

As Reported by the Senate Ways and Means Committee

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Representative Ryan

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

Senators Terhar, Eklund

A BILL

To amend sections 111.16, 718.01, 718.05, 1329.01, 1
4123.01, 4141.42, 5741.02, 5747.01, 5747.09, 2
5747.43, and 5751.01 and to enact sections 3
1701.041, 4799.04, and 5703.94 of the Revised 4
Code to create the Disaster Relief Act to exempt 5
out-of-state disaster businesses and qualifying 6
out-of-state employees from certain taxes and 7
laws with respect to disaster work on critical 8
infrastructure performed in this state during a 9
declared disaster and to modify the interest 10
penalty for late payments of estimated income 11
taxes. 12

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

Section 1. That sections 111.16, 718.01, 718.05, 1329.01, 13

4123.01, 4141.42, 5741.02, 5747.01, 5747.09, 5747.43, and 14
5751.01 be amended and sections 1701.041, 4799.04, and 5703.94 15
of the Revised Code be enacted to read as follows: 16

Sec. 111.16. ~~The~~ Except as provided in section 1701.041 of 17
the Revised Code, the secretary of state shall charge and 18
collect, for the benefit of the state, the following fees: 19

(A) For filing and recording articles of incorporation of 20
a domestic corporation, including designation of agent: 21

(1) Wherein the corporation shall not be authorized to 22
issue any shares of capital stock, ninety-nine dollars; 23

(2) Wherein the corporation shall be authorized to issue 24
shares of capital stock, with or without par value: 25

(a) Ten cents for each share authorized up to and 26
including one thousand shares; 27

(b) Five cents for each share authorized in excess of one 28
thousand shares up to and including ten thousand shares; 29

(c) Two cents for each share authorized in excess of ten 30
thousand shares up to and including fifty thousand shares; 31

(d) One cent for each share authorized in excess of fifty 32
thousand shares up to and including one hundred thousand shares; 33

(e) One-half cent for each share authorized in excess of 34
one hundred thousand shares up to and including five hundred 35
thousand shares; 36

(f) One-quarter cent for each share authorized in excess 37
of five hundred thousand shares; provided no fee shall be less 38
than ninety-nine dollars or greater than one hundred thousand 39
dollars. 40

(B) For filing and recording a certificate of amendment to 41
or amended articles of incorporation of a domestic corporation, 42
or for filing and recording a certificate of reorganization, a 43
certificate of dissolution, or an amendment to a foreign license 44
application: 45

(1) If the domestic corporation is not authorized to issue 46
any shares of capital stock, fifty dollars; 47

(2) If the domestic corporation is authorized to issue 48
shares of capital stock, fifty dollars, and in case of any 49
increase in the number of shares authorized to be issued, a 50
further sum computed in accordance with the schedule set forth 51
in division (A) (2) of this section less a credit computed in the 52
same manner for the number of shares previously authorized to be 53
issued by the corporation; provided no fee under division (B) (2) 54
of this section shall be greater than one hundred thousand 55
dollars; 56

(3) If the foreign corporation is not authorized to issue 57
any shares of capital stock, fifty dollars; 58

(4) If the foreign corporation is authorized to issue 59
shares of capital stock, fifty dollars. 60

(C) For filing and recording articles of incorporation of 61
a savings and loan association, ninety-nine dollars; and for 62
filing and recording a certificate of amendment to or amended 63
articles of incorporation of a savings and loan association, 64
fifty dollars; 65

(D) For filing and recording a certificate of conversion, 66
including a designation of agent, a certificate of merger, or a 67
certificate of consolidation, ninety-nine dollars and, in the 68
case of any new corporation resulting from a consolidation or 69

any surviving corporation that has an increased number of shares 70
authorized to be issued resulting from a merger, an additional 71
sum computed in accordance with the schedule set forth in 72
division (A) (2) of this section less a credit computed in the 73
same manner for the number of shares previously authorized to be 74
issued or represented in this state by each of the corporations 75
for which a consolidation or merger is effected by the 76
certificate; 77

(E) For filing and recording articles of incorporation of 78
a credit union or the American credit union guaranty 79
association, ninety-nine dollars, and for filing and recording a 80
certificate of increase in capital stock or any other amendment 81
of the articles of incorporation of a credit union or the 82
association, fifty dollars; 83

(F) For filing and recording articles of organization of a 84
limited liability company, for filing and recording an 85
application to become a registered foreign limited liability 86
company, for filing and recording a registration application to 87
become a domestic limited liability partnership, or for filing 88
and recording an application to become a registered foreign 89
limited liability partnership, ninety-nine dollars; 90

(G) For filing and recording a certificate of limited 91
partnership or an application for registration as a foreign 92
limited partnership, or for filing an initial statement of 93
partnership authority pursuant to section 1776.33 of the Revised 94
Code, ninety-nine dollars; 95

(H) For filing a copy of papers evidencing the 96
incorporation of a municipal corporation or of annexation of 97
territory by a municipal corporation, five dollars, to be paid 98
by the municipal corporation, the petitioners therefor, or their 99

agent;	100
(I) For filing and recording any of the following:	101
(1) A license to transact business in this state by a	102
foreign corporation for profit pursuant to section 1703.04 of	103
the Revised Code or a foreign nonprofit corporation pursuant to	104
section 1703.27 of the Revised Code, ninety-nine dollars;	105
(2) A biennial report or biennial statement pursuant to	106
section 1775.63, 1776.83, or 1785.06 of the Revised Code,	107
twenty-five dollars;	108
(3) Except as otherwise provided in this section or any	109
other section of the Revised Code, any other certificate or	110
paper that is required to be filed and recorded or is permitted	111
to be filed and recorded by any provision of the Revised Code	112
with the secretary of state, twenty-five dollars.	113
(J) For filing any certificate or paper not required to be	114
recorded, five dollars;	115
(K) (1) For making copies of any certificate or other paper	116
filed in the office of the secretary of state, a fee not to	117
exceed one dollar per page, except as otherwise provided in the	118
Revised Code, and for creating and affixing the seal of the	119
office of the secretary of state to any good standing or other	120
certificate, five dollars. For copies of certificates or papers	121
required by state officers for official purpose, no charge shall	122
be made.	123
(2) For creating and affixing the seal of the office of	124
the secretary of state to the certificates described in division	125
(E) of section 1701.81, division (E) of section 1701.811,	126
division (E) of section 1705.38, division (E) of section	127
1705.381, division (D) of section 1702.43, division (E) of	128

section 1775.47, division (E) of section 1775.55, division (E)	129
of section 1776.70, division (E) of section 1776.74, division	130
(E) of section 1782.433, or division (E) of section 1782.4310 of	131
the Revised Code, twenty-five dollars.	132
(L) For a minister's license to solemnize marriages, ten	133
dollars;	134
(M) For examining documents to be filed at a later date	135
for the purpose of advising as to the acceptability of the	136
proposed filing, fifty dollars;	137
(N) Fifty dollars for filing and recording any of the	138
following:	139
(1) A certificate of dissolution and accompanying	140
documents, or a certificate of cancellation, under section	141
1701.86, 1702.47, 1705.43, 1776.65, or 1782.10 of the Revised	142
Code;	143
(2) A notice of dissolution of a foreign licensed	144
corporation or a certificate of surrender of license by a	145
foreign licensed corporation under section 1703.17 of the	146
Revised Code;	147
(3) The withdrawal of registration of a foreign or	148
domestic limited liability partnership under section 1775.61,	149
1775.64, 1776.81, or 1776.86 of the Revised Code, or the	150
certificate of cancellation of registration of a foreign limited	151
liability company under section 1705.57 of the Revised Code;	152
(4) The filing of a statement of denial under section	153
1776.34 of the Revised Code, a statement of dissociation under	154
section 1776.57 of the Revised Code, a statement of disclaimer	155
of general partner status under Chapter 1782. of the Revised	156
Code, or a cancellation of disclaimer of general partner status	157

under Chapter 1782. of the Revised Code.	158
(O) For filing a statement of continued existence by a nonprofit corporation, twenty-five dollars;	159 160
(P) For filing a restatement under section 1705.08 or 1782.09 of the Revised Code, an amendment to a certificate of cancellation under section 1782.10 of the Revised Code, an amendment under section 1705.08 or 1782.09 of the Revised Code, or a correction under section 1705.55, 1775.61, 1775.64, 1776.12, or 1782.52 of the Revised Code, fifty dollars;	161 162 163 164 165 166
(Q) For filing for reinstatement of an entity cancelled by operation of law, by the secretary of state, by order of the department of taxation, or by order of a court, twenty-five dollars;	167 168 169 170
(R) For filing and recording any of the following:	171
(1) A change of agent, resignation of agent, or change of agent's address under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, twenty-five dollars;	172 173 174 175
(2) A multiple change of agent name or address, standardization of agent address, or resignation of agent under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one hundred twenty-five dollars, plus three dollars per entity record being changed, by the multiple agent update.	176 177 178 179 180 181
(S) For filing and recording any of the following:	182
(1) An application for the exclusive right to use a name or an application to reserve a name for future use under section 1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised	183 184 185

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

Fees specified in this section may be paid by cash, check, 214
or money order, by credit card in accordance with section 113.40 215
of the Revised Code, or by an alternative payment program in 216
accordance with division (B) of section 111.18 of the Revised 217
Code. Any credit card number or the expiration date of any 218
credit card is not subject to disclosure under Chapter 149. of 219
the Revised Code. 220

Sec. 718.01. Any term used in this chapter that is not 221
otherwise defined in this chapter has the same meaning as when 222
used in a comparable context in laws of the United States 223
relating to federal income taxation or in Title LVII of the 224
Revised Code, unless a different meaning is clearly required. If 225
a term used in this chapter that is not otherwise defined in 226
this chapter is used in a comparable context in both the laws of 227
the United States relating to federal income tax and in Title 228
LVII of the Revised Code and the use is not consistent, then the 229
use of the term in the laws of the United States relating to 230
federal income tax shall control over the use of the term in 231
Title LVII of the Revised Code. 232

As used in this chapter: 233

(A) (1) "Municipal taxable income" means the following: 234

(a) For a person other than an individual, income reduced 235
by exempt income to the extent otherwise included in income and 236
then, as applicable, apportioned or situated to the municipal 237
corporation under section 718.02 of the Revised Code, and 238
further reduced by any pre-2017 net operating loss carryforward 239
available to the person for the municipal corporation. 240

(b) (i) For an individual who is a resident of a municipal 241
corporation other than a qualified municipal corporation, income 242

reduced by exempt income to the extent otherwise included in 243
income, then reduced as provided in division (A) (2) of this 244
section, and further reduced by any pre-2017 net operating loss 245
carryforward available to the individual for the municipal 246
corporation. 247

(ii) For an individual who is a resident of a qualified 248
municipal corporation, Ohio adjusted gross income reduced by 249
income exempted, and increased by deductions excluded, by the 250
qualified municipal corporation from the qualified municipal 251
corporation's tax. If a qualified municipal corporation, on or 252
before December 31, 2013, exempts income earned by individuals 253
who are not residents of the qualified municipal corporation and 254
net profit of persons that are not wholly located within the 255
qualified municipal corporation, such individual or person shall 256
have no municipal taxable income for the purposes of the tax 257
levied by the qualified municipal corporation and may be 258
exempted by the qualified municipal corporation from the 259
requirements of section 718.03 of the Revised Code. 260

(c) For an individual who is a nonresident of a municipal 261
corporation, income reduced by exempt income to the extent 262
otherwise included in income and then, as applicable, 263
apportioned or situated to the municipal corporation under 264
section 718.02 of the Revised Code, then reduced as provided in 265
division (A) (2) of this section, and further reduced by any pre- 266
2017 net operating loss carryforward available to the individual 267
for the municipal corporation. 268

(2) In computing the municipal taxable income of a 269
taxpayer who is an individual, the taxpayer may subtract, as 270
provided in division (A) (1) (b) (i) or (c) of this section, the 271
amount of the individual's employee business expenses reported 272

on the individual's form 2106 that the individual deducted for 273
federal income tax purposes for the taxable year, subject to the 274
limitation imposed by section 67 of the Internal Revenue Code. 275
For the municipal corporation in which the taxpayer is a 276
resident, the taxpayer may deduct all such expenses allowed for 277
federal income tax purposes. For a municipal corporation in 278
which the taxpayer is not a resident, the taxpayer may deduct 279
such expenses only to the extent the expenses are related to the 280
taxpayer's performance of personal services in that nonresident 281
municipal corporation. 282

