state, as described in 4505
section 126.604 of the Revised Code or derived from a transfer 4506
agreement or from the enterprise transferred under that agreement 4507
under section 4313.02 of the Revised Code. 4508

(31) Deduct, to the extent not otherwise deducted or excluded 4509

in computing federal or Ohio adjusted gross income for the taxable 4510
year, Ohio college opportunity or federal Pell grant amounts 4511
received by the taxpayer or the taxpayer's spouse or dependent 4512
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 4513
1070a, et seq., and used to pay room or board furnished by the 4514
educational institution for which the grant was awarded at the 4515
institution's facilities, including meal plans administered by the 4516
institution. For the purposes of this division, receipt of a grant 4517
includes the distribution of a grant directly to an educational 4518
institution and the crediting of the grant to the enrollee's 4519
account with the institution. 4520

(B) "Business income" means income, including gain or loss, 4521
arising from transactions, activities, and sources in the regular 4522
course of a trade or business and includes income, gain, or loss 4523
from real property, tangible property, and intangible property if 4524
the acquisition, rental, management, and disposition of the 4525
property constitute integral parts of the regular course of a 4526
trade or business operation. "Business income" includes income, 4527
including gain or loss, from a partial or complete liquidation of 4528
a business, including, but not limited to, gain or loss from the 4529
sale or other disposition of goodwill. 4530

(C) "Nonbusiness income" means all income other than business 4531
income and may include, but is not limited to, compensation, rents 4532
and royalties from real or tangible personal property, capital 4533
gains, interest, dividends and distributions, patent or copyright 4534
royalties, or lottery winnings, prizes, and awards. 4535

(D) "Compensation" means any form of remuneration paid to an 4536
employee for personal services. 4537

(E) "Fiduciary" means a guardian, trustee, executor, 4538
administrator, receiver, conservator, or any other person acting 4539
in any fiduciary capacity for any individual, trust, or estate. 4540

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	4541 4542
(G) "Individual" means any natural person.	4543
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	4544 4545
(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:	4546 4547 4548
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	4549 4550
(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.	4551 4552 4553 4554
(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.	4555 4556 4557
For the purposes of division (I)(3) of this section:	4558
(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:	4559 4560 4561 4562 4563 4564
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;	4565 4566 4567 4568
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly	4569 4570

transferred assets to an irrevocable trust, but only if at least 4571
one of the trust's qualifying beneficiaries is domiciled in this 4572
state for the purposes of this chapter during all or some portion 4573
of the trust's current taxable year; 4574

(iii) A person who was domiciled in this state for the 4575
purposes of this chapter when the trust document or instrument or 4576
part of the trust document or instrument became irrevocable, but 4577
only if at least one of the trust's qualifying beneficiaries is a 4578
resident domiciled in this state for the purposes of this chapter 4579
during all or some portion of the trust's current taxable year. If 4580
a trust document or instrument became irrevocable upon the death 4581
of a person who at the time of death was domiciled in this state 4582
for purposes of this chapter, that person is a person described in 4583
division (I)(3)(a)(iii) of this section. 4584

(b) A trust is irrevocable to the extent that the transferor 4585
is not considered to be the owner of the net assets of the trust 4586
under sections 671 to 678 of the Internal Revenue Code. 4587

(c) With respect to a trust other than a charitable lead 4588
trust, "qualifying beneficiary" has the same meaning as "potential 4589
current beneficiary" as defined in section 1361(e)(2) of the 4590
Internal Revenue Code, and with respect to a charitable lead trust 4591
"qualifying beneficiary" is any current, future, or contingent 4592
beneficiary, but with respect to any trust "qualifying 4593
beneficiary" excludes a person or a governmental entity or 4594
instrumentality to any of which a contribution would qualify for 4595
the charitable deduction under section 170 of the Internal Revenue 4596
Code. 4597

(d) For the purposes of division (I)(3)(a) of this section, 4598
the extent to which a trust consists directly or indirectly, in 4599
whole or in part, of assets, net of any related liabilities, that 4600
were transferred directly or indirectly, in whole or part, to the 4601
trust by any of the sources enumerated in that division shall be 4602

ascertained by multiplying the fair market value of the trust's 4603
assets, net of related liabilities, by the qualifying ratio, which 4604
shall be computed as follows: 4605

(i) The first time the trust receives assets, the numerator 4606
of the qualifying ratio is the fair market value of those assets 4607
at that time, net of any related liabilities, from sources 4608
enumerated in division (I)(3)(a) of this section. The denominator 4609
of the qualifying ratio is the fair market value of all the 4610
trust's assets at that time, net of any related liabilities. 4611

(ii) Each subsequent time the trust receives assets, a 4612
revised qualifying ratio shall be computed. The numerator of the 4613
revised qualifying ratio is the sum of (1) the fair market value 4614
of the trust's assets immediately prior to the subsequent 4615
transfer, net of any related liabilities, multiplied by the 4616
qualifying ratio last computed without regard to the subsequent 4617
transfer, and (2) the fair market value of the subsequently 4618
transferred assets at the time transferred, net of any related 4619
liabilities, from sources enumerated in division (I)(3)(a) of this 4620
section. The denominator of the revised qualifying ratio is the 4621
fair market value of all the trust's assets immediately after the 4622
subsequent transfer, net of any related liabilities. 4623

(iii) Whether a transfer to the trust is by or from any of 4624
the sources enumerated in division (I)(3)(a) of this section shall 4625
be ascertained without regard to the domicile of the trust's 4626
beneficiaries. 4627

(e) For the purposes of division (I)(3)(a)(i) of this 4628
section: 4629

(i) A trust is described in division (I)(3)(e)(i) of this 4630
section if the trust is a testamentary trust and the testator of 4631
that testamentary trust was domiciled in this state at the time of 4632
the testator's death for purposes of the taxes levied under 4633

Chapter 5731. of the Revised Code. 4634

(ii) A trust is described in division (I)(3)(e)(ii) of this 4635
section if the transfer is a qualifying transfer described in any 4636
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 4637
irrevocable inter vivos trust, and at least one of the trust's 4638
qualifying beneficiaries is domiciled in this state for purposes 4639
of this chapter during all or some portion of the trust's current 4640
taxable year. 4641

(f) For the purposes of division (I)(3)(e)(ii) of this 4642
section, a "qualifying transfer" is a transfer of assets, net of 4643
any related liabilities, directly or indirectly to a trust, if the 4644
transfer is described in any of the following: 4645

(i) The transfer is made to a trust, created by the decedent 4646
before the decedent's death and while the decedent was domiciled 4647
in this state for the purposes of this chapter, and, prior to the 4648
death of the decedent, the trust became irrevocable while the 4649
decedent was domiciled in this state for the purposes of this 4650
chapter. 4651

(ii) The transfer is made to a trust to which the decedent, 4652
prior to the decedent's death, had directly or indirectly 4653
transferred assets, net of any related liabilities, while the 4654
decedent was domiciled in this state for the purposes of this 4655
chapter, and prior to the death of the decedent the trust became 4656
irrevocable while the decedent was domiciled in this state for the 4657
purposes of this chapter. 4658

(iii) The transfer is made on account of a contractual 4659
relationship existing directly or indirectly between the 4660
transferor and either the decedent or the estate of the decedent 4661
at any time prior to the date of the decedent's death, and the 4662
decedent was domiciled in this state at the time of death for 4663
purposes of the taxes levied under Chapter 5731. of the Revised 4664

Code. 4665

(iv) The transfer is made to a trust on account of a 4666
contractual relationship existing directly or indirectly between 4667
the transferor and another person who at the time of the 4668
decedent's death was domiciled in this state for purposes of this 4669
chapter. 4670

(v) The transfer is made to a trust on account of the will of 4671
a testator who was domiciled in this state at the time of the 4672
testator's death for purposes of the taxes levied under Chapter 4673
5731. of the Revised Code. 4674

(vi) The transfer is made to a trust created by or caused to 4675
be created by a court, and the trust was directly or indirectly 4676
created in connection with or as a result of the death of an 4677
individual who, for purposes of the taxes levied under Chapter 4678
5731. of the Revised Code, was domiciled in this state at the time 4679
of the individual's death. 4680

(g) The tax commissioner may adopt rules to ascertain the 4681
part of a trust residing in this state. 4682

(J) "Nonresident" means an individual or estate that is not a 4683
resident. An individual who is a resident for only part of a 4684
taxable year is a nonresident for the remainder of that taxable 4685
year. 4686

(K) "Pass-through entity" has the same meaning as in section 4687
5733.04 of the Revised Code. 4688

(L) "Return" means the notifications and reports required to 4689
be filed pursuant to this chapter for the purpose of reporting the 4690
tax due and includes declarations of estimated tax when so 4691
required. 4692

