

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 133

Representatives Schaffer, Ashford

A BILL

To amend sections 5739.02 and 5747.98 and to enact 1
sections 5739.40 and 5747.78 of the Revised Code 2
to authorize an income tax credit for 3
individuals that earn a nonprofit management 4
degree or certain professional designations and 5
to allow a sales tax exemption for out-of-state 6
nonprofit corporations that relocate jobs to 7
Ohio. 8

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

Section 1. That sections 5739.02 and 5747.98 be amended 9
and sections 5739.40 and 5747.78 of the Revised Code be enacted 10
to read as follows: 11

Sec. 5739.02. For the purpose of providing revenue with 12
which to meet the needs of the state, for the use of the general 13
revenue fund of the state, for the purpose of securing a 14
thorough and efficient system of common schools throughout the 15
state, for the purpose of affording revenues, in addition to 16
those from general property taxes, permitted under 17
constitutional limitations, and from other sources, for the 18
support of local governmental functions, and for the purpose of 19

reimbursing the state for the expense of administering this 20
chapter, an excise tax is hereby levied on each retail sale made 21
in this state. 22

(A) (1) The tax shall be collected as provided in section 23
5739.025 of the Revised Code. The rate of the tax shall be five 24
and three-fourths per cent. The tax applies and is collectible 25
when the sale is made, regardless of the time when the price is 26
paid or delivered. 27

(2) In the case of the lease or rental, with a fixed term 28
of more than thirty days or an indefinite term with a minimum 29
period of more than thirty days, of any motor vehicles designed 30
by the manufacturer to carry a load of not more than one ton, 31
watercraft, outboard motor, or aircraft, or of any tangible 32
personal property, other than motor vehicles designed by the 33
manufacturer to carry a load of more than one ton, to be used by 34
the lessee or renter primarily for business purposes, the tax 35
shall be collected by the vendor at the time the lease or rental 36
is consummated and shall be calculated by the vendor on the 37
basis of the total amount to be paid by the lessee or renter 38
under the lease agreement. If the total amount of the 39
consideration for the lease or rental includes amounts that are 40
not calculated at the time the lease or rental is executed, the 41
tax shall be calculated and collected by the vendor at the time 42
such amounts are billed to the lessee or renter. In the case of 43
an open-end lease or rental, the tax shall be calculated by the 44
vendor on the basis of the total amount to be paid during the 45
initial fixed term of the lease or rental, and for each 46
subsequent renewal period as it comes due. As used in this 47
division, "motor vehicle" has the same meaning as in section 48
4501.01 of the Revised Code, and "watercraft" includes an 49
outdrive unit attached to the watercraft. 50

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

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

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

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

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

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and sales or transfers of	80
magazines distributed as controlled circulation publications;	81
(5) The furnishing, preparing, or serving of meals without	82
charge by an employer to an employee provided the employer	83
records the meals as part compensation for services performed or	84
work done;	85
(6) Sales of motor fuel upon receipt, use, distribution,	86
or sale of which in this state a tax is imposed by the law of	87
this state, but this exemption shall not apply to the sale of	88
motor fuel on which a refund of the tax is allowable under	89
division (A) of section 5735.14 of the Revised Code; and the tax	90
commissioner may deduct the amount of tax levied by this section	91
applicable to the price of motor fuel when granting a refund of	92
motor fuel tax pursuant to division (A) of section 5735.14 of	93
the Revised Code and shall cause the amount deducted to be paid	94
into the general revenue fund of this state;	95
(7) Sales of natural gas by a natural gas company, of	96
water by a water-works company, or of steam by a heating	97
company, if in each case the thing sold is delivered to	98
consumers through pipes or conduits, and all sales of	99
communications services by a telegraph company, all terms as	100
defined in section 5727.01 of the Revised Code, and sales of	101
electricity delivered through wires;	102
(8) Casual sales by a person, or auctioneer employed	103
directly by the person to conduct such sales, except as to such	104
sales of motor vehicles, watercraft or outboard motors required	105
to be titled under section 1548.06 of the Revised Code,	106
watercraft documented with the United States coast guard,	107
snowmobiles, and all-purpose vehicles as defined in section	108
4519.01 of the Revised Code;	109