(B) "Income" means the following: 283

(1) (a) For residents, all income, salaries, qualifying 284
wages, commissions, and other compensation from whatever source 285
earned or received by the resident, including the resident's 286
distributive share of the net profit of pass-through entities 287
owned directly or indirectly by the resident and any net profit 288
of the resident, except as provided in division (D) (4) of this 289
section. 290

(b) For the purposes of division (B) (1) (a) of this 291
section: 292

(i) Any net operating loss of the resident incurred in the 293
taxable year and the resident's distributive share of any net 294
operating loss generated in the same taxable year and 295
attributable to the resident's ownership interest in a pass- 296
through entity shall be allowed as a deduction, for that taxable 297
year and the following five taxable years, against any other net 298
profit of the resident or the resident's distributive share of 299
any net profit attributable to the resident's ownership interest 300
in a pass-through entity until fully utilized, subject to 301
division (B) (1) (d) of this section; 302

(ii) The resident's distributive share of the net profit 303
of each pass-through entity owned directly or indirectly by the 304
resident shall be calculated without regard to any net operating 305
loss that is carried forward by that entity from a prior taxable 306
year and applied to reduce the entity's net profit for the 307
current taxable year. 308

(c) Division (B) (1) (b) of this section does not apply with 309
respect to any net profit or net operating loss attributable to 310
an ownership interest in an S corporation unless shareholders' 311
distributive shares of net profits from S corporations are 312
subject to tax in the municipal corporation as provided in 313
division (C) (14) (b) or (c) of this section. 314

(d) Any amount of a net operating loss used to reduce a 315
taxpayer's net profit for a taxable year shall reduce the amount 316
of net operating loss that may be carried forward to any 317
subsequent year for use by that taxpayer. In no event shall the 318
cumulative deductions for all taxable years with respect to a 319
taxpayer's net operating loss exceed the original amount of that 320
net operating loss available to that taxpayer. 321

(2) In the case of nonresidents, all income, salaries, 322
qualifying wages, commissions, and other compensation from 323
whatever source earned or received by the nonresident for work 324
done, services performed or rendered, or activities conducted in 325
the municipal corporation, including any net profit of the 326
nonresident, but excluding the nonresident's distributive share 327
of the net profit or loss of only pass-through entities owned 328
directly or indirectly by the nonresident. 329

(3) For taxpayers that are not individuals, net profit of 330
the taxpayer; 331

(4) Lottery, sweepstakes, gambling and sports winnings, 332
winnings from games of chance, and prizes and awards. If the 333
taxpayer is a professional gambler for federal income tax 334
purposes, the taxpayer may deduct related wagering losses and 335
expenses to the extent authorized under the Internal Revenue 336
Code and claimed against such winnings. 337

(C) "Exempt income" means all of the following: 338

(1) The military pay or allowances of members of the armed 339
forces of the United States or members of their reserve 340
components, including the national guard of any state; 341

(2) (a) Except as provided in division (C) (2) (b) of this 342
section, intangible income; 343

(b) A municipal corporation that taxed any type of 344
intangible income on March 29, 1988, pursuant to Section 3 of 345
S.B. 238 of the 116th general assembly, may continue to tax that 346
type of income if a majority of the electors of the municipal 347
corporation voting on the question of whether to permit the 348
taxation of that type of intangible income after 1988 voted in 349
favor thereof at an election held on November 8, 1988. 350

(3) Social security benefits, railroad retirement 351
benefits, unemployment compensation, pensions, retirement 352
benefit payments, payments from annuities, and similar payments 353
made to an employee or to the beneficiary of an employee under a 354
retirement program or plan, disability payments received from 355
private industry or local, state, or federal governments or from 356
charitable, religious or educational organizations, and the 357
proceeds of sickness, accident, or liability insurance policies. 358
As used in division (C) (3) of this section, "unemployment 359
compensation" does not include supplemental unemployment 360

compensation described in section 3402(o)(2) of the Internal Revenue Code.	361 362
(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.	363 364 365 366
(5) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.	367 368 369 370 371 372 373 374
(6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;	375 376 377
(7) Alimony and child support received;	378
(8) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages;	379 380 381 382
(9) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code. Division (C)(9) of this section does not apply for purposes of Chapter 5745. of the Revised Code.	383 384 385 386
(10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically	387 388 389

prohibited by law from taxing, and income of a decedent's estate 390
during the period of administration except such income from the 391
operation of a trade or business; 392

(11) Compensation or allowances excluded from federal 393
gross income under section 107 of the Internal Revenue Code; 394

(12) Employee compensation that is not qualifying wages as 395
defined in division (R) of this section; 396

(13) Compensation paid to a person employed within the 397
boundaries of a United States air force base under the 398
jurisdiction of the United States air force that is used for the 399
housing of members of the United States air force and is a 400
center for air force operations, unless the person is subject to 401
taxation because of residence or domicile. If the compensation 402
is subject to taxation because of residence or domicile, tax on 403
such income shall be payable only to the municipal corporation 404
of residence or domicile. 405

(14) (a) Except as provided in division (C) (14) (b) or (c) 406
of this section, an S corporation shareholder's distributive 407
share of net profits of the S corporation, other than any part 408
of the distributive share of net profits that represents wages 409
as defined in section 3121(a) of the Internal Revenue Code or 410
net earnings from self-employment as defined in section 1402(a) 411
of the Internal Revenue Code. 412

(b) If, pursuant to division (H) of former section 718.01 413
of the Revised Code as it existed before March 11, 2004, a 414
majority of the electors of a municipal corporation voted in 415
favor of the question at an election held on November 4, 2003, 416
the municipal corporation may continue after 2002 to tax an S 417
corporation shareholder's distributive share of net profits of 418

an S corporation. 419

(c) If, on December 6, 2002, a municipal corporation was 420
imposing, assessing, and collecting a tax on an S corporation 421
shareholder's distributive share of net profits of the S 422
corporation to the extent the distributive share would be 423
allocated or apportioned to this state under divisions (B) (1) 424
and (2) of section 5733.05 of the Revised Code if the S 425
corporation were a corporation subject to taxes imposed under 426
Chapter 5733. of the Revised Code, the municipal corporation may 427
continue to impose the tax on such distributive shares to the 428
extent such shares would be so allocated or apportioned to this 429
state only until December 31, 2004, unless a majority of the 430
electors of the municipal corporation voting on the question of 431
continuing to tax such shares after that date voted in favor of 432
that question at an election held November 2, 2004. If a 433
majority of those electors voted in favor of the question, the 434
municipal corporation may continue after December 31, 2004, to 435
impose the tax on such distributive shares only to the extent 436
such shares would be so allocated or apportioned to this state. 437

(d) A municipal corporation shall be deemed to have 438
elected to tax S corporation shareholders' distributive shares 439
of net profits of the S corporation in the hands of the 440
shareholders if a majority of the electors of a municipal 441
corporation voted in favor of a question at an election held 442
under division (C) (14) (b) or (c) of this section. The municipal 443
corporation shall specify by resolution or ordinance that the 444
tax applies to the distributive share of a shareholder of an S 445
corporation in the hands of the shareholder of the S 446
corporation. 447

(15) To the extent authorized under a resolution or 448

ordinance adopted by a municipal corporation before January 1, 449
2016, all or a portion of the income of individuals or a class 450
of individuals under eighteen years of age. 451

(16) (a) Except as provided in divisions (C) (16) (b), (c), 452
and (d) of this section, qualifying wages described in division 453
(B) (1) or (E) of section 718.011 of the Revised Code to the 454
extent the qualifying wages are not subject to withholding for 455
the municipal corporation under either of those divisions. 456

(b) The exemption provided in division (C) (16) (a) of this 457
section does not apply with respect to the municipal corporation 458
in which the employee resided at the time the employee earned 459
the qualifying wages. 460

(c) The exemption provided in division (C) (16) (a) of this 461
section does not apply to qualifying wages that an employer 462
elects to withhold under division (D) (2) of section 718.011 of 463
the Revised Code. 464

(d) The exemption provided in division (C) (16) (a) of this 465
section does not apply to qualifying wages if both of the 466
following conditions apply: 467

(i) For qualifying wages described in division (B) (1) of 468
section 718.011 of the Revised Code, the employee's employer 469
withholds and remits tax on the qualifying wages to the 470
municipal corporation in which the employee's principal place of 471
work is situated, or, for qualifying wages described in division 472
(E) of section 718.011 of the Revised Code, the employee's 473
employer withholds and remits tax on the qualifying wages to the 474
municipal corporation in which the employer's fixed location is 475
located; 476

(ii) The employee receives a refund of the tax described 477

in division (C) (16) (d) (i) of this section on the basis of the 478
employee not performing services in that municipal corporation. 479

(17) (a) Except as provided in division (C) (17) (b) or (c) 480
of this section, compensation that is not qualifying wages paid 481
to a nonresident individual for personal services performed in 482
the municipal corporation on not more than twenty days in a 483
taxable year. 484

(b) The exemption provided in division (C) (17) (a) of this 485
section does not apply under either of the following 486
circumstances: 487

(i) The individual's base of operation is located in the 488
municipal corporation. 489

(ii) The individual is a professional athlete, 490
professional entertainer, or public figure, and the compensation 491
is paid for the performance of services in the individual's 492
capacity as a professional athlete, professional entertainer, or 493
public figure. For purposes of division (C) (17) (b) (ii) of this 494
section, "professional athlete," "professional entertainer," and 495
"public figure" have the same meanings as in section 718.011 of 496
the Revised Code. 497

(c) Compensation to which division (C) (17) of this section 498
applies shall be treated as earned or received at the 499
individual's base of operation. If the individual does not have 500
a base of operation, the compensation shall be treated as earned 501
or received where the individual is domiciled. 502

(d) For purposes of division (C) (17) of this section, 503
"base of operation" means the location where an individual owns 504
or rents an office, storefront, or similar facility to which the 505
individual regularly reports and at which the individual 506

regularly performs personal services for compensation. 507

(18) Compensation paid to a person for personal services 508
performed for a political subdivision on property owned by the 509
political subdivision, regardless of whether the compensation is 510
received by an employee of the subdivision or another person 511
performing services for the subdivision under a contract with 512
the subdivision, if the property on which services are performed 513
is annexed to a municipal corporation pursuant to section 514
709.023 of the Revised Code on or after March 27, 2013, unless 515
the person is subject to such taxation because of residence. If 516
the compensation is subject to taxation because of residence, 517
municipal income tax shall be payable only to the municipal 518
corporation of residence. 519

(19) In the case of a tax administered, collected, and 520
enforced by a municipal corporation pursuant to an agreement 521
with the board of directors of a joint economic development 522
district under section 715.72 of the Revised Code, the net 523
profits of a business, and the income of the employees of that 524
business, exempted from the tax under division (Q) of that 525
section; 526

(20) All of the following: 527

(a) Income derived from disaster work conducted in this 528
state by an out-of-state disaster business during a disaster 529
response period pursuant to a qualifying solicitation received 530
by the business; 531

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

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

(4) For the purposes of this chapter, and notwithstanding 565
any other provision of this chapter, the net profit of a 566
publicly traded partnership that makes the election described in 567
division (D) (4) of this section shall be taxed as if the 568
partnership were a C corporation, and shall not be treated as 569
the net profit or income of any owner of the partnership. 570

A publicly traded partnership that is treated as a 571
partnership for federal income tax purposes and that is subject 572
to tax on its net profits in one or more municipal corporations 573
in this state may elect to be treated as a C corporation for 574
municipal income tax purposes. The publicly traded partnership 575
shall make the election in every municipal corporation in which 576
the partnership is subject to taxation on its net profits. The 577
election shall be made on the annual tax return filed in each 578
such municipal corporation. The publicly traded partnership 579
shall not be required to file the election with any municipal 580
corporation in which the partnership is not subject to taxation 581
on its net profits, but division (D) (4) of this section applies 582
to all municipal corporations in which an individual owner of 583
the partnership resides. 584

(E) "Adjusted federal taxable income," for a person 585
required to file as a C corporation, or for a person that has 586
elected to be taxed as a C corporation under division (D) (4) of 587
this section, means a C corporation's federal taxable income 588
before net operating losses and special deductions as determined 589
under the Internal Revenue Code, adjusted as follows: 590

(1) Deduct intangible income to the extent included in 591
federal taxable income. The deduction shall be allowed 592
regardless of whether the intangible income relates to assets 593
used in a trade or business or assets held for the production of 594

income.	595
(2) Add an amount equal to five per cent of intangible income deducted under division (E) (1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;	596 597 598 599 600
(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;	601 602 603 604
(4) (a) Except as provided in division (E) (4) (b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;	605 606 607 608 609
(b) Division (E) (4) (a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.	610 611 612
(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;	613 614
(6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;	615 616 617 618 619
(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code;	620 621 622 623