(M) "Taxable year" means the calendar year or the taxpayer's 4693
fiscal year ending during the calendar year, or fractional part 4694

thereof, upon which the adjusted gross income is calculated 4695
pursuant to this chapter. 4696

(N) "Taxpayer" means any person subject to the tax imposed by 4697
section 5747.02 of the Revised Code or any pass-through entity 4698
that makes the election under division (D) of section 5747.08 of 4699
the Revised Code. 4700

(O) "Dependents" means dependents as defined in the Internal 4701
Revenue Code and as claimed in the taxpayer's federal income tax 4702
return for the taxable year or which the taxpayer would have been 4703
permitted to claim had the taxpayer filed a federal income tax 4704
return. 4705

(P) "Principal county of employment" means, in the case of a 4706
nonresident, the county within the state in which a taxpayer 4707
performs services for an employer or, if those services are 4708
performed in more than one county, the county in which the major 4709
portion of the services are performed. 4710

(Q) As used in sections 5747.50 to 5747.55 of the Revised 4711
Code: 4712

(1) "Subdivision" means any county, municipal corporation, 4713
park district, or township. 4714

(2) "Essential local government purposes" includes all 4715
functions that any subdivision is required by general law to 4716
exercise, including like functions that are exercised under a 4717
charter adopted pursuant to the Ohio Constitution. 4718

(R) "Overpayment" means any amount already paid that exceeds 4719
the figure determined to be the correct amount of the tax. 4720

(S) "Taxable income" or "Ohio taxable income" applies only to 4721
estates and trusts, and means federal taxable income, as defined 4722
and used in the Internal Revenue Code, adjusted as follows: 4723

(1) Add interest or dividends, net of ordinary, necessary, 4724

and reasonable expenses not deducted in computing federal taxable 4725
income, on obligations or securities of any state or of any 4726
political subdivision or authority of any state, other than this 4727
state and its subdivisions and authorities, but only to the extent 4728
that such net amount is not otherwise includible in Ohio taxable 4729
income and is described in either division (S)(1)(a) or (b) of 4730
this section: 4731

(a) The net amount is not attributable to the S portion of an 4732
electing small business trust and has not been distributed to 4733
beneficiaries for the taxable year; 4734

(b) The net amount is attributable to the S portion of an 4735
electing small business trust for the taxable year. 4736

(2) Add interest or dividends, net of ordinary, necessary, 4737
and reasonable expenses not deducted in computing federal taxable 4738
income, on obligations of any authority, commission, 4739
instrumentality, territory, or possession of the United States to 4740
the extent that the interest or dividends are exempt from federal 4741
income taxes but not from state income taxes, but only to the 4742
extent that such net amount is not otherwise includible in Ohio 4743
taxable income and is described in either division (S)(1)(a) or 4744
(b) of this section; 4745

(3) Add the amount of personal exemption allowed to the 4746
estate pursuant to section 642(b) of the Internal Revenue Code; 4747

(4) Deduct interest or dividends, net of related expenses 4748
deducted in computing federal taxable income, on obligations of 4749
the United States and its territories and possessions or of any 4750
authority, commission, or instrumentality of the United States to 4751
the extent that the interest or dividends are exempt from state 4752
taxes under the laws of the United States, but only to the extent 4753
that such amount is included in federal taxable income and is 4754
described in either division (S)(1)(a) or (b) of this section; 4755

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

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

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

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

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

year. 4788

(b) Add any amount not otherwise included in Ohio taxable 4789
income for any taxable year to the extent that the amount is 4790
attributable to the recovery during the taxable year of any amount 4791
deducted or excluded in computing federal or Ohio taxable income 4792
in any taxable year, but only to the extent such amount has not 4793
been distributed to beneficiaries for the taxable year. 4794

(10) Deduct any portion of the deduction described in section 4795
1341(a)(2) of the Internal Revenue Code, for repaying previously 4796
reported income received under a claim of right, that meets both 4797
of the following requirements: 4798

(a) It is allowable for repayment of an item that was 4799
included in the taxpayer's taxable income or the decedent's 4800
adjusted gross income for a prior taxable year and did not qualify 4801
for a credit under division (A) or (B) of section 5747.05 of the 4802
Revised Code for that year. 4803

(b) It does not otherwise reduce the taxpayer's taxable 4804
income or the decedent's adjusted gross income for the current or 4805
any other taxable year. 4806

(11) Add any amount claimed as a credit under section 4807
5747.059 or 5747.65 of the Revised Code to the extent that the 4808
amount satisfies either of the following: 4809

(a) The amount was deducted or excluded from the computation 4810
of the taxpayer's federal taxable income as required to be 4811
reported for the taxpayer's taxable year under the Internal 4812
Revenue Code; 4813

(b) The amount resulted in a reduction in the taxpayer's 4814
federal taxable income as required to be reported for any of the 4815
taxpayer's taxable years under the Internal Revenue Code. 4816

(12) Deduct any amount, net of related expenses deducted in 4817

computing federal taxable income, that a trust is required to 4818
report as farm income on its federal income tax return, but only 4819
if the assets of the trust include at least ten acres of land 4820
satisfying the definition of "land devoted exclusively to 4821
agricultural use" under section 5713.30 of the Revised Code, 4822
regardless of whether the land is valued for tax purposes as such 4823
land under sections 5713.30 to 5713.38 of the Revised Code. If the 4824
trust is a pass-through entity investor, section 5747.231 of the 4825
Revised Code applies in ascertaining if the trust is eligible to 4826
claim the deduction provided by division (S)(12) of this section 4827
in connection with the pass-through entity's farm income. 4828

Except for farm income attributable to the S portion of an 4829
electing small business trust, the deduction provided by division 4830
(S)(12) of this section is allowed only to the extent that the 4831
trust has not distributed such farm income. Division (S)(12) of 4832
this section applies only to taxable years of a trust beginning in 4833
2002 or thereafter. 4834

(13) Add the net amount of income described in section 641(c) 4835
of the Internal Revenue Code to the extent that amount is not 4836
included in federal taxable income. 4837

(14) Add or deduct the amount the taxpayer would be required 4838
to add or deduct under division (A)(20) or (21) of this section if 4839
the taxpayer's Ohio taxable income were computed in the same 4840
manner as an individual's Ohio adjusted gross income is computed 4841
under this section. In the case of a trust, division (S)(14) of 4842
this section applies only to any of the trust's taxable years 4843
beginning in 2002 or thereafter. 4844

(T) "School district income" and "school district income tax" 4845
have the same meanings as in section 5748.01 of the Revised Code. 4846

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 4847
of this section, "public obligations," "purchase obligations," and 4848

"interest or interest equivalent" have the same meanings as in 4849
section 5709.76 of the Revised Code. 4850

(V) "Limited liability company" means any limited liability 4851
company formed under Chapter 1705. of the Revised Code or under 4852
the laws of any other state. 4853

(W) "Pass-through entity investor" means any person who, 4854
during any portion of a taxable year of a pass-through entity, is 4855
a partner, member, shareholder, or equity investor in that 4856
pass-through entity. 4857

(X) "Banking day" has the same meaning as in section 1304.01 4858
of the Revised Code. 4859

(Y) "Month" means a calendar month. 4860

(Z) "Quarter" means the first three months, the second three 4861
months, the third three months, or the last three months of the 4862
taxpayer's taxable year. 4863

(AA)(1) "Eligible institution" means a state university or 4864
state institution of higher education as defined in section 4865
3345.011 of the Revised Code, or a private, nonprofit college, 4866
university, or other post-secondary institution located in this 4867
state that possesses a certificate of authorization issued by the 4868
Ohio board of regents pursuant to Chapter 1713. of the Revised 4869
Code or a certificate of registration issued by the state board of 4870
career colleges and schools under Chapter 3332. of the Revised 4871
Code. 4872

(2) "Qualified tuition and fees" means tuition and fees 4873
imposed by an eligible institution as a condition of enrollment or 4874
attendance, not exceeding two thousand five hundred dollars in 4875
each of the individual's first two years of post-secondary 4876
education. If the individual is a part-time student, "qualified 4877
tuition and fees" includes tuition and fees paid for the academic 4878
equivalent of the first two years of post-secondary education 4879

during a maximum of five taxable years, not exceeding a total of 4880
five thousand dollars. "Qualified tuition and fees" does not 4881
include: 4882

(a) Expenses for any course or activity involving sports, 4883
games, or hobbies unless the course or activity is part of the 4884
individual's degree or diploma program; 4885

(b) The cost of books, room and board, student activity fees, 4886
athletic fees, insurance expenses, or other expenses unrelated to 4887
the individual's academic course of instruction; 4888

(c) Tuition, fees, or other expenses paid or reimbursed 4889
through an employer, scholarship, grant in aid, or other 4890
educational benefit program. 4891