(9) (a) Sales of services or tangible personal property, 110
other than motor vehicles, mobile homes, and manufactured homes, 111
by churches, organizations exempt from taxation under section 112
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 113
organizations operated exclusively for charitable purposes as 114
defined in division (B) (12) of this section, provided that the 115
number of days on which such tangible personal property or 116
services, other than items never subject to the tax, are sold 117
does not exceed six in any calendar year, except as otherwise 118
provided in division (B) (9) (b) of this section. If the number of 119
days on which such sales are made exceeds six in any calendar 120
year, the church or organization shall be considered to be 121
engaged in business and all subsequent sales by it shall be 122
subject to the tax. In counting the number of days, all sales by 123
groups within a church or within an organization shall be 124
considered to be sales of that church or organization. 125

(b) The limitation on the number of days on which tax- 126
exempt sales may be made by a church or organization under 127
division (B) (9) (a) of this section does not apply to sales made 128
by student clubs and other groups of students of a primary or 129
secondary school, or a parent-teacher association, booster 130
group, or similar organization that raises money to support or 131
fund curricular or extracurricular activities of a primary or 132
secondary school. 133

(c) Divisions (B) (9) (a) and (b) of this section do not 134
apply to sales by a noncommercial educational radio or 135
television broadcasting station. 136

(10) Sales not within the taxing power of this state under 137
the Constitution or laws of the United States or the 138
Constitution of this state; 139

(11) Except for transactions that are sales under division 140
(B) (3) (r) of section 5739.01 of the Revised Code, the 141
transportation of persons or property, unless the transportation 142
is by a private investigation and security service; 143

(12) Sales of tangible personal property or services to 144
churches, to organizations exempt from taxation under section 145
501(c) (3) of the Internal Revenue Code of 1986, and to any other 146
nonprofit organizations operated exclusively for charitable 147
purposes in this state, no part of the net income of which 148
inures to the benefit of any private shareholder or individual, 149
and no substantial part of the activities of which consists of 150
carrying on propaganda or otherwise attempting to influence 151
legislation; sales to offices administering one or more homes 152
for the aged or one or more hospital facilities exempt under 153
section 140.08 of the Revised Code; and sales to organizations 154
described in division (D) of section 5709.12 of the Revised 155
Code. 156

"Charitable purposes" means the relief of poverty; the 157
improvement of health through the alleviation of illness, 158
disease, or injury; the operation of an organization exclusively 159
for the provision of professional, laundry, printing, and 160
purchasing services to hospitals or charitable institutions; the 161
operation of a home for the aged, as defined in section 5701.13 162
of the Revised Code; the operation of a radio or television 163
broadcasting station that is licensed by the federal 164
communications commission as a noncommercial educational radio 165
or television station; the operation of a nonprofit animal 166
adoption service or a county humane society; the promotion of 167
education by an institution of learning that maintains a faculty 168
of qualified instructors, teaches regular continuous courses of 169
study, and confers a recognized diploma upon completion of a 170

specific curriculum; the operation of a parent-teacher 171
association, booster group, or similar organization primarily 172
engaged in the promotion and support of the curricular or 173
extracurricular activities of a primary or secondary school; the 174
operation of a community or area center in which presentations 175
in music, dramatics, the arts, and related fields are made in 176
order to foster public interest and education therein; the 177
production of performances in music, dramatics, and the arts; or 178
the promotion of education by an organization engaged in 179
carrying on research in, or the dissemination of, scientific and 180
technological knowledge and information primarily for the 181
public. 182

Nothing in this division shall be deemed to exempt sales 183
to any organization for use in the operation or carrying on of a 184
trade or business, or sales to a home for the aged for use in 185
the operation of independent living facilities as defined in 186
division (A) of section 5709.12 of the Revised Code. 187