(8) (a) Except as limited by divisions (E) (8) (b), (c), and (d) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

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

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

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

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

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

(e) Nothing in division (E) (8) (c) (i) of this section

precludes a person from carrying forward, for use with respect 653
to any return filed for a taxable year beginning after 2018, any 654
amount of net operating loss that was not fully utilized by 655
operation of division (E) (8) (c) (i) of this section. To the 656
extent that an amount of net operating loss that was not fully 657
utilized in one or more taxable years by operation of division 658
(E) (8) (c) (i) of this section is carried forward for use with 659
respect to a return filed for a taxable year beginning in 2019, 660
2020, 2021, or 2022, the limitation described in division (E) (8) 661
(c) (i) of this section shall apply to the amount carried 662
forward. 663

(9) Deduct any net profit of a pass-through entity owned 664
directly or indirectly by the taxpayer and included in the 665
taxpayer's federal taxable income unless an affiliated group of 666
corporations includes that net profit in the group's federal 667
taxable income in accordance with division (E) (3) (b) of section 668
718.06 of the Revised Code. 669

(10) Add any loss incurred by a pass-through entity owned 670
directly or indirectly by the taxpayer and included in the 671
taxpayer's federal taxable income unless an affiliated group of 672
corporations includes that loss in the group's federal taxable 673
income in accordance with division (E) (3) (b) of section 718.06 674
of the Revised Code. 675

If the taxpayer is not a C corporation, is not a 676
disregarded entity that has made the election described in 677
division (L) (2) of this section, is not a publicly traded 678
partnership that has made the election described in division (D) 679
(4) of this section, and is not an individual, the taxpayer 680
shall compute adjusted federal taxable income under this section 681
as if the taxpayer were a C corporation, except guaranteed 682

payments and other similar amounts paid or accrued to a partner, 683
former partner, shareholder, former shareholder, member, or 684
former member shall not be allowed as a deductible expense 685
unless such payments are in consideration for the use of capital 686
and treated as payment of interest under section 469 of the 687
Internal Revenue Code or United States treasury regulations. 688
Amounts paid or accrued to a qualified self-employed retirement 689
plan with respect to a partner, former partner, shareholder, 690
former shareholder, member, or former member of the taxpayer, 691
amounts paid or accrued to or for health insurance for a 692
partner, former partner, shareholder, former shareholder, 693
member, or former member, and amounts paid or accrued to or for 694
life insurance for a partner, former partner, shareholder, 695
former shareholder, member, or former member shall not be 696
allowed as a deduction. 697

Nothing in division (E) of this section shall be construed 698
as allowing the taxpayer to add or deduct any amount more than 699
once or shall be construed as allowing any taxpayer to deduct 700
any amount paid to or accrued for purposes of federal self- 701
employment tax. 702

(F) "Schedule C" means internal revenue service schedule C 703
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 704
Code. 705

(G) "Schedule E" means internal revenue service schedule E 706
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 707
Code. 708

(H) "Schedule F" means internal revenue service schedule F 709
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 710
Code. 711

(I) "Internal Revenue Code" has the same meaning as in 712
section 5747.01 of the Revised Code. 713

(J) "Resident" means an individual who is domiciled in the 714
municipal corporation as determined under section 718.012 of the 715
Revised Code. 716

(K) "Nonresident" means an individual that is not a 717
resident. 718

(L) (1) "Taxpayer" means a person subject to a tax levied 719
on income by a municipal corporation in accordance with this 720
chapter. "Taxpayer" does not include a grantor trust or, except 721
as provided in division (L) (2) (a) of this section, a disregarded 722
entity. 723

(2) (a) A single member limited liability company that is a 724
disregarded entity for federal tax purposes may be a separate 725
taxpayer from its single member in all Ohio municipal 726
corporations in which it either filed as a separate taxpayer or 727
did not file for its taxable year ending in 2003, if all of the 728
following conditions are met: 729

(i) The limited liability company's single member is also 730
a limited liability company. 731

(ii) The limited liability company and its single member 732
were formed and doing business in one or more Ohio municipal 733
corporations for at least five years before January 1, 2004. 734

(iii) Not later than December 31, 2004, the limited 735
liability company and its single member each made an election to 736
be treated as a separate taxpayer under division (L) of this 737
section as this section existed on December 31, 2004. 738

(iv) The limited liability company was not formed for the 739

purpose of evading or reducing Ohio municipal corporation income 740
tax liability of the limited liability company or its single 741
member. 742

(v) The Ohio municipal corporation that was the primary 743
place of business of the sole member of the limited liability 744
company consented to the election. 745

(b) For purposes of division (L) (2) (a) (v) of this section, 746
a municipal corporation was the primary place of business of a 747
limited liability company if, for the limited liability 748
company's taxable year ending in 2003, its income tax liability 749
was greater in that municipal corporation than in any other 750
municipal corporation in Ohio, and that tax liability to that 751
municipal corporation for its taxable year ending in 2003 was at 752
least four hundred thousand dollars. 753

(M) "Person" includes individuals, firms, companies, joint 754
stock companies, business trusts, estates, trusts, partnerships, 755
limited liability partnerships, limited liability companies, 756
associations, C corporations, S corporations, governmental 757
entities, and any other entity. 758

(N) "Pass-through entity" means a partnership not treated 759
as an association taxable as a C corporation for federal income 760
tax purposes, a limited liability company not treated as an 761
association taxable as a C corporation for federal income tax 762
purposes, an S corporation, or any other class of entity from 763
which the income or profits of the entity are given pass-through 764
treatment for federal income tax purposes. "Pass-through entity" 765
does not include a trust, estate, grantor of a grantor trust, or 766
disregarded entity. 767

(O) "S corporation" means a person that has made an 768

election under subchapter S of Chapter 1 of Subtitle A of the	769
Internal Revenue Code for its taxable year.	770
(P) "Single member limited liability company" means a	771
limited liability company that has one direct member.	772
(Q) "Limited liability company" means a limited liability	773
company formed under Chapter 1705. of the Revised Code or under	774
the laws of another state.	775
(R) "Qualifying wages" means wages, as defined in section	776
3121(a) of the Internal Revenue Code, without regard to any wage	777
limitations, adjusted as follows:	778
(1) Deduct the following amounts:	779
(a) Any amount included in wages if the amount constitutes	780
compensation attributable to a plan or program described in	781
section 125 of the Internal Revenue Code.	782
(b) Any amount included in wages if the amount constitutes	783
payment on account of a disability related to sickness or an	784
accident paid by a party unrelated to the employer, agent of an	785
employer, or other payer.	786
(c) Any amount attributable to a nonqualified deferred	787
compensation plan or program described in section 3121(v) (2) (C)	788
of the Internal Revenue Code if the compensation is included in	789
wages and the municipal corporation has, by resolution or	790
ordinance adopted before January 1, 2016, exempted the amount	791
from withholding and tax.	792
(d) Any amount included in wages if the amount arises from	793
the sale, exchange, or other disposition of a stock option, the	794
exercise of a stock option, or the sale, exchange, or other	795
disposition of stock purchased under a stock option and the	796

municipal corporation has, by resolution or ordinance adopted 797
before January 1, 2016, exempted the amount from withholding and 798
tax. 799

(e) Any amount included in wages that is exempt income. 800

(2) Add the following amounts: 801

(a) Any amount not included in wages solely because the 802
employee was employed by the employer before April 1, 1986. 803

(b) Any amount not included in wages because the amount 804
arises from the sale, exchange, or other disposition of a stock 805
option, the exercise of a stock option, or the sale, exchange, 806
or other disposition of stock purchased under a stock option and 807
the municipal corporation has not, by resolution or ordinance, 808
exempted the amount from withholding and tax adopted before 809
January 1, 2016. Division (R) (2) (b) of this section applies only 810
to those amounts constituting ordinary income. 811

(c) Any amount not included in wages if the amount is an 812
amount described in section 401(k), 403(b), or 457 of the 813
Internal Revenue Code. Division (R) (2) (c) of this section 814
applies only to employee contributions and employee deferrals. 815

(d) Any amount that is supplemental unemployment 816
compensation benefits described in section 3402(o) (2) of the 817
Internal Revenue Code and not included in wages. 818

(e) Any amount received that is treated as self-employment 819
income for federal tax purposes in accordance with section 820
1402(a) (8) of the Internal Revenue Code. 821

(f) Any amount not included in wages if all of the 822
following apply: 823

(i) For the taxable year the amount is employee 824

compensation that is earned outside of the United States and 825
that either is included in the taxpayer's gross income for 826
federal income tax purposes or would have been included in the 827
taxpayer's gross income for such purposes if the taxpayer did 828
not elect to exclude the income under section 911 of the 829
Internal Revenue Code; 830

(ii) For no preceding taxable year did the amount 831
constitute wages as defined in section 3121(a) of the Internal 832
Revenue Code; 833

(iii) For no succeeding taxable year will the amount 834
constitute wages; and 835

(iv) For any taxable year the amount has not otherwise 836
been added to wages pursuant to either division (R) (2) of this 837
section or section 718.03 of the Revised Code, as that section 838
existed before the effective date of H.B. 5 of the 130th general 839
assembly, March 23, 2015. 840

(S) "Intangible income" means income of any of the 841
following types: income yield, interest, capital gains, 842
dividends, or other income arising from the ownership, sale, 843
exchange, or other disposition of intangible property including, 844
but not limited to, investments, deposits, money, or credits as 845
those terms are defined in Chapter 5701. of the Revised Code, 846
and patents, copyrights, trademarks, tradenames, investments in 847
real estate investment trusts, investments in regulated 848
investment companies, and appreciation on deferred compensation. 849
"Intangible income" does not include prizes, awards, or other 850
income associated with any lottery winnings, gambling winnings, 851
or other similar games of chance. 852

(T) "Taxable year" means the corresponding tax reporting 853

period as prescribed for the taxpayer under the Internal Revenue Code. 854
855

(U) "Tax administrator" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following: 856
857
858
859

(1) A municipal corporation acting as the agent of another municipal corporation; 860
861

(2) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis; 862
863
864
865

(3) The central collection agency or the regional income tax agency or their successors in interest, or another entity organized to perform functions similar to those performed by the central collection agency and the regional income tax agency. 866
867
868
869

(V) "Employer" means a person that is an employer for federal income tax purposes. 870
871

(W) "Employee" means an individual who is an employee for federal income tax purposes. 872
873

(X) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents. 874
875
876
877
878

(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December. 879
880

(Z) "Form 2106" means internal revenue service form 2106 881

filed by a taxpayer pursuant to the Internal Revenue Code.	882
(AA) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.72 of the Revised Code.	883 884 885 886
(BB) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.	887 888 889 890
(CC) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.	891 892 893 894 895 896
(DD) "Tax return preparer" means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.	897 898 899
(EE) "Ohio business gateway" means the online computer network system, created under section 125.30 of the Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.	900 901 902 903 904
(FF) "Local board of tax review" and "board of tax review" mean the entity created under section 718.11 of the Revised Code.	905 906 907
(GG) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis	908 909 910

limitations, at-risk limitations, or passive activity loss	911
limitations.	912
(HH) "Casino operator" and "casino facility" have the same	913
meanings as in section 3772.01 of the Revised Code.	914
(II) "Video lottery terminal" has the same meaning as in	915
section 3770.21 of the Revised Code.	916
(JJ) "Video lottery terminal sales agent" means a lottery	917
sales agent licensed under Chapter 3770. of the Revised Code to	918
conduct video lottery terminals on behalf of the state pursuant	919
to section 3770.21 of the Revised Code.	920
(KK) "Postal service" means the United States postal	921
service.	922
(LL) "Certified mail," "express mail," "United States	923
mail," "postal service," and similar terms include any delivery	924
service authorized pursuant to section 5703.056 of the Revised	925
Code.	926
(MM) "Postmark date," "date of postmark," and similar	927
terms include the date recorded and marked in the manner	928
described in division (B) (3) of section 5703.056 of the Revised	929
Code.	930
(NN) "Related member" means a person that, with respect to	931
the taxpayer during all or any portion of the taxable year, is	932
either a related entity, a component member as defined in	933
section 1563(b) of the Internal Revenue Code, or a person to or	934
from whom there is attribution of stock ownership in accordance	935
with section 1563(e) of the Internal Revenue Code except, for	936
purposes of determining whether a person is a related member	937
under this division, "twenty per cent" shall be substituted for	938
"5 percent" wherever "5 percent" appears in section 1563(e) of	939

the Internal Revenue Code. 940

(00) "Related entity" means any of the following: 941

(1) An individual stockholder, or a member of the 942
stockholder's family enumerated in section 318 of the Internal 943
Revenue Code, if the stockholder and the members of the 944
stockholder's family own directly, indirectly, beneficially, or 945
constructively, in the aggregate, at least fifty per cent of the 946
value of the taxpayer's outstanding stock; 947