(BB)(1) "Modified business income" means the business income 4892
included in a trust's Ohio taxable income after such taxable 4893
income is first reduced by the qualifying trust amount, if any. 4894

(2) "Qualifying trust amount" of a trust means capital gains 4895
and losses from the sale, exchange, or other disposition of equity 4896
or ownership interests in, or debt obligations of, a qualifying 4897
investee to the extent included in the trust's Ohio taxable 4898
income, but only if the following requirements are satisfied: 4899

(a) The book value of the qualifying investee's physical 4900
assets in this state and everywhere, as of the last day of the 4901
qualifying investee's fiscal or calendar year ending immediately 4902
prior to the date on which the trust recognizes the gain or loss, 4903
is available to the trust. 4904

(b) The requirements of section 5747.011 of the Revised Code 4905
are satisfied for the trust's taxable year in which the trust 4906
recognizes the gain or loss. 4907

Any gain or loss that is not a qualifying trust amount is 4908
modified business income, qualifying investment income, or 4909

modified nonbusiness income, as the case may be. 4910

(3) "Modified nonbusiness income" means a trust's Ohio 4911
taxable income other than modified business income, other than the 4912
qualifying trust amount, and other than qualifying investment 4913
income, as defined in section 5747.012 of the Revised Code, to the 4914
extent such qualifying investment income is not otherwise part of 4915
modified business income. 4916

(4) "Modified Ohio taxable income" applies only to trusts, 4917
and means the sum of the amounts described in divisions (BB)(4)(a) 4918
to (c) of this section: 4919

(a) The fraction, calculated under section 5747.013, and 4920
applying section 5747.231 of the Revised Code, multiplied by the 4921
sum of the following amounts: 4922

(i) The trust's modified business income; 4923

(ii) The trust's qualifying investment income, as defined in 4924
section 5747.012 of the Revised Code, but only to the extent the 4925
qualifying investment income does not otherwise constitute 4926
modified business income and does not otherwise constitute a 4927
qualifying trust amount. 4928

(b) The qualifying trust amount multiplied by a fraction, the 4929
numerator of which is the sum of the book value of the qualifying 4930
investee's physical assets in this state on the last day of the 4931
qualifying investee's fiscal or calendar year ending immediately 4932
prior to the day on which the trust recognizes the qualifying 4933
trust amount, and the denominator of which is the sum of the book 4934
value of the qualifying investee's total physical assets 4935
everywhere on the last day of the qualifying investee's fiscal or 4936
calendar year ending immediately prior to the day on which the 4937
trust recognizes the qualifying trust amount. If, for a taxable 4938
year, the trust recognizes a qualifying trust amount with respect 4939
to more than one qualifying investee, the amount described in 4940

division (BB)(4)(b) of this section shall equal the sum of the 4941
products so computed for each such qualifying investee. 4942

(c)(i) With respect to a trust or portion of a trust that is 4943
a resident as ascertained in accordance with division (I)(3)(d) of 4944
this section, its modified nonbusiness income. 4945

(ii) With respect to a trust or portion of a trust that is 4946
not a resident as ascertained in accordance with division 4947
(I)(3)(d) of this section, the amount of its modified nonbusiness 4948
income satisfying the descriptions in divisions (B)(2) to (5) of 4949
section 5747.20 of the Revised Code, except as otherwise provided 4950
in division (BB)(4)(c)(ii) of this section. With respect to a 4951
trust or portion of a trust that is not a resident as ascertained 4952
in accordance with division (I)(3)(d) of this section, the trust's 4953
portion of modified nonbusiness income recognized from the sale, 4954
exchange, or other disposition of a debt interest in or equity 4955
interest in a section 5747.212 entity, as defined in section 4956
5747.212 of the Revised Code, without regard to division (A) of 4957
that section, shall not be allocated to this state in accordance 4958
with section 5747.20 of the Revised Code but shall be apportioned 4959
to this state in accordance with division (B) of section 5747.212 4960
of the Revised Code without regard to division (A) of that 4961
section. 4962

If the allocation and apportionment of a trust's income under 4963
divisions (BB)(4)(a) and (c) of this section do not fairly 4964
represent the modified Ohio taxable income of the trust in this 4965
state, the alternative methods described in division (C) of 4966
section 5747.21 of the Revised Code may be applied in the manner 4967
and to the same extent provided in that section. 4968

(5)(a) Except as set forth in division (BB)(5)(b) of this 4969
section, "qualifying investee" means a person in which a trust has 4970
an equity or ownership interest, or a person or unit of government 4971
the debt obligations of either of which are owned by a trust. For 4972

the purposes of division (BB)(2)(a) of this section and for the 4973
purpose of computing the fraction described in division (BB)(4)(b) 4974
of this section, all of the following apply: 4975

(i) If the qualifying investee is a member of a qualifying 4976
controlled group on the last day of the qualifying investee's 4977
fiscal or calendar year ending immediately prior to the date on 4978
which the trust recognizes the gain or loss, then "qualifying 4979
investee" includes all persons in the qualifying controlled group 4980
on such last day. 4981

(ii) If the qualifying investee, or if the qualifying 4982
investee and any members of the qualifying controlled group of 4983
which the qualifying investee is a member on the last day of the 4984
qualifying investee's fiscal or calendar year ending immediately 4985
prior to the date on which the trust recognizes the gain or loss, 4986
separately or cumulatively own, directly or indirectly, on the 4987
last day of the qualifying investee's fiscal or calendar year 4988
ending immediately prior to the date on which the trust recognizes 4989
the qualifying trust amount, more than fifty per cent of the 4990
equity of a pass-through entity, then the qualifying investee and 4991
the other members are deemed to own the proportionate share of the 4992
pass-through entity's physical assets which the pass-through 4993
entity directly or indirectly owns on the last day of the 4994
pass-through entity's calendar or fiscal year ending within or 4995
with the last day of the qualifying investee's fiscal or calendar 4996
year ending immediately prior to the date on which the trust 4997
recognizes the qualifying trust amount. 4998

(iii) For the purposes of division (BB)(5)(a)(iii) of this 4999
section, "upper level pass-through entity" means a pass-through 5000
entity directly or indirectly owning any equity of another 5001
pass-through entity, and "lower level pass-through entity" means 5002
that other pass-through entity. 5003

An upper level pass-through entity, whether or not it is also 5004

a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other

disposition of equity or ownership interests in, or debt obligations of, the C corporation.	5037 5038
(ii) Such gain or loss constitutes nonbusiness income.	5039
(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.	5040 5041 5042 5043
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	5044 5045
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	5046 5047
(EE)(1) For the purposes of division (EE) of this section:	5048
(a) "Qualifying person" means any person other than a qualifying corporation.	5049 5050
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	5051 5052 5053
(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;	5054 5055 5056 5057
(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.	5058 5059 5060 5061
(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.	5062 5063 5064
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	5065 5066

(1) "Trust" does not include a qualified pre-income tax trust. 5067
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(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. 5069
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(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 January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust. 5072
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 5083
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 5085
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(b) The trust became irrevocable upon the creation of the trust; and 5087
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(c) The grantor was domiciled in this state at the time the trust was created. 5089
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Sec. 5747.65. There is hereby allowed a refundable credit against the tax imposed under section 5747.02 of the Revised Code. The amount of the credit shall equal the taxpayer's proportionate share of the lesser of either the tax due or the tax paid for the tax imposed by section 5726.02 of the Revised Code by a pass-through entity for the pass-through entity's taxable year 5091
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ending in the taxpayer's taxable year. 5097

The taxpayer shall claim the credit for the taxpayer's 5098
taxable year that includes the last day of the pass-through 5099
entity's taxable year. For purposes of making tax payments under 5100
this chapter, taxes equal to the amount of the credit shall be 5101
considered to be paid by the taxpayer on the day the pass-through 5102
entity pays to the treasurer of state the amount due for the tax 5103
imposed by section 5726.02 of the Revised Code. 5104

In claiming the credit and determining the taxpayer's 5105
proportionate share of the tax due and the tax paid by a 5106
pass-through entity, the taxpayer shall follow the concepts set 5107
forth in subchapters J and K of the Internal Revenue Code. 5108

The credit shall be claimed in the order required under 5109
section 5747.98 of the Revised Code. If the amount of the credit 5110
exceeds the amount of tax otherwise due under section 5747.02 of 5111
the Revised Code after deduction of all other credits in that 5112
order, the taxpayer is entitled to a refund of the excess. 5113

Sec. 5747.98. (A) To provide a uniform procedure for 5114
calculating the amount of tax due under section 5747.02 of the 5115
Revised Code, a taxpayer shall claim any credits to which the 5116
taxpayer is entitled in the following order: 5117

(1) The retirement income credit under division (B) of 5118
section 5747.055 of the Revised Code; 5119

(2) The senior citizen credit under division (C) of section 5120
5747.05 of the Revised Code; 5121