(13) Building and construction materials and services sold 188
to construction contractors for incorporation into a structure 189
or improvement to real property under a construction contract 190
with this state or a political subdivision of this state, or 191
with the United States government or any of its agencies; 192
building and construction materials and services sold to 193
construction contractors for incorporation into a structure or 194
improvement to real property that are accepted for ownership by 195
this state or any of its political subdivisions, or by the 196
United States government or any of its agencies at the time of 197
completion of the structures or improvements; building and 198
construction materials sold to construction contractors for 199
incorporation into a horticulture structure or livestock 200
structure for a person engaged in the business of horticulture 201

or producing livestock; building materials and services sold to 202
a construction contractor for incorporation into a house of 203
public worship or religious education, or a building used 204
exclusively for charitable purposes under a construction 205
contract with an organization whose purpose is as described in 206
division (B) (12) of this section; building materials and 207
services sold to a construction contractor for incorporation 208
into a building under a construction contract with an 209
organization exempt from taxation under section 501(c) (3) of the 210
Internal Revenue Code of 1986 when the building is to be used 211
exclusively for the organization's exempt purposes; building and 212
construction materials sold for incorporation into the original 213
construction of a sports facility under section 307.696 of the 214
Revised Code; building and construction materials and services 215
sold to a construction contractor for incorporation into real 216
property outside this state if such materials and services, when 217
sold to a construction contractor in the state in which the real 218
property is located for incorporation into real property in that 219
state, would be exempt from a tax on sales levied by that state; 220
building and construction materials for incorporation into a 221
transportation facility pursuant to a public-private agreement 222
entered into under sections 5501.70 to 5501.83 of the Revised 223
Code; and, until one calendar year after the construction of a 224
convention center that qualifies for property tax exemption 225
under section 5709.084 of the Revised Code is completed, 226
building and construction materials and services sold to a 227
construction contractor for incorporation into the real property 228
comprising that convention center; 229

(14) Sales of ships or vessels or rail rolling stock used 230
or to be used principally in interstate or foreign commerce, and 231
repairs, alterations, fuel, and lubricants for such ships or 232

vessels or rail rolling stock;	233
(15) Sales to persons primarily engaged in any of the	234
activities mentioned in division (B) (42) (a), (g), or (h) of this	235
section, to persons engaged in making retail sales, or to	236
persons who purchase for sale from a manufacturer tangible	237
personal property that was produced by the manufacturer in	238
accordance with specific designs provided by the purchaser, of	239
packages, including material, labels, and parts for packages,	240
and of machinery, equipment, and material for use primarily in	241
packaging tangible personal property produced for sale,	242
including any machinery, equipment, and supplies used to make	243
labels or packages, to prepare packages or products for	244
labeling, or to label packages or products, by or on the order	245
of the person doing the packaging, or sold at retail. "Packages"	246
includes bags, baskets, cartons, crates, boxes, cans, bottles,	247
bindings, wrappings, and other similar devices and containers,	248
but does not include motor vehicles or bulk tanks, trailers, or	249
similar devices attached to motor vehicles. "Packaging" means	250
placing in a package. Division (B) (15) of this section does not	251
apply to persons engaged in highway transportation for hire.	252
(16) Sales of food to persons using supplemental nutrition	253
assistance program benefits to purchase the food. As used in	254
this division, "food" has the same meaning as in 7 U.S.C. 2012	255
and federal regulations adopted pursuant to the Food and	256
Nutrition Act of 2008.	257
(17) Sales to persons engaged in farming, agriculture,	258
horticulture, or floriculture, of tangible personal property for	259
use or consumption primarily in the production by farming,	260
agriculture, horticulture, or floriculture of other tangible	261
personal property for use or consumption primarily in the	262

production of tangible personal property for sale by farming, 263
agriculture, horticulture, or floriculture; or material and 264
parts for incorporation into any such tangible personal property 265
for use or consumption in production; and of tangible personal 266
property for such use or consumption in the conditioning or 267
holding of products produced by and for such use, consumption, 268
or sale by persons engaged in farming, agriculture, 269
horticulture, or floriculture, except where such property is 270
incorporated into real property; 271