(2) A stockholder, or a stockholder's partnership, estate, 948
trust, or corporation, if the stockholder and the stockholder's 949
partnerships, estates, trusts, or corporations own directly, 950
indirectly, beneficially, or constructively, in the aggregate, 951
at least fifty per cent of the value of the taxpayer's 952
outstanding stock; 953

(3) A corporation, or a party related to the corporation 954
in a manner that would require an attribution of stock from the 955
corporation to the party or from the party to the corporation 956
under division (00) (4) of this section, provided the taxpayer 957
owns directly, indirectly, beneficially, or constructively, at 958
least fifty per cent of the value of the corporation's 959
outstanding stock; 960

(4) The attribution rules described in section 318 of the 961
Internal Revenue Code apply for the purpose of determining 962
whether the ownership requirements in divisions (00) (1) to (3) 963
of this section have been met. 964

(PP) (1) "Assessment" means a written finding by the tax 965
administrator that a person has underpaid municipal income tax, 966
or owes penalty and interest, or any combination of tax, 967
penalty, or interest, to the municipal corporation that 968

commences the person's time limitation for making an appeal to 969
the local board of tax review pursuant to section 718.11 of the 970
Revised Code, and has "ASSESSMENT" written in all capital 971
letters at the top of such finding. 972

(2) "Assessment" does not include an informal notice 973
denying a request for refund issued under division (B)(3) of 974
section 718.19 of the Revised Code, a billing statement 975
notifying a taxpayer of current or past-due balances owed to the 976
municipal corporation, a tax administrator's request for 977
additional information, a notification to the taxpayer of 978
mathematical errors, or a tax administrator's other written 979
correspondence to a person or taxpayer that does meet the 980
criteria prescribed by division (PP)(1) of this section. 981

(QQ) "Taxpayers' rights and responsibilities" means the 982
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 983
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 984
Revised Code and the responsibilities of taxpayers to file, 985
report, withhold, remit, and pay municipal income tax and 986
otherwise comply with Chapter 718. of the Revised Code and 987
resolutions, ordinances, and rules adopted by a municipal 988
corporation for the imposition and administration of a municipal 989
income tax. 990

(RR) "Qualified municipal corporation" means a municipal 991
corporation that, by resolution or ordinance adopted on or 992
before December 31, 2011, adopted Ohio adjusted gross income, as 993
defined by section 5747.01 of the Revised Code, as the income 994
subject to tax for the purposes of imposing a municipal income 995
tax. 996

(SS) (1) "Pre-2017 net operating loss carryforward" means 997
any net operating loss incurred in a taxable year beginning 998

before January 1, 2017, to the extent such loss was permitted, 999
by a resolution or ordinance of the municipal corporation that 1000
was adopted by the municipal corporation before January 1, 2016, 1001
to be carried forward and utilized to offset income or net 1002
profit generated in such municipal corporation in future taxable 1003
years. 1004

(2) For the purpose of calculating municipal taxable 1005
income, any pre-2017 net operating loss carryforward may be 1006
carried forward to any taxable year, including taxable years 1007
beginning in 2017 or thereafter, for the number of taxable years 1008
provided in the resolution or ordinance or until fully utilized, 1009
whichever is earlier. 1010

(TT) "Small employer" means any employer that had total 1011
revenue of less than five hundred thousand dollars during the 1012
preceding taxable year. For purposes of this division, "total 1013
revenue" means receipts of any type or kind, including, but not 1014
limited to, sales receipts; payments; rents; profits; gains, 1015
dividends, and other investment income; compensation; 1016
commissions; premiums; money; property; grants; contributions; 1017
donations; gifts; program service revenue; patient service 1018
revenue; premiums; fees, including premium fees and service 1019
fees; tuition payments; unrelated business revenue; 1020
reimbursements; any type of payment from a governmental unit, 1021
including grants and other allocations; and any other similar 1022
receipts reported for federal income tax purposes or under 1023
generally accepted accounting principles. "Small employer" does 1024
not include the federal government; any state government, 1025
including any state agency or instrumentality; any political 1026
subdivision; or any entity treated as a government for financial 1027
accounting and reporting purposes. 1028

(UU) "Audit" means the examination of a person or the 1029
inspection of the books, records, memoranda, or accounts of a 1030
person for the purpose of determining liability for a municipal 1031
income tax. 1032

(VV) "Publicly traded partnership" means any partnership, 1033
an interest in which is regularly traded on an established 1034
securities market. A "publicly traded partnership" may have any 1035
number of partners. 1036

(WW) "Out-of-state disaster business," "qualifying 1037
solicitation," "qualifying employee," "disaster work," "critical 1038
infrastructure," and "disaster response period" have the same 1039
meanings as in section 5703.94 of the Revised Code. 1040

Sec. 718.05. (A) An annual return with respect to the 1041
income tax levied by a municipal corporation shall be completed 1042
and filed by every taxpayer for any taxable year for which the 1043
taxpayer is liable for the tax. If the total credit allowed 1044
against the tax as described in division (D) of section 718.04 1045
of the Revised Code for the year is equal to or exceeds the tax 1046
imposed by the municipal corporation, no return shall be 1047
required unless the municipal ordinance or resolution levying 1048
the tax requires the filing of a return in such circumstances. 1049

(B) If an individual is deceased, any return or notice 1050
required of that individual shall be completed and filed by that 1051
decedent's executor, administrator, or other person charged with 1052
the property of that decedent. 1053

(C) If an individual is unable to complete and file a 1054
return or notice required by a municipal corporation in 1055
accordance with this chapter, the return or notice required of 1056
that individual shall be completed and filed by the individual's 1057

duly authorized agent, guardian, conservator, fiduciary, or 1058
other person charged with the care of the person or property of 1059
that individual. 1060

(D) Returns or notices required of an estate or a trust 1061
shall be completed and filed by the fiduciary of the estate or 1062
trust. 1063

(E) No municipal corporation shall deny spouses the 1064
ability to file a joint return. 1065

(F) (1) Each return required to be filed under this section 1066
shall contain the signature of the taxpayer or the taxpayer's 1067
duly authorized agent and of the person who prepared the return 1068
for the taxpayer, and shall include the taxpayer's social 1069
security number or taxpayer identification number. Each return 1070
shall be verified by a declaration under penalty of perjury. 1071

(2) A tax administrator may require a taxpayer who is an 1072
individual to include, with each annual return, amended return, 1073
or request for refund required under this section, copies of 1074
only the following documents: all of the taxpayer's Internal 1075
Revenue Service form W-2, "Wage and Tax Statements," including 1076
all information reported on the taxpayer's federal W-2, as well 1077
as taxable wages reported or withheld for any municipal 1078
corporation; the taxpayer's Internal Revenue Service form 1040 1079
or, in the case of a return or request required by a qualified 1080
municipal corporation, Ohio form IT-1040; and, with respect to 1081
an amended tax return or refund request, any other documentation 1082
necessary to support the refund request or the adjustments made 1083
in the amended return. An individual taxpayer who files the 1084
annual return required by this section electronically is not 1085
required to provide paper copies of any of the foregoing to the 1086
tax administrator unless the tax administrator requests such 1087

copies after the return has been filed. 1088

(3) A tax administrator may require a taxpayer that is not 1089
an individual to include, with each annual net profit return, 1090
amended net profit return, or request for refund required under 1091
this section, copies of only the following documents: the 1092
taxpayer's Internal Revenue Service form 1041, form 1065, form 1093
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 1094
respect to an amended tax return or refund request, any other 1095
documentation necessary to support the refund request or the 1096
adjustments made in the amended return. 1097

A taxpayer that is not an individual and that files an 1098
annual net profit return electronically through the Ohio 1099
business gateway or in some other manner shall either mail the 1100
documents required under this division to the tax administrator 1101
at the time of filing or, if electronic submission is available, 1102
submit the documents electronically through the Ohio business 1103
gateway. The department of taxation shall publish a method of 1104
electronically submitting the documents required under this 1105
division through the Ohio business gateway on or before January 1106
1, 2016. The department shall transmit all documents submitted 1107
electronically under this division to the appropriate tax 1108
administrator. 1109

(4) After a taxpayer files a tax return, the tax 1110
administrator may request, and the taxpayer shall provide, any 1111
information, statements, or documents required by the municipal 1112
corporation to determine and verify the taxpayer's municipal 1113
income tax liability. The requirements imposed under division 1114
(F) of this section apply regardless of whether the taxpayer 1115
files on a generic form or on a form prescribed by the tax 1116
administrator. 1117

(G) (1) (a) Except as otherwise provided in this chapter, 1118
each individual income tax return required to be filed under 1119
this section shall be completed and filed as required by the tax 1120
administrator on or before the date prescribed for the filing of 1121
state individual income tax returns under division (G) of 1122
section 5747.08 of the Revised Code. The taxpayer shall complete 1123
and file the return or notice on forms prescribed by the tax 1124
administrator or on generic forms, together with remittance made 1125
payable to the municipal corporation or tax administrator. No 1126
remittance is required if the amount shown to be due is ten 1127
dollars or less. A municipal corporation shall not require a 1128
qualifying employee whose income consists exclusively of exempt 1129
income described in division (C) (20) (b) or (c) of section 718.01 1130
of the Revised Code to file a return under this section. 1131

(b) Except as otherwise provided in this chapter, each 1132
annual net profit return required to be filed under this section 1133
by a taxpayer that is not an individual shall be completed and 1134
filed as required by the tax administrator on or before the 1135
fifteenth day of the fourth month following the end of the 1136
taxpayer's taxable year. The taxpayer shall complete and file 1137
the return or notice on forms prescribed by the tax 1138
administrator or on generic forms, together with remittance made 1139
payable to the municipal corporation or tax administrator. No 1140
remittance is required if the amount shown to be due is ten 1141
dollars or less. 1142

(2) (a) Any taxpayer that has duly requested an automatic 1143
six-month extension for filing the taxpayer's federal income tax 1144
return shall automatically receive an extension for the filing 1145
of a municipal income tax return. The extended due date of the 1146
municipal income tax return shall be the fifteenth day of the 1147
tenth month after the last day of the taxable year to which the 1148

return relates. 1149

(b) A taxpayer that has not requested or received a six- 1150
month extension for filing the taxpayer's federal income tax 1151
return may request that the tax administrator grant the taxpayer 1152
a six-month extension of the date for filing the taxpayer's 1153
municipal income tax return. If the request is received by the 1154
tax administrator on or before the date the municipal income tax 1155
return is due, the tax administrator shall grant the taxpayer's 1156
requested extension. 1157

(c) An extension of time to file under division (G)(2) of 1158
this section is not an extension of the time to pay any tax due 1159
unless the tax administrator grants an extension of that date. 1160

(3) If the tax commissioner extends for all taxpayers the 1161
date for filing state income tax returns under division (G) of 1162
section 5747.08 of the Revised Code, a taxpayer shall 1163
automatically receive an extension for the filing of a municipal 1164
income tax return. The extended due date of the municipal income 1165
tax return shall be the same as the extended due date of the 1166
state income tax return. 1167

(4) If the tax administrator considers it necessary in 1168
order to ensure the payment of the tax imposed by the municipal 1169
corporation in accordance with this chapter, the tax 1170
administrator may require taxpayers to file returns and make 1171
payments otherwise than as provided in this section, including 1172
taxpayers not otherwise required to file annual returns. 1173

(5) To the extent that any provision in this division 1174
conflicts with any provision in section 718.052 of the Revised 1175
Code, the provision in that section prevails. 1176

(H) (1) For taxable years beginning after 2015, a municipal 1177

corporation shall not require a taxpayer to remit tax with 1178
respect to net profits if the amount due is less than ten 1179
dollars. 1180

(2) Any Except as provided in division (H) (3) of this 1181
section, any taxpayer not required to remit tax to a municipal 1182
corporation for a taxable year pursuant to division (H) (1) of 1183
this section shall file with the municipal corporation an annual 1184
net profit return under division (F) (3) of this section. 1185

(3) A municipal corporation shall not require a person to 1186
file a net profit return under this section if the person's 1187
income consists exclusively of exempt income described in 1188
division (C) (20) (a) of section 718.01 of the Revised Code. 1189