(3) The lump sum distribution credit under division (D) of 5122
section 5747.05 of the Revised Code; 5123

(4) The dependent care credit under section 5747.054 of the 5124
Revised Code; 5125

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	5126 5127
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	5128 5129
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	5130 5131
(8) The low-income credit under section 5747.056 of the Revised Code;	5132 5133
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	5134 5135
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	5136 5137
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	5138 5139
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	5140 5141
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	5142 5143
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	5144 5145
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	5146 5147
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	5148 5149
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	5150 5151
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	5152 5153
(19) The nonrefundable job retention credit under division	5154

(B) of section 5747.058 of the Revised Code;	5155
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	5156 5157
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	5158 5159 5160
(22) The job training credit under section 5747.39 of the Revised Code;	5161 5162
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	5163 5164
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	5165 5166
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	5167 5168
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	5169 5170
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	5171 5172
(28) The small business investment credit under section 5747.81 of the Revised Code;	5173 5174
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	5175 5176
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	5177 5178
(31) The research and development credit under section 5747.331 of the Revised Code;	5179 5180
(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	5181 5182
(33) The refundable credit for rehabilitating a historic	5183

building under section 5747.76 of the Revised Code;	5184
(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	5185 5186
(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	5187 5188
(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	5189 5190 5191
(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	5192 5193
(38) The refundable credit for tax withheld under section 5747.063 of the Revised Code;	5194 5195
(39) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	5196 5197 5198
(40) The refundable motion picture production credit under section 5747.66 of the Revised Code;	5199 5200
<u>(41) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.</u>	5201 5202 5203
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	5204 5205 5206 5207 5208 5209 5210 5211 5212 5213

Sec. 5751.01. As used in this chapter:	5214
(A) "Person" means, but is not limited to, individuals,	5215
combinations of individuals of any form, receivers, assignees,	5216
trustees in bankruptcy, firms, companies, joint-stock companies,	5217
business trusts, estates, partnerships, limited liability	5218
partnerships, limited liability companies, associations, joint	5219
ventures, clubs, societies, for-profit corporations, S	5220
corporations, qualified subchapter S subsidiaries, qualified	5221
subchapter S trusts, trusts, entities that are disregarded for	5222
federal income tax purposes, and any other entities.	5223
(B) "Consolidated elected taxpayer" means a group of two or	5224
more persons treated as a single taxpayer for purposes of this	5225
chapter as the result of an election made under section 5751.011	5226
of the Revised Code.	5227
(C) "Combined taxpayer" means a group of two or more persons	5228
treated as a single taxpayer for purposes of this chapter under	5229
section 5751.012 of the Revised Code.	5230
(D) "Taxpayer" means any person, or any group of persons in	5231
the case of a consolidated elected taxpayer or combined taxpayer	5232
treated as one taxpayer, required to register or pay tax under	5233
this chapter. "Taxpayer" does not include excluded persons.	5234
(E) "Excluded person" means any of the following:	5235
(1) Any person with not more than one hundred fifty thousand	5236
dollars of taxable gross receipts during the calendar year.	5237
Division (E)(1) of this section does not apply to a person that is	5238
a member of a consolidated elected taxpayer;	5239
(2) A public utility that paid the excise tax imposed by	5240
section 5727.24 or 5727.30 of the Revised Code based on one or	5241
more measurement periods that include the entire tax period under	5242
this chapter, except that a public utility that is a combined	5243

company is a taxpayer with regard to the following gross receipts: 5244

(a) Taxable gross receipts directly attributed to a public 5245
utility activity, but not directly attributed to an activity that 5246
is subject to the excise tax imposed by section 5727.24 or 5727.30 5247
of the Revised Code; 5248

(b) Taxable gross receipts that cannot be directly attributed 5249
to any activity, multiplied by a fraction whose numerator is the 5250
taxable gross receipts described in division (E)(2)(a) of this 5251
section and whose denominator is the total taxable gross receipts 5252
that can be directly attributed to any activity; 5253

(c) Except for any differences resulting from the use of an 5254
accrual basis method of accounting for purposes of determining 5255
gross receipts under this chapter and the use of the cash basis 5256
method of accounting for purposes of determining gross receipts 5257
under section 5727.24 of the Revised Code, the gross receipts 5258
directly attributed to the activity of a natural gas company shall 5259
be determined in a manner consistent with division (D) of section 5260
5727.03 of the Revised Code. 5261

As used in division (E)(2) of this section, "combined 5262
company" and "public utility" have the same meanings as in section 5263
5727.01 of the Revised Code. 5264

(3) A financial institution, as defined in section ~~5725.01~~ 5265
5726.01 of the Revised Code, that paid the ~~corporation franchise~~ 5266
~~tax charged by division (D) of~~ imposed by section ~~5733.06~~ 5726.02 5267
of the Revised Code based on one or more taxable years that 5268
include the entire tax period under this chapter; 5269

(4) ~~A dealer in intangibles, as defined in section 5725.01 of~~ 5270
~~the Revised Code, that paid the dealer in intangibles tax levied~~ 5271
~~by division (D) of section 5707.03 of the Revised Code based on~~ 5272
~~one or more measurement periods that include the entire tax period~~ 5273
~~under this chapter;~~ 5274

(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);	5275
	5276
(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);	5277
	5278
(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);	5279
	5280
	5281
	5282
(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state. <u>A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.</u>	5283
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For the purposes of division (E) (8) (4) of this section, a person owns another person under the following circumstances:	5299
	5300
(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;	5301
	5302
	5303
	5304
(b) In the case of a limited liability company, one person	5305

owns the company if that person's membership interest, as defined 5306
in section 1705.01 of the Revised Code, is fifty per cent or more 5307
of the combined membership interests of all persons owning such 5308
interests in the company; 5309

(c) In the case of a partnership, trust, or other 5310
unincorporated business organization other than a limited 5311
liability company, one person owns the organization if, under the 5312
articles of organization or other instrument governing the affairs 5313
of the organization, that person has a beneficial interest in the 5314
organization's profits, surpluses, losses, or distributions of 5315
fifty per cent or more of the combined beneficial interests of all 5316
persons having such an interest in the organization. 5317

~~(d) In the case of multiple ownership, the ownership 5318
interests of more than one person may be aggregated to meet the 5319
fifty per cent ownership tests in this division only when each 5320
such owner is described in division (E)(3), (5), (6), or (7) of 5321
this section and is engaged in activities permissible for a 5322
financial holding company under 12 U.S.C. 1843(k) or is a person 5323
directly or indirectly owned by one or more insurance companies 5324
described in division (E)(9) of this section that is authorized to 5325
do the business of insurance in this state. 5326~~

~~(9)(5) A domestic insurance company or foreign insurance 5327
company, as defined in section 5725.01 of the Revised Code, that 5328
paid the insurance company premiums tax imposed by section 5725.18 5329
or Chapter 5729. of the Revised Code based on one or more 5330
measurement periods that include the entire tax period under this 5331
chapter; 5332~~

~~(10) A person that solely facilitates or services one or more 5333
securitizations or similar transactions for any person described 5334
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 5335
For purposes of this division, "securitization" means transferring 5336
one or more assets to one or more persons and then issuing 5337~~

~~securities backed by the right to receive payment from the asset~~ 5338
~~or assets so transferred.~~ 5339

~~(11)~~(6) Except as otherwise provided in this division, a 5340
pre-income tax trust as defined in division (FF)(4) of section 5341
5747.01 of the Revised Code and any pass-through entity of which 5342
such pre-income tax trust owns or controls, directly, indirectly, 5343
or constructively through related interests, more than five per 5344
cent of the ownership or equity interests. If the pre-income tax 5345
trust has made a qualifying pre-income tax trust election under 5346
division (FF)(3) of section 5747.01 of the Revised Code, then the 5347
trust and the pass-through entities of which it owns or controls, 5348
directly, indirectly, or constructively through related interests, 5349
more than five per cent of the ownership or equity interests, 5350
shall not be excluded persons for purposes of the tax imposed 5351
under section 5751.02 of the Revised Code. 5352

~~(12)~~(7) Nonprofit organizations or the state and its 5353
agencies, instrumentalities, or political subdivisions. 5354

(F) Except as otherwise provided in divisions (F)(2), (3), 5355
and (4) of this section, "gross receipts" means the total amount 5356
realized by a person, without deduction for the cost of goods sold 5357
or other expenses incurred, that contributes to the production of 5358
gross income of the person, including the fair market value of any 5359
property and any services received, and any debt transferred or 5360
forgiven as consideration. 5361

(1) The following are examples of gross receipts: 5362

(a) Amounts realized from the sale, exchange, or other 5363
disposition of the taxpayer's property to or with another; 5364

(b) Amounts realized from the taxpayer's performance of 5365
services for another; 5366