(18) Sales of drugs for a human being that may be 272
dispensed only pursuant to a prescription; insulin as recognized 273
in the official United States pharmacopoeia; urine and blood 274
testing materials when used by diabetics or persons with 275
hypoglycemia to test for glucose or acetone; hypodermic syringes 276
and needles when used by diabetics for insulin injections; 277
epoetin alfa when purchased for use in the treatment of persons 278
with medical disease; hospital beds when purchased by hospitals, 279
nursing homes, or other medical facilities; and medical oxygen 280
and medical oxygen-dispensing equipment when purchased by 281
hospitals, nursing homes, or other medical facilities; 282

(19) Sales of prosthetic devices, durable medical 283
equipment for home use, or mobility enhancing equipment, when 284
made pursuant to a prescription and when such devices or 285
equipment are for use by a human being. 286

(20) Sales of emergency and fire protection vehicles and 287
equipment to nonprofit organizations for use solely in providing 288
fire protection and emergency services, including trauma care 289
and emergency medical services, for political subdivisions of 290
the state; 291

(21) Sales of tangible personal property manufactured in 292

this state, if sold by the manufacturer in this state to a 293
retailer for use in the retail business of the retailer outside 294
of this state and if possession is taken from the manufacturer 295
by the purchaser within this state for the sole purpose of 296
immediately removing the same from this state in a vehicle owned 297
by the purchaser; 298

(22) Sales of services provided by the state or any of its 299
political subdivisions, agencies, instrumentalities, 300
institutions, or authorities, or by governmental entities of the 301
state or any of its political subdivisions, agencies, 302
instrumentalities, institutions, or authorities; 303

(23) Sales of motor vehicles to nonresidents of this state 304
under the circumstances described in division (B) of section 305
5739.029 of the Revised Code; 306

(24) Sales to persons engaged in the preparation of eggs 307
for sale of tangible personal property used or consumed directly 308
in such preparation, including such tangible personal property 309
used for cleaning, sanitizing, preserving, grading, sorting, and 310
classifying by size; packages, including material and parts for 311
packages, and machinery, equipment, and material for use in 312
packaging eggs for sale; and handling and transportation 313
equipment and parts therefor, except motor vehicles licensed to 314
operate on public highways, used in intraplant or interplant 315
transfers or shipment of eggs in the process of preparation for 316
sale, when the plant or plants within or between which such 317
transfers or shipments occur are operated by the same person. 318
"Packages" includes containers, cases, baskets, flats, fillers, 319
filler flats, cartons, closure materials, labels, and labeling 320
materials, and "packaging" means placing therein. 321

(25) (a) Sales of water to a consumer for residential use; 322

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	323 324 325 326
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	327 328
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	329 330 331 332
(a) To prepare food for human consumption for sale;	333
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	334 335 336 337
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	338 339
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	340 341
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	342 343 344 345
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	346 347 348
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the	349 350

Revised Code;	351
(32) The sale, lease, repair, and maintenance of, parts	352
for, or items attached to or incorporated in, motor vehicles	353
that are primarily used for transporting tangible personal	354
property belonging to others by a person engaged in highway	355
transportation for hire, except for packages and packaging used	356
for the transportation of tangible personal property;	357
(33) Sales to the state headquarters of any veterans'	358
organization in this state that is either incorporated and	359
issued a charter by the congress of the United States or is	360
recognized by the United States veterans administration, for use	361
by the headquarters;	362
(34) Sales to a telecommunications service vendor, mobile	363
telecommunications service vendor, or satellite broadcasting	364
service vendor of tangible personal property and services used	365
directly and primarily in transmitting, receiving, switching, or	366
recording any interactive, one- or two-way electromagnetic	367
communications, including voice, image, data, and information,	368
through the use of any medium, including, but not limited to,	369
poles, wires, cables, switching equipment, computers, and record	370
storage devices and media, and component parts for the tangible	371
personal property. The exemption provided in this division shall	372
be in lieu of all other exemptions under division (B) (42) (a) or	373
(n) of this section to which the vendor may otherwise be	374
entitled, based upon the use of the thing purchased in providing	375
the telecommunications, mobile telecommunications, or satellite	376
broadcasting service.	377
(35) (a) Sales where the purpose of the consumer is to use	378
or consume the things transferred in making retail sales and	379
consisting of newspaper inserts, catalogues, coupons, flyers,	380

gift certificates, or other advertising material that prices and 381
describes tangible personal property offered for retail sale. 382