(I) (1) If any report, claim, statement, or other document 1190
required to be filed, or any payment required to be made, within 1191
a prescribed period or on or before a prescribed date under this 1192
chapter is delivered after that period or that date by United 1193
States mail to the tax administrator or other municipal official 1194
with which the report, claim, statement, or other document is 1195
required to be filed, or to which the payment is required to be 1196
made, the date of the postmark stamped on the cover in which the 1197
report, claim, statement, or other document, or payment is 1198
mailed shall be deemed to be the date of delivery or the date of 1199
payment. "The date of postmark" means, in the event there is 1200
more than one date on the cover, the earliest date imprinted on 1201
the cover by the postal service. 1202

(2) If a payment under this chapter is made by electronic 1203
funds transfer, the payment shall be considered to be made on 1204
the date of the timestamp assigned by the first electronic 1205
system receiving that payment. 1206

(J) The amounts withheld by an employer, the agent of an employer, or an other payer as described in section 718.03 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient by the municipal corporation, unless the amounts withheld were not remitted to the municipal corporation and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

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

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

municipal corporation or tax administrator, and provided that 1238
the taxpayer or tax return preparer filing the generic form 1239
otherwise complies with the provisions of this chapter and of 1240
the municipal corporation ordinance or resolution governing the 1241
filing of returns, reports, or documents. 1242

(M) When income tax returns, reports, or other documents 1243
require the signature of a tax return preparer, the tax 1244
administrator shall accept a facsimile of such a signature in 1245
lieu of a manual signature. 1246

(N) (1) As used in this division, "worksite location" has 1247
the same meaning as in section 718.011 of the Revised Code. 1248

(2) A person may notify a tax administrator that the 1249
person does not expect to be a taxpayer with respect to the 1250
municipal corporation for a taxable year if both of the 1251
following conditions apply: 1252

(a) The person was required to file a tax return with the 1253
municipal corporation for the immediately preceding taxable year 1254
because the person performed services at a worksite location 1255
within that municipal corporation. 1256

(b) The person no longer provides services in the 1257
municipal corporation and does not expect to be subject to the 1258
municipal corporation's income tax for the taxable year. 1259

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

municipal corporation, or otherwise become subject to the tax 1267
levied by the municipal corporation during the taxable year. If 1268
the affiant does become subject to the tax levied by the 1269
municipal corporation for the taxable year, the affiant agrees 1270
to be considered a taxpayer and to properly register as a 1271
taxpayer with the municipal corporation if such a registration 1272
is required by the municipal corporation's resolutions, 1273
ordinances, or rules." The person shall sign the affidavit under 1274
penalty of perjury. 1275

(c) If a person submits an affidavit described in division 1276
(N) (2) of this section, the tax administrator shall not require 1277
the person to file any tax return for the taxable year unless 1278
the tax administrator possesses information that conflicts with 1279
the affidavit or if the circumstances described in the affidavit 1280
change. Nothing in division (N) of this section prohibits the 1281
tax administrator from performing an audit of the person. 1282

Sec. 1329.01. (A) As used in sections 1329.01 to 1329.10 1283
of the Revised Code: 1284

(1) "Trade name" means a name used in business or trade to 1285
designate the business of the user and to which the user asserts 1286
a right to exclusive use. 1287

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

that is formed under or registered pursuant to Chapter 1782. of 1297
the Revised Code, or any domestic or foreign limited liability 1298
partnership that is formed under or registered pursuant to 1299
Chapter 1775. or 1776. of the Revised Code. 1300

(3) "Person" includes any individual, general partnership, 1301
limited partnership, limited liability partnership, corporation, 1302
association, professional association, limited liability 1303
company, society, foundation, federation, or organization formed 1304
under the laws of this state or any other state. 1305

(B) ~~Subject~~ Except as provided in section 1701.041 of the 1306
Revised Code and subject to sections 1329.01 to 1329.10 of the 1307
Revised Code, any person may register with the secretary of 1308
state, on a form prescribed by the secretary of state, any trade 1309
name under which the person is operating, setting forth all of 1310
the following: 1311

(1) The name and business address of the applicant for 1312
registration and any of the following that is applicable: 1313

(a) If the applicant is a general partnership, the name 1314
and address of at least one partner or the identifying number 1315
the secretary of state assigns to the partnership pursuant to 1316
section 1776.05 of the Revised Code; 1317

(b) If the applicant is a limited partnership, a 1318
corporation, professional association, limited liability 1319
company, or other entity, the form of the entity and the state 1320
under the laws of which it was formed. 1321

(2) The trade name to be registered; 1322

(3) The general nature of the business conducted by the 1323
applicant; 1324

(4) The length of time during which the trade name has 1325
been used by the applicant in business operations in this state. 1326

(C) The trade name application shall be signed by the 1327
applicant or by any authorized representative of the applicant. 1328

A single trade name may be registered upon each trade name 1329
application submitted under sections 1329.01 to 1329.10 of the 1330
Revised Code. 1331

The trade name application shall be accompanied by a 1332
filing fee of thirty-nine dollars, payable to the secretary of 1333
state. 1334

(D) Any person who does business under a fictitious name 1335
and who has not registered and does not wish to register the 1336
fictitious name as a trade name or who cannot do so because the 1337
name is not available for registration shall report the use of 1338
the fictitious name to the secretary of state, on a form 1339
prescribed by the secretary of state, setting forth all of the 1340
following: 1341

(1) The name and business address of the user and any of 1342
the following that is applicable: 1343

(a) If the user is a general partnership, the name and 1344
address of at least one partner or the identifying number the 1345
secretary of state assigns to the partnership pursuant to 1346
section 1775.105 of the Revised Code; 1347

(b) If the user is a limited partnership, a corporation, 1348
professional association, limited liability company, or other 1349
entity, the form of the entity and the state under whose laws it 1350
was formed. 1351

(2) The fictitious name being used; 1352

(3) The general nature of the business conducted by the user. 1353
1354

(E) The report of use of a fictitious name shall be signed by the user or by any authorized representative of the user. 1355
1356

A single fictitious name may be registered upon each fictitious name report submitted under sections 1329.01 to 1329.10 of the Revised Code. 1357
1358
1359

The fictitious name report shall be accompanied by a filing fee of thirty-nine dollars, payable to the secretary of state. 1360
1361
1362

A report under this division shall be made within thirty days after the date of the first use of the fictitious name. 1363
1364

Sec. 1701.041. (A) As used in this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code. 1365
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(B) No person shall be required to file articles of incorporation or any other documents or applications with the secretary of state as established in sections 111.16, 1329.01, 1701.04, or elsewhere in the Revised Code or otherwise comply with the requirements of Title XVII of the Revised Code as a condition precedent to engaging in business in this state for any of the following activities: 1369
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1371
1372
1373
1374
1375

(1) Disaster work performed in this state by an out-of-state disaster business during a disaster response period pursuant to a qualifying solicitation received by the business; 1376
1377
1378

(2) Disaster work performed in this state by a qualifying employee described in division (A) (14) (a) of section 5703.94 of 1379
1380

the Revised Code during a disaster response period pursuant to a 1381
qualifying solicitation received by the employee's employer; 1382

(3) Disaster work performed in this state by a qualifying 1383
employee described in division (A) (14) (b) of section 5703.94 of 1384
the Revised Code during a disaster response period on critical 1385
infrastructure owned or used by the employee's employer. 1386

Sec. 4123.01. As used in this chapter: 1387

(A) (1) "Employee" means: 1388

(a) Every person in the service of the state, or of any 1389
county, municipal corporation, township, or school district 1390
therein, including regular members of lawfully constituted 1391
police and fire departments of municipal corporations and 1392
townships, whether paid or volunteer, and wherever serving 1393
within the state or on temporary assignment outside thereof, and 1394
executive officers of boards of education, under any appointment 1395
or contract of hire, express or implied, oral or written, 1396
including any elected official of the state, or of any county, 1397
municipal corporation, or township, or members of boards of 1398
education. 1399

As used in division (A) (1) (a) of this section, the term 1400
"employee" includes the following persons when responding to an 1401
inherently dangerous situation that calls for an immediate 1402
response on the part of the person, regardless of whether the 1403
person is within the limits of the jurisdiction of the person's 1404
regular employment or voluntary service when responding, on the 1405
condition that the person responds to the situation as the 1406
person otherwise would if the person were on duty in the 1407
person's jurisdiction: 1408

(i) Off-duty peace officers. As used in division (A) (1) (a) 1409

(i) of this section, "peace officer" has the same meaning as in 1410
section 2935.01 of the Revised Code. 1411

(ii) Off-duty firefighters, whether paid or volunteer, of 1412
a lawfully constituted fire department. 1413

(iii) Off-duty first responders, emergency medical 1414
technicians-basic, emergency medical technicians-intermediate, 1415
or emergency medical technicians-paramedic, whether paid or 1416
volunteer, of an ambulance service organization or emergency 1417
medical service organization pursuant to Chapter 4765. of the 1418
Revised Code. 1419

(b) Every person in the service of any person, firm, or 1420
private corporation, including any public service corporation, 1421
that (i) employs one or more persons regularly in the same 1422
business or in or about the same establishment under any 1423
contract of hire, express or implied, oral or written, including 1424
aliens and minors, household workers who earn one hundred sixty 1425
dollars or more in cash in any calendar quarter from a single 1426
household and casual workers who earn one hundred sixty dollars 1427
or more in cash in any calendar quarter from a single employer, 1428
or (ii) is bound by any such contract of hire or by any other 1429
written contract, to pay into the state insurance fund the 1430
premiums provided by this chapter. 1431

(c) Every person who performs labor or provides services 1432
pursuant to a construction contract, as defined in section 1433
4123.79 of the Revised Code, if at least ten of the following 1434
criteria apply: 1435

(i) The person is required to comply with instructions 1436
from the other contracting party regarding the manner or method 1437
of performing services; 1438

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

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

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

"employee" pursuant to division (A) (2) (a), (b), (c), or (e) of 1522
this section in accordance with rules adopted by the 1523
administrator, with the advice and consent of the bureau of 1524
workers' compensation board of directors. If an employer is a 1525
partnership, sole proprietorship, individual incorporated as a 1526
corporation, or family farm corporation, such employer may elect 1527
to include as an "employee" within this chapter, any member of 1528
such partnership, the owner of the sole proprietorship, the 1529
individual incorporated as a corporation, or the officers of the 1530
family farm corporation. Nothing in this section shall prohibit 1531
a partner, sole proprietor, or any person excluded from the 1532
definition of "employee" pursuant to division (A) (2) (a), (b), 1533
(c), or (e) of this section from electing to be included as an 1534
"employee" under this chapter in accordance with rules adopted 1535
by the administrator, with the advice and consent of the board. 1536

In the event of an election, the employer or person 1537
electing coverage shall serve upon the bureau of workers' 1538
compensation written notice naming the person to be covered and 1539
include the person's remuneration for premium purposes in all 1540
future payroll reports. No partner, sole proprietor, or person 1541
excluded from the definition of "employee" pursuant to division 1542
(A) (2) (a), (b), (c), or (e) of this section, shall receive 1543
benefits or compensation under this chapter until the bureau 1544
receives written notice of the election permitted by this 1545
section. 1546

For informational purposes only, the bureau shall 1547
prescribe such language as it considers appropriate, on such of 1548
its forms as it considers appropriate, to advise employers of 1549
their right to elect to include as an "employee" within this 1550
chapter a sole proprietor, any member of a partnership, or a 1551
person excluded from the definition of "employee" under division 1552

(A) (2) (a), (b), (c), or (e) of this section, that they should 1553
check any health and disability insurance policy, or other form 1554
of health and disability plan or contract, presently covering 1555
them, or the purchase of which they may be considering, to 1556
determine whether such policy, plan, or contract excludes 1557
benefits for illness or injury that they might have elected to 1558
have covered by workers' compensation. 1559

(B) "Employer" means: 1560

(1) The state, including state hospitals, each county, 1561
municipal corporation, township, school district, and hospital 1562
owned by a political subdivision or subdivisions other than the 1563
state; 1564

(2) Every person, firm, professional employer 1565
organization, and private corporation, including any public 1566
service corporation, that (a) has in service one or more 1567
employees or shared employees regularly in the same business or 1568
in or about the same establishment under any contract of hire, 1569
express or implied, oral or written, or (b) is bound by any such 1570
contract of hire or by any other written contract, to pay into 1571
the insurance fund the premiums provided by this chapter. 1572