(c) Amounts realized from another's use or possession of the 5367
taxpayer's property or capital; 5368

(d) Any combination of the foregoing amounts.	5369
(2) "Gross receipts" excludes the following amounts:	5370
(a) Interest income except interest on credit sales;	5371
(b) Dividends and distributions from corporations, and	5372
distributive or proportionate shares of receipts and income from a	5373
pass-through entity as defined under section 5733.04 of the	5374
Revised Code;	5375
(c) Receipts from the sale, exchange, or other disposition of	5376
an asset described in section 1221 or 1231 of the Internal Revenue	5377
Code, without regard to the length of time the person held the	5378
asset. Notwithstanding section 1221 of the Internal Revenue Code,	5379
receipts from hedging transactions also are excluded to the extent	5380
the transactions are entered into primarily to protect a financial	5381
position, such as managing the risk of exposure to (i) foreign	5382
currency fluctuations that affect assets, liabilities, profits,	5383
losses, equity, or investments in foreign operations; (ii)	5384
interest rate fluctuations; or (iii) commodity price fluctuations.	5385
As used in division (F)(2)(c) of this section, "hedging	5386
transaction" has the same meaning as used in section 1221 of the	5387
Internal Revenue Code and also includes transactions accorded	5388
hedge accounting treatment under statement of financial accounting	5389
standards number 133 of the financial accounting standards board.	5390
For the purposes of division (F)(2)(c) of this section, the actual	5391
transfer of title of real or tangible personal property to another	5392
entity is not a hedging transaction.	5393
(d) Proceeds received attributable to the repayment,	5394
maturity, or redemption of the principal of a loan, bond, mutual	5395
fund, certificate of deposit, or marketable instrument;	5396
(e) The principal amount received under a repurchase	5397
agreement or on account of any transaction properly characterized	5398
as a loan to the person;	5399

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;	5400 5401 5402 5403
(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;	5404 5405 5406 5407 5408 5409 5410 5411 5412
(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	5413 5414 5415
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	5416 5417 5418
(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;	5419 5420 5421 5422 5423 5424 5425
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	5426 5427 5428
(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's	5429 5430

commission, fee, or other remuneration;	5431
(m) Tax refunds, other tax benefit recoveries, and	5432
reimbursements for the tax imposed under this chapter made by	5433
entities that are part of the same combined taxpayer or	5434
consolidated elected taxpayer group, and reimbursements made by	5435
entities that are not members of a combined taxpayer or	5436
consolidated elected taxpayer group that are required to be made	5437
for economic parity among multiple owners of an entity whose tax	5438
obligation under this chapter is required to be reported and paid	5439
entirely by one owner, pursuant to the requirements of sections	5440
5751.011 and 5751.012 of the Revised Code;	5441
(n) Pension reversions;	5442
(o) Contributions to capital;	5443
(p) Sales or use taxes collected as a vendor or an	5444
out-of-state seller on behalf of the taxing jurisdiction from a	5445
consumer or other taxes the taxpayer is required by law to collect	5446
directly from a purchaser and remit to a local, state, or federal	5447
tax authority;	5448
(q) In the case of receipts from the sale of cigarettes or	5449
tobacco products by a wholesale dealer, retail dealer,	5450
distributor, manufacturer, or seller, all as defined in section	5451
5743.01 of the Revised Code, an amount equal to the federal and	5452
state excise taxes paid by any person on or for such cigarettes or	5453
tobacco products under subtitle E of the Internal Revenue Code or	5454
Chapter 5743. of the Revised Code;	5455
(r) In the case of receipts from the sale of motor fuel by a	5456
licensed motor fuel dealer, licensed retail dealer, or licensed	5457
permissive motor fuel dealer, all as defined in section 5735.01 of	5458
the Revised Code, an amount equal to federal and state excise	5459
taxes paid by any person on such motor fuel under section 4081 of	5460
the Internal Revenue Code or Chapter 5735. of the Revised Code;	5461

(s) In the case of receipts from the sale of beer or 5462
intoxicating liquor, as defined in section 4301.01 of the Revised 5463
Code, by a person holding a permit issued under Chapter 4301. or 5464
4303. of the Revised Code, an amount equal to federal and state 5465
excise taxes paid by any person on or for such beer or 5466
intoxicating liquor under subtitle E of the Internal Revenue Code 5467
or Chapter 4301. or 4305. of the Revised Code; 5468

(t) Receipts realized by a new motor vehicle dealer or used 5469
motor vehicle dealer, as defined in section 4517.01 of the Revised 5470
Code, from the sale or other transfer of a motor vehicle, as 5471
defined in that section, to another motor vehicle dealer for the 5472
purpose of resale by the transferee motor vehicle dealer, but only 5473
if the sale or other transfer was based upon the transferee's need 5474
to meet a specific customer's preference for a motor vehicle; 5475

(u) Receipts from a financial institution described in 5476
division (E)(3) of this section for services provided to the 5477
financial institution in connection with the issuance, processing, 5478
servicing, and management of loans or credit accounts, if such 5479
financial institution and the recipient of such receipts have at 5480
least fifty per cent of their ownership interests owned or 5481
controlled, directly or constructively through related interests, 5482
by common owners; 5483

(v) Receipts realized from administering anti-neoplastic 5484
drugs and other cancer chemotherapy, biologicals, therapeutic 5485
agents, and supportive drugs in a physician's office to patients 5486
with cancer; 5487

(w) Funds received or used by a mortgage broker that is not a 5488
dealer in intangibles, other than fees or other consideration, 5489
pursuant to a table-funding mortgage loan or warehouse-lending 5490
mortgage loan. Terms used in division (F)(2)(w) of this section 5491
have the same meanings as in section 1322.01 of the Revised Code, 5492
except "mortgage broker" means a person assisting a buyer in 5493

obtaining a mortgage loan for a fee or other consideration paid by 5494
the buyer or a lender, or a person engaged in table-funding or 5495
warehouse-lending mortgage loans that are first lien mortgage 5496
loans. 5497

(x) Property, money, and other amounts received by a 5498
professional employer organization, as defined in section 4125.01 5499
of the Revised Code, from a client employer, as defined in that 5500
section, in excess of the administrative fee charged by the 5501
professional employer organization to the client employer; 5502

(y) In the case of amounts retained as commissions by a 5503
permit holder under Chapter 3769. of the Revised Code, an amount 5504
equal to the amounts specified under that chapter that must be 5505
paid to or collected by the tax commissioner as a tax and the 5506
amounts specified under that chapter to be used as purse money; 5507

(z) Qualifying distribution center receipts. 5508

(i) For purposes of division (F)(2)(z) of this section: 5509

(I) "Qualifying distribution center receipts" means receipts 5510
of a supplier from qualified property that is delivered to a 5511
qualified distribution center, multiplied by a quantity that 5512
equals one minus the Ohio delivery percentage. 5513

(II) "Qualified property" means tangible personal property 5514
delivered to a qualified distribution center that is shipped to 5515
that qualified distribution center solely for further shipping by 5516
the qualified distribution center to another location in this 5517
state or elsewhere. "Further shipping" includes storing and 5518
repackaging such property into smaller or larger bundles, so long 5519
as such property is not subject to further manufacturing or 5520
processing. 5521

(III) "Qualified distribution center" means a warehouse or 5522
other similar facility in this state that, for the qualifying 5523
year, is operated by a person that is not part of a combined 5524

taxpayer group and that has a qualifying certificate. However, all 5525
warehouses or other similar facilities that are operated by 5526
persons in the same taxpayer group and that are located within one 5527
mile of each other shall be treated as one qualified distribution 5528
center. 5529

(IV) "Qualifying year" means the calendar year to which the 5530
qualifying certificate applies. 5531

(V) "Qualifying period" means the period of the first day of 5532
July of the second year preceding the qualifying year through the 5533
thirtieth day of June of the year preceding the qualifying year. 5534

(VI) "Qualifying certificate" means the certificate issued by 5535
the tax commissioner after the operator of a distribution center 5536
files an annual application with the commissioner. The application 5537
and annual fee shall be filed and paid for each qualified 5538
distribution center on or before the first day of September before 5539
the qualifying year or within forty-five days after the 5540
distribution center opens, whichever is later. 5541