(b) Sales to direct marketing vendors of preliminary 383
materials such as photographs, artwork, and typesetting that 384
will be used in printing advertising material; and of printed 385
matter that offers free merchandise or chances to win sweepstake 386
prizes and that is mailed to potential customers with 387
advertising material described in division (B) (35) (a) of this 388
section; 389

(c) Sales of equipment such as telephones, computers, 390
facsimile machines, and similar tangible personal property 391
primarily used to accept orders for direct marketing retail 392
sales. 393

(d) Sales of automatic food vending machines that preserve 394
food with a shelf life of forty-five days or less by 395
refrigeration and dispense it to the consumer. 396

For purposes of division (B) (35) of this section, "direct 397
marketing" means the method of selling where consumers order 398
tangible personal property by United States mail, delivery 399
service, or telecommunication and the vendor delivers or ships 400
the tangible personal property sold to the consumer from a 401
warehouse, catalogue distribution center, or similar fulfillment 402
facility by means of the United States mail, delivery service, 403
or common carrier. 404

(36) Sales to a person engaged in the business of 405
horticulture or producing livestock of materials to be 406
incorporated into a horticulture structure or livestock 407
structure; 408

(37) Sales of personal computers, computer monitors, 409

computer keyboards, modems, and other peripheral computer 410
equipment to an individual who is licensed or certified to teach 411
in an elementary or a secondary school in this state for use by 412
that individual in preparation for teaching elementary or 413
secondary school students; 414

(38) Sales to a professional racing team of any of the 415
following: 416

(a) Motor racing vehicles; 417

(b) Repair services for motor racing vehicles; 418

(c) Items of property that are attached to or incorporated 419
in motor racing vehicles, including engines, chassis, and all 420
other components of the vehicles, and all spare, replacement, 421
and rebuilt parts or components of the vehicles; except not 422
including tires, consumable fluids, paint, and accessories 423
consisting of instrumentation sensors and related items added to 424
the vehicle to collect and transmit data by means of telemetry 425
and other forms of communication. 426

(39) Sales of used manufactured homes and used mobile 427
homes, as defined in section 5739.0210 of the Revised Code, made 428
on or after January 1, 2000; 429

(40) Sales of tangible personal property and services to a 430
provider of electricity used or consumed directly and primarily 431
in generating, transmitting, or distributing electricity for use 432
by others, including property that is or is to be incorporated 433
into and will become a part of the consumer's production, 434
transmission, or distribution system and that retains its 435
classification as tangible personal property after 436
incorporation; fuel or power used in the production, 437
transmission, or distribution of electricity; energy conversion 438

equipment as defined in section 5727.01 of the Revised Code; and 439
tangible personal property and services used in the repair and 440
maintenance of the production, transmission, or distribution 441
system, including only those motor vehicles as are specially 442
designed and equipped for such use. The exemption provided in 443
this division shall be in lieu of all other exemptions in 444
division (B) (42) (a) or (n) of this section to which a provider 445
of electricity may otherwise be entitled based on the use of the 446
tangible personal property or service purchased in generating, 447
transmitting, or distributing electricity. 448

(41) Sales to a person providing services under division 449
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 450
personal property and services used directly and primarily in 451
providing taxable services under that section. 452

(42) Sales where the purpose of the purchaser is to do any 453
of the following: 454

(a) To incorporate the thing transferred as a material or 455
a part into tangible personal property to be produced for sale 456
by manufacturing, assembling, processing, or refining; or to use 457
or consume the thing transferred directly in producing tangible 458
personal property for sale by mining, including, without 459
limitation, the extraction from the earth of all substances that 460
are classed geologically as minerals, production of crude oil 461
and natural gas, or directly in the rendition of a public 462
utility service, except that the sales tax levied by this 463
section shall be collected upon all meals, drinks, and food for 464
human consumption sold when transporting persons. Persons 465
engaged in rendering services in the exploration for, and 466
production of, crude oil and natural gas for others are deemed 467
engaged directly in the exploration for, and production of, 468

crude oil and natural gas. This paragraph does not exempt from 469
"retail sale" or "sales at retail" the sale of tangible personal 470
property that is to be incorporated into a structure or 471
improvement to real property. 472