All such employers are subject to this chapter. Any member 1573
of a firm or association, who regularly performs manual labor in 1574
or about a mine, factory, or other establishment, including a 1575
household establishment, shall be considered an employee in 1576
determining whether such person, firm, or private corporation, 1577
or public service corporation, has in its service, one or more 1578
employees and the employer shall report the income derived from 1579
such labor to the bureau as part of the payroll of such 1580
employer, and such member shall thereupon be entitled to all the 1581
benefits of an employee. 1582

(C) "Injury" includes any injury, whether caused by 1583
external accidental means or accidental in character and result, 1584
received in the course of, and arising out of, the injured 1585
employee's employment. "Injury" does not include: 1586

(1) Psychiatric conditions except where the claimant's 1587
psychiatric conditions have arisen from an injury or 1588
occupational disease sustained by that claimant or where the 1589
claimant's psychiatric conditions have arisen from sexual 1590
conduct in which the claimant was forced by threat of physical 1591
harm to engage or participate; 1592

(2) Injury or disability caused primarily by the natural 1593
deterioration of tissue, an organ, or part of the body; 1594

(3) Injury or disability incurred in voluntary 1595
participation in an employer-sponsored recreation or fitness 1596
activity if the employee signs a waiver of the employee's right 1597
to compensation or benefits under this chapter prior to engaging 1598
in the recreation or fitness activity; 1599

(4) A condition that pre-existed an injury unless that 1600
pre-existing condition is substantially aggravated by the 1601
injury. Such a substantial aggravation must be documented by 1602
objective diagnostic findings, objective clinical findings, or 1603
objective test results. Subjective complaints may be evidence of 1604
such a substantial aggravation. However, subjective complaints 1605
without objective diagnostic findings, objective clinical 1606
findings, or objective test results are insufficient to 1607
substantiate a substantial aggravation. 1608

(D) "Child" includes a posthumous child and a child 1609
legally adopted prior to the injury. 1610

(E) "Family farm corporation" means a corporation founded 1611

for the purpose of farming agricultural land in which the 1612
majority of the voting stock is held by and the majority of the 1613
stockholders are persons or the spouse of persons related to 1614
each other within the fourth degree of kinship, according to the 1615
rules of the civil law, and at least one of the related persons 1616
is residing on or actively operating the farm, and none of whose 1617
stockholders are a corporation. A family farm corporation does 1618
not cease to qualify under this division where, by reason of any 1619
devise, bequest, or the operation of the laws of descent or 1620
distribution, the ownership of shares of voting stock is 1621
transferred to another person, as long as that person is within 1622
the degree of kinship stipulated in this division. 1623

(F) "Occupational disease" means a disease contracted in 1624
the course of employment, which by its causes and the 1625
characteristics of its manifestation or the condition of the 1626
employment results in a hazard which distinguishes the 1627
employment in character from employment generally, and the 1628
employment creates a risk of contracting the disease in greater 1629
degree and in a different manner from the public in general. 1630

(G) "Self-insuring employer" means an employer who is 1631
granted the privilege of paying compensation and benefits 1632
directly under section 4123.35 of the Revised Code, including a 1633
board of county commissioners for the sole purpose of 1634
constructing a sports facility as defined in section 307.696 of 1635
the Revised Code, provided that the electors of the county in 1636
which the sports facility is to be built have approved 1637
construction of a sports facility by ballot election no later 1638
than November 6, 1997. 1639

(H) "Private employer" means an employer as defined in 1640
division (B) (2) of this section. 1641

(I) "Professional employer organization" has the same 1642
meaning as in section 4125.01 of the Revised Code. 1643

(J) "Public employer" means an employer as defined in 1644
division (B)(1) of this section. 1645

(K) "Sexual conduct" means vaginal intercourse between a 1646
male and female; anal intercourse, fellatio, and cunnilingus 1647
between persons regardless of gender; and, without privilege to 1648
do so, the insertion, however slight, of any part of the body or 1649
any instrument, apparatus, or other object into the vaginal or 1650
anal cavity of another. Penetration, however slight, is 1651
sufficient to complete vaginal or anal intercourse. 1652

(L) "Other-states' insurer" means an insurance company 1653
that is authorized to provide workers' compensation insurance 1654
coverage in any of the states that permit employers to obtain 1655
insurance for workers' compensation claims through insurance 1656
companies. 1657

(M) "Other-states' coverage" means both of the following: 1658

(1) Insurance coverage secured by an eligible employer for 1659
workers' compensation claims of employees who are in employment 1660
relationships localized in a state other than this state or 1661
those employees' dependents; 1662

(2) Insurance coverage secured by an eligible employer for 1663
workers' compensation claims that arise in a state other than 1664
this state where an employer elects to obtain coverage through 1665
either the administrator or an other-states' insurer. 1666

(N) "Limited other-states coverage" means insurance 1667
coverage provided by the administrator to an eligible employer 1668
for workers' compensation claims of employees who are in an 1669
employment relationship localized in this state but are 1670

temporarily working in a state other than this state, or those 1671
employees' dependents. 1672

Sec. 4141.42. (A) As used in this section, "critical 1673
infrastructure," "disaster response period," "disaster work," 1674
and "qualifying employee" have the same meanings as in section 1675
5703.94 of the Revised Code. 1676

(B) The director of job and family services may enter into 1677
reciprocal agreements with departments charged with the 1678
administration of the unemployment compensation law of any other 1679
state or the United States or Canada for the purpose of 1680
determining and placing the liability of an employer for the 1681
payment of contributions for services rendered within this state 1682
or such other jurisdiction, or both, and to provide that the 1683
jurisdiction authorized to collect the contributions shall 1684
determine the benefit rights which may arise in connection with 1685
such services and assume the liability for the payment of the 1686
benefits. 1687

(C) An agreement described in division (B) of this section 1688
shall provide that an employer is not liable for disaster work 1689
performed in this state during a disaster response period by 1690
either of the following: 1691

(1) A qualifying employee described in division (A)(14)(a) 1692
of section 5703.94 of the Revised Code, when the disaster work 1693
is performed pursuant to a qualifying solicitation received by 1694
the employee's employer; 1695

(2) A qualifying employee described in division (A)(14)(b) 1696
of section 5703.94 of the Revised Code, when the disaster work 1697
is performed on critical infrastructure owned or used by the 1698
employee's employer. 1699

Sec. 4799.04. (A) As used in this section, "critical 1700
infrastructure," "disaster response period," "disaster work," 1701
"out-of-state disaster business," and "qualifying employee" have 1702
the same meanings as in section 5703.94 of the Revised Code. 1703

(B) No out-of-state disaster business or qualifying 1704
employee shall be required to obtain a state or local license or 1705
other authorization to engage in an occupation in this state for 1706
an activity for which a license or other authorization is 1707
required under Title XLVII of the Revised Code, local ordinance, 1708
or other provision of state or local law, rule, or regulation if 1709
any of the following are true: 1710

(1) The activity is disaster work performed in this state 1711
by an out-of-state disaster business during a disaster response 1712
period pursuant to a qualifying solicitation received by the 1713
business. 1714

(2) The activity is disaster work performed in this state 1715
by a qualifying employee described in division (A)(14)(a) of 1716
section 5703.94 of the Revised Code during a disaster response 1717
period pursuant to a qualifying solicitation received by the 1718
employee's employer. 1719

(3) The activity is disaster work performed in this state 1720
by a qualifying employee described in division (A)(14)(b) of 1721
section 5703.94 of the Revised Code during a disaster response 1722
period on critical infrastructure owned or used by the 1723
employee's employer. 1724

(C)(1) Upon request by the secretary of state, the 1725
employer of each qualifying employee who performed disaster work 1726
in this state during the disaster response period shall provide 1727
proof of the employee's eligibility to perform the disaster work 1728

as determined by the employer's books and records. 1729

(2) If the secretary makes a request under division (C) (1) 1730
of this section, the employer shall submit information described 1731
in that division to the secretary not later than thirty days 1732
from the date the disaster response period terminates or thirty 1733
days from the date the employer receives the request, whichever 1734
is later. 1735

Sec. 5703.94. (A) As used in this section: 1736

(1) "Declared disaster" means an event for which a 1737
disaster declaration has been issued. 1738

(2) "Disaster declaration" means a declaration issued by 1739
the president of the United States or the governor of this state 1740
that an emergency exists. 1741

(3) "Disaster response period" means the period that 1742
begins on the tenth day preceding the day on which a disaster 1743
declaration is issued through the sixtieth day following the day 1744
that the disaster declaration expires or is rescinded. 1745

(4) "Disaster work" means both of the following: 1746

(a) Repairing, renovating, installing, or constructing 1747
critical infrastructure damaged or destroyed by the declared 1748
disaster, or other business activities related to that critical 1749
infrastructure; 1750

(b) Activities conducted in preparation for any activity 1751
described in division (A) (4) (a) of this section. 1752

(5) "Critical infrastructure" means property and equipment 1753
owned or used by a qualifying owner or user to provide service 1754
to more than one customer, including related support facilities 1755
such as buildings, offices, power lines, cable lines, poles, 1756

communication lines, and structures. 1757

(6) "Qualifying owner or user" means a public utility, 1758
commercial mobile radio service provider, cable service 1759
provider, or video service provider. 1760

(7) "Public utility" has the same meaning as in section 1761
4905.02 of the Revised Code, without regard to the exclusions 1762
from that definition prescribed in divisions (A)(1) to (5) of 1763
that section. 1764

(8) "Commercial mobile radio service provider" means a 1765
person providing commercial mobile service as defined in 47 1766
U.S.C. 332(d). 1767

(9) "Cable service provider" and "video service provider" 1768
have the same meanings as in section 1332.21 of the Revised 1769
Code. 1770

(10) "Out-of-state disaster business" means a person that 1771
does all of the following or to which apply all of the 1772
following: 1773

(a) Receives a qualifying solicitation; 1774

(b) Conducts disaster work in this state during a disaster 1775
response period; 1776

(c) Is not subject to taxation under Chapter 5747. or 1777
5751. of the Revised Code on any basis other than such disaster 1778
work during the calendar year preceding the year in which the 1779
disaster response period begins or is subject to such taxation 1780
during that year solely because the person is a related member 1781
of another person. 1782

(11) "Out-of-state employee" means an individual who 1783
performs no work in this state, except disaster work during a 1784

disaster response period, from the first day of the preceding 1785
calendar year to the date on which the disaster response period 1786
begins. 1787

(12) "Related member" has the same meaning as in section 1788
5733.042 of the Revised Code without regard to division (B) of 1789
that section. 1790

(13) "Qualifying solicitation" means a written 1791
solicitation or request from the state, a county, municipal 1792
corporation, or township, or a qualifying user or owner of 1793
critical infrastructure soliciting or requesting the assistance 1794
of a person to perform disaster work in this state. 1795

(14) "Qualifying employee" means one of the following: 1796

(a) An out-of-state employee performing disaster work in 1797
this state during a disaster response period whose employer 1798
receives a qualifying solicitation to perform such work; 1799

(b) An out-of-state employee performing disaster work in 1800
this state on critical infrastructure owned or used by the 1801
employee's employer during a disaster response period, provided 1802
that employer is a qualifying user or owner. 1803

(B) An out-of-state disaster business or qualifying 1804
employee shall qualify for all of the following, as applicable: 1805

(1) The exemption authorized in division (C) (20) of 1806
section 718.01, the exemption authorized in division (C) (10) of 1807
section 5741.02, the deduction authorized in division (A) (33) of 1808
section 5747.01, and the exclusion authorized in division (F) (2) 1809
(11) of section 5751.01 of the Revised Code; 1810

(2) An exemption from any requirement to file a document 1811
or application with or to remit a fee to the secretary of state 1812

as a condition precedent to engaging in business in this state, 1813
in accordance with section 1701.041 of the Revised Code; 1814

(3) An exemption from the requirements of Chapters 4121., 1815
4123., and 4141. of the Revised Code, in accordance with 1816
division (A) (2) of section 4123.01 and section 4141.42 of the 1817
Revised Code; 1818

(4) An exemption from the requirement to obtain a state or 1819
local occupational license or other authorization, in accordance 1820
with section 4799.04 of the Revised Code. 1821

(C) (1) Upon the request of the tax commissioner, an out- 1822
of-state disaster business shall provide the following 1823
information to the commissioner: 1824

(a) The name of the out-of-state disaster business and the 1825
address of its principal place of business; 1826

(b) The business' federal tax identification number; 1827

(c) A copy of the qualifying solicitation received by the 1828
business; 1829

(d) The dates that the out-of-state disaster business and 1830
each of the business' out-of-state employees performing disaster 1831
work in this state during a disaster response period began 1832
performing disaster work in this state during that period; 1833