The applicant must substantiate to the commissioner's 5542
satisfaction that, for the qualifying period, all persons 5543
operating the distribution center have more than fifty per cent of 5544
the cost of the qualified property shipped to a location such that 5545
it would be situated outside this state under the provisions of 5546
division (E) of section 5751.033 of the Revised Code. The 5547
applicant must also substantiate that the distribution center 5548
cumulatively had costs from its suppliers equal to or exceeding 5549
five hundred million dollars during the qualifying period. (For 5550
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 5551
excludes any person that is part of the consolidated elected 5552
taxpayer group, if applicable, of the operator of the qualified 5553
distribution center.) The commissioner may require the applicant 5554
to have an independent certified public accountant certify that 5555
the calculation of the minimum thresholds required for a qualified 5556

distribution center by the operator of a distribution center has 5557
been made in accordance with generally accepted accounting 5558
principles. The commissioner shall issue or deny the issuance of a 5559
certificate within sixty days after the receipt of the 5560
application. A denial is subject to appeal under section 5717.02 5561
of the Revised Code. If the operator files a timely appeal under 5562
section 5717.02 of the Revised Code, the operator shall be granted 5563
a qualifying certificate, provided that the operator is liable for 5564
any tax, interest, or penalty upon amounts claimed as qualifying 5565
distribution center receipts, other than those receipts exempt 5566
under division (C)(1) of section 5751.011 of the Revised Code, 5567
that would have otherwise not been owed by its suppliers if the 5568
qualifying certificate was valid. 5569

(VII) "Ohio delivery percentage" means the proportion of the 5570
total property delivered to a destination inside Ohio from the 5571
qualified distribution center during the qualifying period 5572
compared with total deliveries from such distribution center 5573
everywhere during the qualifying period. 5574

(ii) If the distribution center is new and was not open for 5575
the entire qualifying period, the operator of the distribution 5576
center may request that the commissioner grant a qualifying 5577
certificate. If the certificate is granted and it is later 5578
determined that more than fifty per cent of the qualified property 5579
during that year was not shipped to a location such that it would 5580
be situated outside of this state under the provisions of division 5581
(E) of section 5751.033 of the Revised Code or if it is later 5582
determined that the person that operates the distribution center 5583
had average monthly costs from its suppliers of less than forty 5584
million dollars during that year, then the operator of the 5585
distribution center shall be liable for any tax, interest, or 5586
penalty upon amounts claimed as qualifying distribution center 5587
receipts, other than those receipts exempt under division (C)(1) 5588

of section 5751.011 of the Revised Code, that would have not 5589
otherwise been owed by its suppliers during the qualifying year if 5590
the qualifying certificate was valid. (For purposes of division 5591
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 5592
is part of the consolidated elected taxpayer group, if applicable, 5593
of the operator of the qualified distribution center.) 5594

(iii) When filing an application for a qualifying certificate 5595
under division (F)(2)(z)(i)(VI) of this section, the operator of a 5596
qualified distribution center also shall provide documentation, as 5597
the commissioner requires, for the commissioner to ascertain the 5598
Ohio delivery percentage. The commissioner, upon issuing the 5599
qualifying certificate, also shall certify the Ohio delivery 5600
percentage. The operator of the qualified distribution center may 5601
appeal the commissioner's certification of the Ohio delivery 5602
percentage in the same manner as an appeal is taken from the 5603
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 5604
of this section. 5605

Within thirty days after all appeals have been exhausted, the 5606
operator of the qualified distribution center shall notify the 5607
affected suppliers of qualified property that such suppliers are 5608
required to file, within sixty days after receiving notice from 5609
the operator of the qualified distribution center, amended reports 5610
for the impacted calendar quarter or quarters or calendar year, 5611
whichever the case may be. Any additional tax liability or tax 5612
overpayment shall be subject to interest but shall not be subject 5613
to the imposition of any penalty so long as the amended returns 5614
are timely filed. The supplier of tangible personal property 5615
delivered to the qualified distribution center shall include in 5616
its report of taxable gross receipts the receipts from the total 5617
sales of property delivered to the qualified distribution center 5618
for the calendar quarter or calendar year, whichever the case may 5619
be, multiplied by the Ohio delivery percentage for the qualifying 5620

year. Nothing in division (F)(2)(z)(iii) of this section shall be 5621
construed as imposing liability on the operator of a qualified 5622
distribution center for the tax imposed by this chapter arising 5623
from any change to the Ohio delivery percentage. 5624

(iv) In the case where the distribution center is new and not 5625
open for the entire qualifying period, the operator shall make a 5626
good faith estimate of an Ohio delivery percentage for use by 5627
suppliers in their reports of taxable gross receipts for the 5628
remainder of the qualifying period. The operator of the facility 5629
shall disclose to the suppliers that such Ohio delivery percentage 5630
is an estimate and is subject to recalculation. By the due date of 5631
the next application for a qualifying certificate, the operator 5632
shall determine the actual Ohio delivery percentage for the 5633
estimated qualifying period and proceed as provided in division 5634
(F)(2)(z)(iii) of this section with respect to the calculation and 5635
recalculation of the Ohio delivery percentage. The supplier is 5636
required to file, within sixty days after receiving notice from 5637
the operator of the qualified distribution center, amended reports 5638
for the impacted calendar quarter or quarters or calendar year, 5639
whichever the case may be. Any additional tax liability or tax 5640
overpayment shall be subject to interest but shall not be subject 5641
to the imposition of any penalty so long as the amended returns 5642
are timely filed. 5643

(v) Qualifying certificates and Ohio delivery percentages 5644
issued by the commissioner shall be open to public inspection and 5645
shall be timely published by the commissioner. A supplier relying 5646
in good faith on a certificate issued under this division shall 5647
not be subject to tax on the qualifying distribution center 5648
receipts under division (F)(2)(z) of this section. A person 5649
receiving a qualifying certificate is responsible for paying the 5650
tax, interest, and penalty upon amounts claimed as qualifying 5651
distribution center receipts that would not otherwise have been 5652

owed by the supplier if the qualifying certificate were available 5653
when it is later determined that the qualifying certificate should 5654
not have been issued because the statutory requirements were in 5655
fact not met. 5656

(vi) The annual fee for a qualifying certificate shall be one 5657
hundred thousand dollars for each qualified distribution center. 5658
If a qualifying certificate is not issued, the annual fee is 5659
subject to refund after the exhaustion of all appeals provided for 5660
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 5661
under this division may be assessed in the same manner as the tax 5662
imposed under this chapter. The first one hundred thousand dollars 5663
of the annual application fees collected each calendar year shall 5664
be credited to the commercial activity tax administrative fund. 5665
The remainder of the annual application fees collected shall be 5666
distributed in the same manner required under section 5751.20 of 5667
the Revised Code. 5668

(vii) The tax commissioner may require that adequate security 5669
be posted by the operator of the distribution center on appeal 5670
when the commissioner disagrees that the applicant has met the 5671
minimum thresholds for a qualified distribution center as set 5672
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 5673
section. 5674

(aa) Receipts of an employer from payroll deductions relating 5675
to the reimbursement of the employer for advancing moneys to an 5676
unrelated third party on an employee's behalf; 5677

(bb) Cash discounts allowed and taken; 5678

(cc) Returns and allowances; 5679

(dd) Bad debts from receipts on the basis of which the tax 5680
imposed by this chapter was paid in a prior quarterly tax payment 5681
period. For the purpose of this division, "bad debts" means any 5682
debts that have become worthless or uncollectible between the 5683

preceding and current quarterly tax payment periods, have been 5684
uncollected for at least six months, and that may be claimed as a 5685
deduction under section 166 of the Internal Revenue Code and the 5686
regulations adopted under that section, or that could be claimed 5687
as such if the taxpayer kept its accounts on the accrual basis. 5688
"Bad debts" does not include repossessed property, uncollectible 5689
amounts on property that remains in the possession of the taxpayer 5690
until the full purchase price is paid, or expenses in attempting 5691
to collect any account receivable or for any portion of the debt 5692
recovered; 5693

(ee) Any amount realized from the sale of an account 5694
receivable to the extent the receipts from the underlying 5695
transaction giving rise to the account receivable were included in 5696
the gross receipts of the taxpayer; 5697

(ff) Any receipts directly attributed to providing public 5698
services pursuant to sections 126.60 to 126.605 of the Revised 5699
Code, or any receipts directly attributed to a transfer agreement 5700
or to the enterprise transferred under that agreement under 5701
section 4313.02 of the Revised Code. 5702

(gg) Any receipts for which the tax imposed by this chapter 5703
is prohibited by the Constitution or laws of the United States or 5704
the Constitution of Ohio. 5705

(hh)(i) As used in this division: 5706

(I) "Qualified uranium receipts" means receipts from the 5707
sale, exchange, lease, loan, production, processing, or other 5708
disposition of uranium within a uranium enrichment zone certified 5709
by the tax commissioner under division (F)(2)(hh)(ii) of this 5710
section. "Qualified uranium receipts" does not include any 5711
receipts with a situs in this state outside a uranium enrichment 5712
zone certified by the tax commissioner under division 5713
(F)(2)(hh)(ii) of this section. 5714

(II) "Uranium enrichment zone" means all real property that 5715
is part of a uranium enrichment facility licensed by the United 5716
States nuclear regulatory commission and that was or is owned or 5717
controlled by the United States department of energy or its 5718
successor. 5719