(b) To hold the thing transferred as security for the 473
performance of an obligation of the vendor; 474

(c) To resell, hold, use, or consume the thing transferred 475
as evidence of a contract of insurance; 476

(d) To use or consume the thing directly in commercial 477
fishing; 478

(e) To incorporate the thing transferred as a material or 479
a part into, or to use or consume the thing transferred directly 480
in the production of, magazines distributed as controlled 481
circulation publications; 482

(f) To use or consume the thing transferred in the 483
production and preparation in suitable condition for market and 484
sale of printed, imprinted, overprinted, lithographic, 485
multilithic, blueprinted, photostatic, or other productions or 486
reproductions of written or graphic matter; 487

(g) To use the thing transferred, as described in section 488
5739.011 of the Revised Code, primarily in a manufacturing 489
operation to produce tangible personal property for sale; 490

(h) To use the benefit of a warranty, maintenance or 491
service contract, or similar agreement, as described in division 492
(B) (7) of section 5739.01 of the Revised Code, to repair or 493
maintain tangible personal property, if all of the property that 494
is the subject of the warranty, contract, or agreement would not 495
be subject to the tax imposed by this section; 496

(i) To use the thing transferred as qualified research and development equipment;	497 498
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section.	499 500 501 502 503 504 505 506 507 508 509 510 511
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;	512 513 514 515 516 517 518
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	519 520
(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	521 522 523 524 525

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

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

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

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

(45) Sales of telecommunications service that is used

directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

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

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

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

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

(ii) "Qualified direct selling entity" means an entity

selling to direct sellers at the time the entity enters into a 584
tax credit agreement with the tax credit authority pursuant to 585
section 122.17 of the Revised Code, provided that the agreement 586
was entered into on or after January 1, 2007. Neither 587
contingencies relevant to the granting of, nor later 588
developments with respect to, the tax credit shall impair the 589
status of the qualified direct selling entity under division (B) 590
(48) of this section after execution of the tax credit agreement 591
by the tax credit authority. 592

(c) Division (B) (48) of this section is limited to 593
machinery, equipment, and software first stored, used, or 594
consumed in this state within the period commencing June 24, 595
2008, and ending on the date that is five years after that date. 596

(49) Sales of materials, parts, equipment, or engines used 597
in the repair or maintenance of aircraft or avionics systems of 598
such aircraft, and sales of repair, remodeling, replacement, or 599
maintenance services in this state performed on aircraft or on 600
an aircraft's avionics, engine, or component materials or parts. 601
As used in division (B) (49) of this section, "aircraft" means 602
aircraft of more than six thousand pounds maximum certified 603
takeoff weight or used exclusively in general aviation. 604

(50) Sales of full flight simulators that are used for 605
pilot or flight-crew training, sales of repair or replacement 606
parts or components, and sales of repair or maintenance services 607
for such full flight simulators. "Full flight simulator" means a 608
replica of a specific type, or make, model, and series of 609
aircraft cockpit. It includes the assemblage of equipment and 610
computer programs necessary to represent aircraft operations in 611
ground and flight conditions, a visual system providing an out- 612
of-the-cockpit view, and a system that provides cues at least 613

equivalent to those of a three-degree-of-freedom motion system, 614
and has the full range of capabilities of the systems installed 615
in the device as described in appendices A and B of part 60 of 616
chapter 1 of title 14 of the Code of Federal Regulations. 617

(51) Any transfer or lease of tangible personal property 618
between the state and JobsOhio in accordance with section 619
4313.02 of the Revised Code. 620

(52) (a) Sales to a qualifying corporation. 621

(b) As used in division (B) (52) of this section: 622

(i) "Qualifying corporation" means a nonprofit corporation 623
organized in this state that leases from an eligible county 624
land, buildings, structures, fixtures, and improvements to the 625
land that are part of or used in a public recreational facility 626
used by a major league professional athletic team or a class A 627
to class AAA minor league affiliate of a major league 628
professional athletic team for a significant portion of the 629
team's home schedule, provided the following apply: 630