(e) The name and social security number of each of the 1834
out-of-state disaster business' out-of-state employees 1835
performing disaster work in this state during a disaster 1836
response period; 1837

(f) The name of any person of which the out-of-state 1838
disaster business is a related member, provided that person is 1839
subject to taxation under Chapter 5747. or 5751. of the Revised 1840

Code during the calendar year preceding the year in which the 1841
disaster response period begins; 1842

(g) Any other information required by the tax 1843
commissioner. 1844

(2) Upon the request of the tax commissioner, the employer 1845
of a qualifying employee shall provide the following information 1846
to the commissioner: 1847

(a) The employer's name and the address of its principal 1848
place of business; 1849

(b) The employer's federal tax identification number; 1850

(c) For the employer of a qualifying employee described in 1851
division (A) (14) (a) of this section, a copy of the qualifying 1852
solicitation received by the employer; 1853

(d) The date each of the employer's out-of-state employees 1854
performing disaster work in this state during a disaster 1855
response period began performing disaster work in this state 1856
during that period; 1857

(e) The name and social security number of each of the 1858
employer's out-of-state employees performing disaster work in 1859
this state during a disaster response period; 1860

(f) Any other information required by the tax 1861
commissioner. 1862

(3) If the commissioner makes a request under division (C) 1863
(1) or (2) of this section, the out-of-state disaster business 1864
or employer shall submit information described in that division 1865
to the commissioner not later than thirty days from the date the 1866
disaster response period terminates or thirty days after the 1867
business or employer receives the request, whichever is later. 1868

(D) The department of taxation may adopt rules necessary 1869
to administer this section. 1870

Sec. 5741.02. (A) (1) For the use of the general revenue 1871
fund of the state, an excise tax is hereby levied on the 1872
storage, use, or other consumption in this state of tangible 1873
personal property or the benefit realized in this state of any 1874
service provided. The tax shall be collected as provided in 1875
section 5739.025 of the Revised Code. The rate of the tax shall 1876
be five and three-fourths per cent. 1877

(2) In the case of the lease or rental, with a fixed term 1878
of more than thirty days or an indefinite term with a minimum 1879
period of more than thirty days, of any motor vehicles designed 1880
by the manufacturer to carry a load of not more than one ton, 1881
watercraft, outboard motor, or aircraft, or of any tangible 1882
personal property, other than motor vehicles designed by the 1883
manufacturer to carry a load of more than one ton, to be used by 1884
the lessee or renter primarily for business purposes, the tax 1885
shall be collected by the seller at the time the lease or rental 1886
is consummated and shall be calculated by the seller on the 1887
basis of the total amount to be paid by the lessee or renter 1888
under the lease or rental agreement. If the total amount of the 1889
consideration for the lease or rental includes amounts that are 1890
not calculated at the time the lease or rental is executed, the 1891
tax shall be calculated and collected by the seller at the time 1892
such amounts are billed to the lessee or renter. In the case of 1893
an open-end lease or rental, the tax shall be calculated by the 1894
seller on the basis of the total amount to be paid during the 1895
initial fixed term of the lease or rental, and for each 1896
subsequent renewal period as it comes due. As used in this 1897
division, "motor vehicle" has the same meaning as in section 1898
4501.01 of the Revised Code, and "watercraft" includes an 1899

outdrive unit attached to the watercraft. 1900

(3) Except as provided in division (A)(2) of this section, 1901
in the case of a transaction, the price of which consists in 1902
whole or part of the lease or rental of tangible personal 1903
property, the tax shall be measured by the installments of those 1904
leases or rentals. 1905

(B) Each consumer, storing, using, or otherwise consuming 1906
in this state tangible personal property or realizing in this 1907
state the benefit of any service provided, shall be liable for 1908
the tax, and such liability shall not be extinguished until the 1909
tax has been paid to this state; provided, that the consumer 1910
shall be relieved from further liability for the tax if the tax 1911
has been paid to a seller in accordance with section 5741.04 of 1912
the Revised Code or prepaid by the seller in accordance with 1913
section 5741.06 of the Revised Code. 1914

(C) The tax does not apply to the storage, use, or 1915
consumption in this state of the following described tangible 1916
personal property or services, nor to the storage, use, or 1917
consumption or benefit in this state of tangible personal 1918
property or services purchased under the following described 1919
circumstances: 1920

(1) When the sale of property or service in this state is 1921
subject to the excise tax imposed by sections 5739.01 to 5739.31 1922
of the Revised Code, provided said tax has been paid; 1923

(2) Except as provided in division (D) of this section, 1924
tangible personal property or services, the acquisition of 1925
which, if made in Ohio, would be a sale not subject to the tax 1926
imposed by sections 5739.01 to 5739.31 of the Revised Code; 1927

(3) Property or services, the storage, use, or other 1928

consumption of or benefit from which this state is prohibited 1929
from taxing by the Constitution of the United States, laws of 1930
the United States, or the Constitution of this state. This 1931
exemption shall not exempt from the application of the tax 1932
imposed by this section the storage, use, or consumption of 1933
tangible personal property that was purchased in interstate 1934
commerce, but that has come to rest in this state, provided that 1935
fuel to be used or transported in carrying on interstate 1936
commerce that is stopped within this state pending transfer from 1937
one conveyance to another is exempt from the excise tax imposed 1938
by this section and section 5739.02 of the Revised Code; 1939

(4) Transient use of tangible personal property in this 1940
state by a nonresident tourist or vacationer, or a nonbusiness 1941
use within this state by a nonresident of this state, if the 1942
property so used was purchased outside this state for use 1943
outside this state and is not required to be registered or 1944
licensed under the laws of this state; 1945

(5) Tangible personal property or services rendered, upon 1946
which taxes have been paid to another jurisdiction to the extent 1947
of the amount of the tax paid to such other jurisdiction. Where 1948
the amount of the tax imposed by this section and imposed 1949
pursuant to section 5741.021, 5741.022, or 5741.023 of the 1950
Revised Code exceeds the amount paid to another jurisdiction, 1951
the difference shall be allocated between the tax imposed by 1952
this section and any tax imposed by a county or a transit 1953
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 1954
the Revised Code, in proportion to the respective rates of such 1955
taxes. 1956

As used in this subdivision, "taxes paid to another 1957
jurisdiction" means the total amount of retail sales or use tax 1958

or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

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

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

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

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

(a) A nonprofit organization operated exclusively for

charitable purposes in this state, no part of the net income of 1988
which inures to the benefit of any private shareholder or 1989
individual and no substantial part of the activities of which 1990
consists of carrying on propaganda or otherwise attempting to 1991
influence legislation; or 1992

(b) This state or any political subdivision of this state, 1993
but only if donated for exclusively public purposes. 1994

For the purposes of division (C) ~~(10)~~ (9) of this section, 1995
"charitable purposes" has the same meaning as in division (B) 1996
(12) of section 5739.02 of the Revised Code. 1997

(10) Equipment stored, used, or otherwise consumed in this 1998
state by an out-of-state disaster business during a disaster 1999
response period during which the business conducts disaster work 2000
pursuant to a qualifying solicitation received by the business, 2001
provided the equipment is removed from the state before the last 2002
day of that period. All terms used in division (C) (10) of this 2003
section have the same meanings as in section 5703.94 of the 2004
Revised Code. 2005

(D) The tax applies to the storage, use, or other 2006
consumption in this state of tangible personal property or 2007
services, the acquisition of which at the time of sale was 2008
excepted under division (E) of section 5739.01 of the Revised 2009
Code from the tax imposed by section 5739.02 of the Revised 2010
Code, but which has subsequently been temporarily or permanently 2011
stored, used, or otherwise consumed in a taxable manner. 2012

(E) (1) (a) If any transaction is claimed to be exempt under 2013
division (E) of section 5739.01 of the Revised Code or under 2014
section 5739.02 of the Revised Code, with the exception of 2015
divisions (B) (1) to (11) or (28) of section 5739.02 of the 2016

Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

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

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

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

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

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

prewritten computer software. 2046

(2) The seller shall maintain records, including exemption 2047
certificates, of all sales on which a consumer has claimed an 2048
exemption, and provide them to the tax commissioner on request. 2049

(3) If no certificate is provided or obtained within 2050
ninety days after the date on which the transaction is 2051
consummated, it shall be presumed that the tax applies. Failure 2052
to have so provided or obtained a certificate shall not preclude 2053
a seller, within one hundred twenty days after the tax 2054
commissioner gives written notice of intent to levy an 2055
assessment, from either establishing that the transaction is not 2056
subject to the tax, or obtaining, in good faith, a fully 2057
completed exemption certificate. 2058

(4) If a transaction is claimed to be exempt under 2059
division (B) (13) of section 5739.02 of the Revised Code, the 2060
contractor shall obtain certification of the claimed exemption 2061
from the contractee. This certification shall be in addition to 2062
an exemption certificate provided by the contractor to the 2063
seller. A contractee that provides a certification under this 2064
division shall be deemed to be the consumer of all items 2065
purchased by the contractor under the claim of exemption, if it 2066
is subsequently determined that the exemption is not properly 2067
claimed. The certification shall be in such form as the tax 2068
commissioner prescribes. 2069

(F) A seller who files a petition for reassessment 2070
contesting the assessment of tax on transactions for which the 2071
seller obtained no valid exemption certificates, and for which 2072
the seller failed to establish that the transactions were not 2073
subject to the tax during the one-hundred-twenty-day period 2074
allowed under division (E) of this section, may present to the 2075

tax commissioner additional evidence to prove that the 2076
transactions were exempt. The seller shall file such evidence 2077
within ninety days of the receipt by the seller of the notice of 2078
assessment, except that, upon application and for reasonable 2079
cause, the tax commissioner may extend the period for submitting 2080
such evidence thirty days. 2081

(G) For the purpose of the proper administration of 2082
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 2083
the evasion of the tax hereby levied, it shall be presumed that 2084
any use, storage, or other consumption of tangible personal 2085
property in this state is subject to the tax until the contrary 2086
is established. 2087

(H) The tax collected by the seller from the consumer 2088
under this chapter is not part of the price, but is a tax 2089
collection for the benefit of the state, and of counties levying 2090
an additional use tax pursuant to section 5741.021 or 5741.023 2091
of the Revised Code and of transit authorities levying an 2092
additional use tax pursuant to section 5741.022 of the Revised 2093
Code. Except for the discount authorized under section 5741.12 2094
of the Revised Code and the effects of any rounding pursuant to 2095
section 5703.055 of the Revised Code, no person other than the 2096
state or such a county or transit authority shall derive any 2097
benefit from the collection of such tax. 2098

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

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

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a) (i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b) (i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) 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 adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the

interest or interest equivalent is included in federal adjusted 2165
gross income. 2166

(9) Add any loss or deduct any gain resulting from the 2167
sale, exchange, or other disposition of public obligations to 2168
the extent that the loss has been deducted or the gain has been 2169
included in computing federal adjusted gross income. 2170

(10) Deduct or add amounts, as provided under section 2171
5747.70 of the Revised Code, related to contributions to 2172
variable college savings program accounts made or tuition units 2173
purchased pursuant to Chapter 3334. of the Revised Code. 2174

(11) (a) Deduct, to the extent not otherwise allowable as a 2175
deduction or exclusion in computing federal or Ohio adjusted 2176
gross income for the taxable year, the amount the taxpayer paid 2177
during the taxable year for medical care insurance and qualified 2178
long-term care insurance for the taxpayer, the taxpayer's 2179
spouse, and dependents. No deduction for medical care insurance 2180
under division (A) (11) of this section shall be allowed either 2181
to any taxpayer who is eligible to participate in any subsidized 2182
health plan maintained by any employer of the taxpayer or of the 2183
taxpayer's spouse, or to any taxpayer who is entitled to, or on 2184
application would be entitled to, benefits under part A of Title 2185
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 2186
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 2187
of this section, "subsidized health plan" means a health plan 2188
for which the employer pays any portion of the plan's cost. The 2189
deduction allowed under division (A) (11) (a) of this section 2190
shall be the net of any related premium refunds, related premium 2191
reimbursements, or related insurance premium dividends received 2192
during the taxable year. 2193

(b) Deduct, to the extent not otherwise deducted or 2194

excluded in computing federal or Ohio adjusted gross income 2195
during the taxable year, the amount the taxpayer paid during the 2196
taxable year, not compensated for by any insurance or otherwise, 2197
for medical care of the taxpayer, the taxpayer's spouse, and 2198
dependents, to the extent the expenses exceed seven and one-half 2199
per cent of the taxpayer's federal adjusted gross income. 2200