(ii) Any person that owns, leases, or operates real or 5720
tangible personal property constituting or located within a 5721
uranium enrichment zone may apply to the tax commissioner to have 5722
the uranium enrichment zone certified for the purpose of excluding 5723
qualified uranium receipts under division (F)(2)(hh) of this 5724
section. The application shall include such information that the 5725
tax commissioner prescribes. Within sixty days after receiving the 5726
application, the tax commissioner shall certify the zone for that 5727
purpose if the commissioner determines that the property qualifies 5728
as a uranium enrichment zone as defined in division (F)(2)(hh) of 5729
this section, or, if the tax commissioner determines that the 5730
property does not qualify, the commissioner shall deny the 5731
application or request additional information from the applicant. 5732
If the tax commissioner denies an application, the commissioner 5733
shall state the reasons for the denial. The applicant may appeal 5734
the denial of an application to the board of tax appeals pursuant 5735
to section 5717.02 of the Revised Code. If the applicant files a 5736
timely appeal, the tax commissioner shall conditionally certify 5737
the applicant's property. The conditional certification shall 5738
expire when all of the applicant's appeals are exhausted. Until 5739
final resolution of the appeal, the applicant shall retain the 5740
applicant's records in accordance with section 5751.12 of the 5741
Revised Code, notwithstanding any time limit on the preservation 5742
of records under that section. 5743

(ii) Amounts realized by licensed motor fuel dealers or 5744
licensed permissive motor fuel dealers from the exchange of 5745
petroleum products, including motor fuel, between such dealers, 5746

provided that delivery of the petroleum products occurs at a 5747
refinery, terminal, pipeline, or marine vessel and that the 5748
exchanging dealers agree neither dealer shall require monetary 5749
compensation from the other for the value of the exchanged 5750
petroleum products other than such compensation for differences in 5751
product location or grade. Division (F)(2)(ii) of this section 5752
does not apply to amounts realized as a result of differences in 5753
location or grade of exchanged petroleum products or from 5754
handling, lubricity, dye, or other additive injections fees, 5755
pipeline security fees, or similar fees. As used in this division, 5756
"motor fuel," "licensed motor fuel dealer," "licensed permissive 5757
motor fuel dealer," and "terminal" have the same meanings as in 5758
section 5735.01 of the Revised Code. 5759

~~(hh)~~(jj) In the case of amounts collected by a licensed 5760
casino operator from casino gaming, amounts in excess of the 5761
casino operator's gross casino revenue. In this division, "casino 5762
operator" and "casino gaming" have the meanings defined in section 5763
3772.01 of the Revised Code, and "gross casino revenue" has the 5764
meaning defined in section 5753.01 of the Revised Code. 5765

(3) In the case of a taxpayer when acting as a real estate 5766
broker, "gross receipts" includes only the portion of any fee for 5767
the service of a real estate broker, or service of a real estate 5768
salesperson associated with that broker, that is retained by the 5769
broker and not paid to an associated real estate salesperson or 5770
another real estate broker. For the purposes of this division, 5771
"real estate broker" and "real estate salesperson" have the same 5772
meanings as in section 4735.01 of the Revised Code. 5773

(4) A taxpayer's method of accounting for gross receipts for 5774
a tax period shall be the same as the taxpayer's method of 5775
accounting for federal income tax purposes for the taxpayer's 5776
federal taxable year that includes the tax period. If a taxpayer's 5777
method of accounting for federal income tax purposes changes, its 5778

method of accounting for gross receipts under this chapter shall 5779
be changed accordingly. 5780

(G) "Taxable gross receipts" means gross receipts sitused to 5781
this state under section 5751.033 of the Revised Code. 5782

(H) A person has "substantial nexus with this state" if any 5783
of the following applies. The person: 5784

(1) Owns or uses a part or all of its capital in this state; 5785

(2) Holds a certificate of compliance with the laws of this 5786
state authorizing the person to do business in this state; 5787

(3) Has bright-line presence in this state; 5788

(4) Otherwise has nexus with this state to an extent that the 5789
person can be required to remit the tax imposed under this chapter 5790
under the Constitution of the United States. 5791

(I) A person has "bright-line presence" in this state for a 5792
reporting period and for the remaining portion of the calendar 5793
year if any of the following applies. The person: 5794

(1) Has at any time during the calendar year property in this 5795
state with an aggregate value of at least fifty thousand dollars. 5796
For the purpose of division (I)(1) of this section, owned property 5797
is valued at original cost and rented property is valued at eight 5798
times the net annual rental charge. 5799

(2) Has during the calendar year payroll in this state of at 5800
least fifty thousand dollars. Payroll in this state includes all 5801
of the following: 5802

(a) Any amount subject to withholding by the person under 5803
section 5747.06 of the Revised Code; 5804

(b) Any other amount the person pays as compensation to an 5805
individual under the supervision or control of the person for work 5806
done in this state; and 5807

(c) Any amount the person pays for services performed in this state on its behalf by another.	5808 5809
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	5810 5811
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	5812 5813 5814
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	5815 5816
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	5817 5818
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	5819 5820 5821 5822 5823 5824 5825 5826
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	5827 5828 5829
(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.	5830 5831 5832
(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	5833 5834
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	5835 5836
(P) "Agent" means a person authorized by another person to	5837

act on its behalf to undertake a transaction for the other,	5838
including any of the following:	5839
(1) A person receiving a fee to sell financial instruments;	5840
(2) A person retaining only a commission from a transaction	5841
with the other proceeds from the transaction being remitted to	5842
another person;	5843
(3) A person issuing licenses and permits under section	5844
1533.13 of the Revised Code;	5845
(4) A lottery sales agent holding a valid license issued	5846
under section 3770.05 of the Revised Code;	5847
(5) A person acting as an agent of the division of liquor	5848
control under section 4301.17 of the Revised Code.	5849
(Q) "Received" includes amounts accrued under the accrual	5850
method of accounting.	5851
(R) "Reporting person" means a person in a consolidated	5852
elected taxpayer or combined taxpayer group that is designated by	5853
that group to legally bind the group for all filings and tax	5854
liabilities and to receive all legal notices with respect to	5855
matters under this chapter, or, for the purposes of section	5856
5751.04 of the Revised Code, a separate taxpayer that is not a	5857
member of such a group.	5858
Sec. 5751.011. (A) A group of two or more persons may elect	5859
to be a consolidated elected taxpayer for the purposes of this	5860
chapter if the group satisfies all of the following requirements:	5861
(1) The group elects to include all persons, including	5862
persons enumerated in divisions (E)(2) to (10) (5) of section	5863
5751.01 of the Revised Code, having at least eighty per cent, or	5864
having at least fifty per cent, of the value of their ownership	5865
interests owned or controlled, directly or constructively through	5866
related interests, by common owners during all or any portion of	5867

the tax period, together with the common owners. 5868

A group making its initial election on the basis of the 5869
eighty per cent ownership test may change its election so that its 5870
consolidated elected taxpayer group is formed on the basis of the 5871
fifty per cent ownership test if all of the following are 5872
satisfied: 5873

(a) When the initial election was made, the group did not 5874
have any persons satisfying the fifty per cent ownership test; 5875

(b) One or more of the persons in the initial group 5876
subsequently acquires ownership interests in a person such that 5877
the fifty per cent ownership test is satisfied, the eighty per 5878
cent ownership test is not satisfied, and the acquired person 5879
would be required to be included in a combined taxpayer group 5880
under section 5751.012 of the Revised Code; 5881

(c) The group requests the change in a written request to the 5882
tax commissioner on or before the due date for filing the first 5883
return due under section 5751.051 of the Revised Code after the 5884
date of the acquisition; 5885

(d) The group has not previously changed its election. 5886

At the election of the group, all entities that are not 5887
incorporated or formed under the laws of a state or of the United 5888
States and that meet the consolidated elected ownership test shall 5889
either be included in the group or all shall be excluded from the 5890
group. If, at the time of registration, the group does not include 5891
any such entities that meet the consolidated elected ownership 5892
test, the group shall elect to either include or exclude the newly 5893
acquired entities before the due date of the first return due 5894
after the date of the acquisition. 5895

Each group shall notify the tax commissioner of the foregoing 5896
elections before the due date of the return for the period in 5897
which the election becomes binding. If fifty per cent of the value 5898

of a person's ownership interests is owned or controlled by each 5899
of two consolidated elected taxpayer groups formed under the fifty 5900
per cent ownership or control test, that person is a member of 5901
each group for the purposes of this section, and each group shall 5902
include in the group's taxable gross receipts fifty per cent of 5903
that person's taxable gross receipts. Otherwise, all of that 5904
person's taxable gross receipts shall be included in the taxable 5905
gross receipts of the consolidated elected taxpayer group of which 5906
the person is a member. In no event shall the ownership or control 5907
of fifty per cent of the value of a person's ownership interests 5908
by two otherwise unrelated groups form the basis for consolidating 5909
the groups into a single consolidated elected taxpayer group or 5910
permit any exclusion under division (C) of this section of taxable 5911
gross receipts between members of the two groups. Division (A)(3) 5912
of this section applies with respect to the elections described in 5913
this division. 5914

(2) The group makes the election to be treated as a 5915
consolidated elected taxpayer in the manner prescribed under 5916
division (D) of this section. 5917

(3) Subject to review and audit by the tax commissioner, the 5918
group agrees that all of the following apply: 5919

(a) The group shall file reports as a single taxpayer for at 5920
least the next eight calendar quarters following the election so 5921
long as at least two or more of the members of the group meet the 5922
requirements of division (A)(1) of this section. 5923

(b) Before the expiration of the eighth such calendar 5924
quarter, the group shall notify the commissioner if it elects to 5925
cancel its designation as a consolidated elected taxpayer. If the 5926
group does not so notify the tax commissioner, the election 5927
remains in effect for another eight calendar quarters. 5928

(c) If, at any time during any of those eight calendar 5929

quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.