(I) The facility is leased from the eligible county 631
pursuant to a lease that requires substantially all of the 632
revenue from the operation of the business or activity conducted 633
by the nonprofit corporation at the facility in excess of 634
operating costs, capital expenditures, and reserves to be paid 635
to the eligible county at least once per calendar year. 636

(II) Upon dissolution and liquidation of the nonprofit 637
corporation, all of its net assets are distributable to the 638
board of commissioners of the eligible county from which the 639
corporation leases the facility. 640

(ii) "Eligible county" has the same meaning as in section 641
307.695 of the Revised Code. 642

(53) Sales to or by a cable service provider, video 643
service provider, or radio or television broadcast station 644
regulated by the federal government of cable service or 645
programming, video service or programming, audio service or 646
programming, or electronically transferred digital audiovisual 647
or audio work. As used in division (B) (53) of this section, 648
"cable service" and "cable service provider" have the same 649
meanings as in section 1332.01 of the Revised Code, and "video 650
service," "video service provider," and "video programming" have 651
the same meanings as in section 1332.21 of the Revised Code. 652

(54) Sales of tangible personal property or services to a 653
nonprofit corporation that holds a job relocation exemption 654
certificate issued under section 5739.40 of the Revised Code. 655

(C) For the purpose of the proper administration of this 656
chapter, and to prevent the evasion of the tax, it is presumed 657
that all sales made in this state are subject to the tax until 658
the contrary is established. 659

(D) The levy of this tax on retail sales of recreation and 660
sports club service shall not prevent a municipal corporation 661
from levying any tax on recreation and sports club dues or on 662
any income generated by recreation and sports club dues. 663

(E) The tax collected by the vendor from the consumer 664
under this chapter is not part of the price, but is a tax 665
collection for the benefit of the state, and of counties levying 666
an additional sales tax pursuant to section 5739.021 or 5739.026 667
of the Revised Code and of transit authorities levying an 668
additional sales tax pursuant to section 5739.023 of the Revised 669
Code. Except for the discount authorized under section 5739.12 670
of the Revised Code and the effects of any rounding pursuant to 671
section 5703.055 of the Revised Code, no person other than the 672

state or such a county or transit authority shall derive any 673
benefit from the collection or payment of the tax levied by this 674
section or section 5739.021, 5739.023, or 5739.026 of the 675
Revised Code. 676

Sec. 5739.40. (A) As used in this section: 677

(1) "Nonprofit corporation" has the same meaning as in 678
section 1702.01 of the Revised Code. 679

(2) "Qualifying nonprofit corporation" means a nonprofit 680
corporation that relocates at least fifty full-time employment 681
positions from one or more other states to this state within one 682
year after the nonprofit corporation first establishes a 683
physical presence in this state. 684

(B) A qualifying nonprofit corporation may apply to the 685
tax commissioner for a job relocation exemption certificate. The 686
application shall be in the form prescribed by the commissioner. 687
Within thirty days of the receipt of an application, the tax 688
commissioner shall issue a job relocation exemption certificate 689
to the nonprofit corporation if the nonprofit corporation meets 690
the criteria described in division (A) (2) of this section. 691
Except as provided in division (C) of this section, the 692
certificate shall be valid for three years from the date the tax 693
commissioner issues the certificate. The certificate shall 694
otherwise comply with the requirements for exemption 695
certificates prescribed under section 5739.03 of the Revised 696
Code. 697

(C) If a qualifying nonprofit corporation that receives a 698
job relocation exemption certificate fails to maintain at least 699
fifty full-time employment positions in this state during the 700
three-year period for which the certificate is issued, the tax 701

commissioner shall immediately revoke the certificate. The 702
commissioner may require a qualifying nonprofit corporation that 703
receives a job relocation exemption certificate to periodically 704
report to the commissioner the number of full-time employees 705
that the qualifying nonprofit corporation employs in the state, 706
along with any other information the commissioner considers 707
necessary to administer this section. 708

Sec. 5747.78. (A) There is hereby allowed a nonrefundable 709
credit against the tax imposed under section 5747.02 of the 710
Revised Code for a taxpayer who pays tuition and fees during a 711
taxable year to an eligible institution at which the taxpayer, 712
the taxpayer's spouse, or a dependent of the taxpayer is 713
enrolled in or attending a program that culminates in a degree 714
in nonprofit management. The amount of the credit equals the 715
lesser of one thousand five hundred dollars or the amount of 716
tuition and fees paid to the eligible institution during the 717
taxable year. 718

(B) There is hereby allowed a nonrefundable credit against 719
the tax imposed under section 5747.02 of the Revised Code for a 720
taxpayer who incurs expenses during the taxable year to complete 721
the institute of organization management program sponsored by 722
the United States chamber of commerce, to complete the lobbying 723
certificate program sponsored by the American league of 724
lobbyists, to receive an accreditation in public relations, or 725
to become certified as a certified fund raising executive, 726
certified sports event executive, certified destination 727
marketing executive, or certified meeting planner. The amount of 728
the credit equals the lesser of five hundred dollars or fifty 729
per cent of the expenses incurred, provided that, if the 730
taxpayer receives reimbursement for the taxpayer's expenses from 731
any source, the amount of the credit equals the lesser of five 732

hundred dollars or fifty per cent of the expenses incurred after 733
subtracting the amount reimbursed to the taxpayer. 734

(C) A taxpayer shall claim a credit allowed under division 735
(A) or (B) of this section in the order required under section 736
5747.98 of the Revised Code. The taxpayer may carry forward a 737
credit to the extent that the credit exceeds the amount of tax 738
due after allowing for any other credits that precede the credit 739
in the order prescribed by section 5747.98 of the Revised Code. 740

Sec. 5747.98. (A) To provide a uniform procedure for 741
calculating the amount of tax due under section 5747.02 of the 742
Revised Code, a taxpayer shall claim any credits to which the 743
taxpayer is entitled in the following order: 744

(1) The retirement income credit under division (B) of 745
section 5747.055 of the Revised Code; 746

(2) The senior citizen credit under division (C) of 747
section 5747.05 of the Revised Code; 748

(3) The lump sum distribution credit under division (D) of 749
section 5747.05 of the Revised Code; 750

(4) The dependent care credit under section 5747.054 of 751
the Revised Code; 752

(5) The lump sum retirement income credit under division 753
(C) of section 5747.055 of the Revised Code; 754

(6) The lump sum retirement income credit under division 755
(D) of section 5747.055 of the Revised Code; 756

(7) The lump sum retirement income credit under division 757
(E) of section 5747.055 of the Revised Code; 758

(8) The low-income credit under section 5747.056 of the 759

Revised Code;	760
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	761 762
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	763 764
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	765 766
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	767 768
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	769 770
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	771 772
(15) The earned income credit under section 5747.71 of the Revised Code;	773 774
(16) The credit for employers that reimburse employee child care expenses <u>tuition and fees paid to earn a degree in nonprofit management or for expenses incurred to complete a professional certification program or obtain a professional designation</u> under section 5747.36 <u>5747.78</u> of the Revised Code;	775 776 777 778 779
(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	780 781
(18) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	782 783
(19) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	784 785
(20) The second credit for purchases of new manufacturing	786

machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	787 788
(21) The job training credit under section 5747.39 of the Revised Code;	789 790
(22) The enterprise zone credit under section 5709.66 of the Revised Code;	791 792
(23) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	793 794
(24) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	795 796
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	797 798
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	799 800
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	801 802
(28) The small business investment credit under section 5747.81 of the Revised Code;	803 804
(29) The enterprise zone credits under section 5709.65 of the Revised Code;	805 806
(30) The research and development credit under section 5747.331 of the Revised Code;	807 808
(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	809 810
(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	811 812

(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code; 813
814
815

(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; 816
817

(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code; 818
819
820

(36) 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; 821
822
823
824

(37) The refundable motion picture production credit under section 5747.66 of the Revised Code; 825
826

(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code. 827
828
829

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) 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. 830
831
832
833
834
835
836
837
838
839

Section 2. That existing sections 5739.02 and 5747.98 of the Revised Code are hereby repealed. 840
841