(C)(1)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) Subject to divisions (C)(1)(c) and (C)(2) of this section, nothing in this section shall have the effect of requiring a consolidated elected taxpayer group to include gross receipts received by a person enumerated in divisions (E)(2) to ~~(10)~~(5) of section 5751.01 of the Revised Code if that person is a member of the group pursuant to the elections made by the group under division (A)(1) of this section.

(c)(i) As used in division (C)(1)(c) of this section, "dealer transfer" means a transfer of property that satisfies both of the following: (I) the property is directly transferred by any means from one member of the group to another member of the group that is a dealer in intangibles but is not a qualifying dealer as defined in section 5707.031 of the Revised Code; and (II) the property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.

(ii) In the event of a dealer transfer, a consolidated
elected taxpayer group shall not exclude, under division (C) of
this section, gross receipts from the transfer described in
division (C)(1)(c)(i)(I) of this section.

(2) Gross receipts related to the sale or transmission of
electricity through the use of an intermediary regional
transmission organization approved by the federal energy
regulatory commission shall be excluded from taxable gross
receipts under division (C)(1) of this section if all other
requirements of that division are met, even if the receipts are
from and to the same member of the group.

(D) To make the election to be a consolidated elected
taxpayer, a group of persons shall notify the tax commissioner of
the election in the manner prescribed by the commissioner and pay
the commissioner a registration fee equal to the lesser of two
hundred dollars or twenty dollars for each person in the group. No
additional fee shall be imposed for the addition of new members to
the group once the group has remitted a fee in the amount of two
hundred dollars. The election shall be made and the fee paid
before the beginning of the first calendar quarter to which the
election applies. The fee shall be collected and used in the same
manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax
commissioner for that purpose and shall be signed by one or more
individuals with authority, separately or together, to make a
binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the
registration shall be included in the group if the person meets
the requirements of division (A)(1) of this section, and the group
shall notify the tax commissioner of any additions to the group
with the next tax return it files with the commissioner.

Sec. 5751.012. (A) All persons, other than persons enumerated 5992
in divisions (E)(2) to ~~(10)~~(5) of section 5751.01 of the Revised 5993
Code, having more than fifty per cent of the value of their 5994
ownership interest owned or controlled, directly or constructively 5995
through related interests, by common owners during all or any 5996
portion of the tax period, together with the common owners, shall 5997
be members of a combined taxpayer if those persons are not members 5998
of a consolidated elected taxpayer pursuant to an election under 5999
section 5751.011 of the Revised Code. 6000

(B) A combined taxpayer shall register, file returns, and pay 6001
taxes under this chapter as a single taxpayer. 6002

(C) A combined taxpayer shall neither exclude taxable gross 6003
receipts between its members nor from others that are not members. 6004

(D) A combined taxpayer shall pay to the tax commissioner a 6005
registration fee equal to the lesser of two hundred dollars or 6006
twenty dollars for each person in the group. No additional fee 6007
shall be imposed for the addition of new members to the group once 6008
the group has remitted a fee in the amount of two hundred dollars. 6009
The fee shall be timely paid before the later of the beginning of 6010
the first calendar quarter or November 15, 2005. The fee shall be 6011
collected and used in the same manner as provided in section 6012
5751.04 of the Revised Code. 6013

Any person acquired or formed after the filing of the 6014
registration shall be included in the group if the person meets 6015
the requirements of division (A) of this section, and the group 6016
must notify the tax commissioner of any additions with the next 6017
quarterly tax return it files with the commissioner. 6018

Sec. 5751.54. (A) Any term used in this section has the same 6019
meaning as in section 122.85 of the Revised Code. 6020

(B) There is allowed a refundable credit against the tax 6021

imposed by section 5751.02 of the Revised Code for any person that 6022
is the certificate owner of a tax credit certificate issued under 6023
section 122.85 of the Revised Code. The credit shall be claimed 6024
for the tax period in which the certificate is issued by the 6025
director of development services. The credit amount equals the 6026
amount stated in the certificate. The credit shall be claimed in 6027
the order required under section 5751.98 of the Revised Code. If 6028
the credit amount exceeds the tax otherwise due under section 6029
5751.02 of the Revised Code after deducting all other credits in 6030
that order, the excess shall be refunded. 6031

(C) Nothing in this section allows a person to claim more 6032
than one credit per tax credit-eligible production. 6033

Sec. 5751.98. (A) To provide a uniform procedure for 6034
calculating the amount of tax due under this chapter, a taxpayer 6035
shall claim any credits to which it is entitled in the following 6036
order: 6037

(1) The nonrefundable jobs retention credit under division 6038
(B) of section 5751.50 of the Revised Code; 6039

(2) The nonrefundable credit for qualified research expenses 6040
under division (B) of section 5751.51 of the Revised Code; 6041

(3) The nonrefundable credit for a borrower's qualified 6042
research and development loan payments under division (B) of 6043
section 5751.52 of the Revised Code; 6044

(4) The nonrefundable credit for calendar years 2010 to 2029 6045
for unused net operating losses under division (B) of section 6046
5751.53 of the Revised Code; 6047

(5) The refundable motion picture production credit for 6048
calendar year 2030 for unused net operating losses under division 6049
(C) of section 5751.53 5751.54 of the Revised Code; 6050

(6) The refundable jobs creation credit or job retention 6051

credit under division (A) of section 5751.50 of the Revised Code; 6052

(7) The refundable credit for calendar year 2030 for unused 6053
net operating losses under division (C) of section 5751.53 of the 6054
Revised Code. 6055

(B) For any credit except the refundable credits enumerated 6056
in this section, the amount of the credit for a tax period shall 6057
not exceed the tax due after allowing for any other credit that 6058
precedes it in the order required under this section. Any excess 6059
amount of a particular credit may be carried forward if authorized 6060
under the section creating the credit. 6061

Section 2. That existing sections 122.17, 122.171, 122.85, 6062
145.114, 145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 6063
742.114, 742.116, 3307.152, 3307.154, 3309.157, 3309.159, 6064
5505.068, 5505.0610, 5703.052, 5703.053, 5703.70, 5707.03, 6065
5709.76, 5711.22, 5725.02, 5725.14, 5725.16, 5725.26, 5725.33, 6066
5733.01, 5733.02, 5733.021, 5733.06, 5747.01, 5747.98, 5751.01, 6067
5751.011, 5751.012, and 5751.98 of the Revised Code are hereby 6068
repealed. 6069

Section 3. The amendment by this act of division (E) of 6070
section 5751.01 and sections 5751.011 and 5751.012 of the Revised 6071
Code applies to tax periods beginning on or after January 1, 2014. 6072

Section 4. (A) The Tax Commissioner shall not assess or hold 6073
liable for the failure to report or pay the tax imposed by section 6074
5751.02 of the Revised Code for any tax periods ending before 6075
January 1, 2014, a corporation or any other person directly or 6076
indirectly owned by one or more insurance companies that are 6077
subject to the tax imposed by section 5725.18 or Chapter 5729. of 6078
the Revised Code, provided the corporation, but not the other 6079
person or persons, so owned by the insurance company or companies 6080
reported and paid the tax imposed by section 5733.06 of the 6081

Revised Code and not the tax imposed by section 5751.02 of the Revised Code for taxable periods before January 1, 2014.

(B) For the purposes of this section, division (E)(8)(a),(b), or (c) of section 5751.01 of the Revised Code as that section existed before January 1, 2014, shall apply in determining whether a person is directly or indirectly owned.

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

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

Section 5751.01 of the Revised Code as amended by both Am. Sub. H.B. 153 and Sub. H.B. 277 of the 129th General Assembly.