(c) Deduct, to the extent not otherwise deducted or 2201
excluded in computing federal or Ohio adjusted gross income, any 2202
amount included in federal adjusted gross income under section 2203
105 or not excluded under section 106 of the Internal Revenue 2204
Code solely because it relates to an accident and health plan 2205
for a person who otherwise would be a "qualifying relative" and 2206
thus a "dependent" under section 152 of the Internal Revenue 2207
Code but for the fact that the person fails to meet the income 2208
and support limitations under section 152(d)(1)(B) and (C) of 2209
the Internal Revenue Code. 2210

(d) For purposes of division (A)(11) of this section, 2211
"medical care" has the meaning given in section 213 of the 2212
Internal Revenue Code, subject to the special rules, 2213
limitations, and exclusions set forth therein, and "qualified 2214
long-term care" has the same meaning given in section 7702B(c) 2215
of the Internal Revenue Code. Solely for purposes of divisions 2216
(A)(11)(a) and (c) of this section, "dependent" includes a 2217
person who otherwise would be a "qualifying relative" and thus a 2218
"dependent" under section 152 of the Internal Revenue Code but 2219
for the fact that the person fails to meet the income and 2220
support limitations under section 152(d)(1)(B) and (C) of the 2221
Internal Revenue Code. 2222

(12)(a) Deduct any amount included in federal adjusted 2223
gross income solely because the amount represents a 2224

reimbursement or refund of expenses that in any year the 2225
taxpayer had deducted as an itemized deduction pursuant to 2226
section 63 of the Internal Revenue Code and applicable United 2227
States department of the treasury regulations. The deduction 2228
otherwise allowed under division (A) (12) (a) of this section 2229
shall be reduced to the extent the reimbursement is attributable 2230
to an amount the taxpayer deducted under this section in any 2231
taxable year. 2232

(b) Add any amount not otherwise included in Ohio adjusted 2233
gross income for any taxable year to the extent that the amount 2234
is attributable to the recovery during the taxable year of any 2235
amount deducted or excluded in computing federal or Ohio 2236
adjusted gross income in any taxable year. 2237

(13) Deduct any portion of the deduction described in 2238
section 1341(a) (2) of the Internal Revenue Code, for repaying 2239
previously reported income received under a claim of right, that 2240
meets both of the following requirements: 2241

(a) It is allowable for repayment of an item that was 2242
included in the taxpayer's adjusted gross income for a prior 2243
taxable year and did not qualify for a credit under division (A) 2244
or (B) of section 5747.05 of the Revised Code for that year; 2245

(b) It does not otherwise reduce the taxpayer's adjusted 2246
gross income for the current or any other taxable year. 2247

(14) Deduct an amount equal to the deposits made to, and 2248
net investment earnings of, a medical savings account during the 2249
taxable year, in accordance with section 3924.66 of the Revised 2250
Code. The deduction allowed by division (A) (14) of this section 2251
does not apply to medical savings account deposits and earnings 2252
otherwise deducted or excluded for the current or any other 2253

taxable year from the taxpayer's federal adjusted gross income.	2254
(15) (a) Add an amount equal to the funds withdrawn from a	2255
medical savings account during the taxable year, and the net	2256
investment earnings on those funds, when the funds withdrawn	2257
were used for any purpose other than to reimburse an account	2258
holder for, or to pay, eligible medical expenses, in accordance	2259
with section 3924.66 of the Revised Code;	2260
(b) Add the amounts distributed from a medical savings	2261
account under division (A) (2) of section 3924.68 of the Revised	2262
Code during the taxable year.	2263
(16) Add any amount claimed as a credit under section	2264
5747.059 or 5747.65 of the Revised Code to the extent that such	2265
amount satisfies either of the following:	2266
(a) The amount was deducted or excluded from the	2267
computation of the taxpayer's federal adjusted gross income as	2268
required to be reported for the taxpayer's taxable year under	2269
the Internal Revenue Code;	2270
(b) The amount resulted in a reduction of the taxpayer's	2271
federal adjusted gross income as required to be reported for any	2272
of the taxpayer's taxable years under the Internal Revenue Code.	2273
(17) Deduct the amount contributed by the taxpayer to an	2274
individual development account program established by a county	2275
department of job and family services pursuant to sections	2276
329.11 to 329.14 of the Revised Code for the purpose of matching	2277
funds deposited by program participants. On request of the tax	2278
commissioner, the taxpayer shall provide any information that,	2279
in the tax commissioner's opinion, is necessary to establish the	2280
amount deducted under division (A) (17) of this section.	2281
(18) Beginning in taxable year 2001 but not for any	2282

taxable year beginning after December 31, 2005, if the taxpayer 2283
is married and files a joint return and the combined federal 2284
adjusted gross income of the taxpayer and the taxpayer's spouse 2285
for the taxable year does not exceed one hundred thousand 2286
dollars, or if the taxpayer is single and has a federal adjusted 2287
gross income for the taxable year not exceeding fifty thousand 2288
dollars, deduct amounts paid during the taxable year for 2289
qualified tuition and fees paid to an eligible institution for 2290
the taxpayer, the taxpayer's spouse, or any dependent of the 2291
taxpayer, who is a resident of this state and is enrolled in or 2292
attending a program that culminates in a degree or diploma at an 2293
eligible institution. The deduction may be claimed only to the 2294
extent that qualified tuition and fees are not otherwise 2295
deducted or excluded for any taxable year from federal or Ohio 2296
adjusted gross income. The deduction may not be claimed for 2297
educational expenses for which the taxpayer claims a credit 2298
under section 5747.27 of the Revised Code. 2299

(19) Add any reimbursement received during the taxable 2300
year of any amount the taxpayer deducted under division (A) (18) 2301
of this section in any previous taxable year to the extent the 2302
amount is not otherwise included in Ohio adjusted gross income. 2303

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 2304
(v) of this section, add five-sixths of the amount of 2305
depreciation expense allowed by subsection (k) of section 168 of 2306
the Internal Revenue Code, including the taxpayer's 2307
proportionate or distributive share of the amount of 2308
depreciation expense allowed by that subsection to a pass- 2309
through entity in which the taxpayer has a direct or indirect 2310
ownership interest. 2311

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 2312

of this section, add five-sixths of the amount of qualifying 2313
section 179 depreciation expense, including the taxpayer's 2314
proportionate or distributive share of the amount of qualifying 2315
section 179 depreciation expense allowed to any pass-through 2316
entity in which the taxpayer has a direct or indirect ownership 2317
interest. 2318

(iii) Subject to division (A) (20) (a) (v) of this section, 2319
for taxable years beginning in 2012 or thereafter, if the 2320
increase in income taxes withheld by the taxpayer is equal to or 2321
greater than ten per cent of income taxes withheld by the 2322
taxpayer during the taxpayer's immediately preceding taxable 2323
year, "two-thirds" shall be substituted for "five-sixths" for 2324
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2325

(iv) Subject to division (A) (20) (a) (v) of this section, 2326
for taxable years beginning in 2012 or thereafter, a taxpayer is 2327
not required to add an amount under division (A) (20) of this 2328
section if the increase in income taxes withheld by the taxpayer 2329
and by any pass-through entity in which the taxpayer has a 2330
direct or indirect ownership interest is equal to or greater 2331
than the sum of (I) the amount of qualifying section 179 2332
depreciation expense and (II) the amount of depreciation expense 2333
allowed to the taxpayer by subsection (k) of section 168 of the 2334
Internal Revenue Code, and including the taxpayer's 2335
proportionate or distributive shares of such amounts allowed to 2336
any such pass-through entities. 2337

(v) If a taxpayer directly or indirectly incurs a net 2338
operating loss for the taxable year for federal income tax 2339
purposes, to the extent such loss resulted from depreciation 2340
expense allowed by subsection (k) of section 168 of the Internal 2341
Revenue Code and by qualifying section 179 depreciation expense, 2342

"the entire" shall be substituted for "five-sixths of the" for 2343
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2344

The tax commissioner, under procedures established by the 2345
commissioner, may waive the add-backs related to a pass-through 2346
entity if the taxpayer owns, directly or indirectly, less than 2347
five per cent of the pass-through entity. 2348

(b) Nothing in division (A) (20) of this section shall be 2349
construed to adjust or modify the adjusted basis of any asset. 2350

(c) To the extent the add-back required under division (A) 2351
(20) (a) of this section is attributable to property generating 2352
nonbusiness income or loss allocated under section 5747.20 of 2353
the Revised Code, the add-back shall be situated to the same 2354
location as the nonbusiness income or loss generated by the 2355
property for the purpose of determining the credit under 2356
division (A) of section 5747.05 of the Revised Code. Otherwise, 2357
the add-back shall be apportioned, subject to one or more of the 2358
four alternative methods of apportionment enumerated in section 2359
5747.21 of the Revised Code. 2360

(d) For the purposes of division (A) (20) (a) (v) of this 2361
section, net operating loss carryback and carryforward shall not 2362
include the allowance of any net operating loss deduction 2363
carryback or carryforward to the taxable year to the extent such 2364
loss resulted from depreciation allowed by section 168(k) of the 2365
Internal Revenue Code and by the qualifying section 179 2366
depreciation expense amount. 2367

(e) For the purposes of divisions (A) (20) and (21) of this 2368
section: 2369

(i) "Income taxes withheld" means the total amount 2370
withheld and remitted under sections 5747.06 and 5747.07 of the 2371

Revised Code by an employer during the employer's taxable year.	2372
(ii) "Increase in income taxes withheld" means the amount	2373
by which the amount of income taxes withheld by an employer	2374
during the employer's current taxable year exceeds the amount of	2375
income taxes withheld by that employer during the employer's	2376
immediately preceding taxable year.	2377
(iii) "Qualifying section 179 depreciation expense" means	2378
the difference between (I) the amount of depreciation expense	2379
directly or indirectly allowed to a taxpayer under section 179	2380
of the Internal Revised Code, and (II) the amount of	2381
depreciation expense directly or indirectly allowed to the	2382
taxpayer under section 179 of the Internal Revenue Code as that	2383
section existed on December 31, 2002.	2384
(21) (a) If the taxpayer was required to add an amount	2385
under division (A) (20) (a) of this section for a taxable year,	2386
deduct one of the following:	2387
(i) One-fifth of the amount so added for each of the five	2388
succeeding taxable years if the amount so added was five-sixths	2389
of qualifying section 179 depreciation expense or depreciation	2390
expense allowed by subsection (k) of section 168 of the Internal	2391
Revenue Code;	2392
(ii) One-half of the amount so added for each of the two	2393
succeeding taxable years if the amount so added was two-thirds	2394
of such depreciation expense;	2395
(iii) One-sixth of the amount so added for each of the six	2396
succeeding taxable years if the entire amount of such	2397
depreciation expense was so added.	2398
(b) If the amount deducted under division (A) (21) (a) of	2399
this section is attributable to an add-back allocated under	2400

division (A) (20) (c) of this section, the amount deducted shall 2401
be sitused to the same location. Otherwise, the add-back shall 2402
be apportioned using the apportionment factors for the taxable 2403
year in which the deduction is taken, subject to one or more of 2404
the four alternative methods of apportionment enumerated in 2405
section 5747.21 of the Revised Code. 2406

(c) No deduction is available under division (A) (21) (a) of 2407
this section with regard to any depreciation allowed by section 2408
168(k) of the Internal Revenue Code and by the qualifying 2409
section 179 depreciation expense amount to the extent that such 2410
depreciation results in or increases a federal net operating 2411
loss carryback or carryforward. If no such deduction is 2412
available for a taxable year, the taxpayer may carry forward the 2413
amount not deducted in such taxable year to the next taxable 2414
year and add that amount to any deduction otherwise available 2415
under division (A) (21) (a) of this section for that next taxable 2416
year. The carryforward of amounts not so deducted shall continue 2417
until the entire addition required by division (A) (20) (a) of 2418
this section has been deducted. 2419

(d) No refund shall be allowed as a result of adjustments 2420
made by division (A) (21) of this section. 2421

(22) Deduct, to the extent not otherwise deducted or 2422
excluded in computing federal or Ohio adjusted gross income for 2423
the taxable year, the amount the taxpayer received during the 2424
taxable year as reimbursement for life insurance premiums under 2425
section 5919.31 of the Revised Code. 2426

(23) Deduct, to the extent not otherwise deducted or 2427
excluded in computing federal or Ohio adjusted gross income for 2428
the taxable year, the amount the taxpayer received during the 2429
taxable year as a death benefit paid by the adjutant general 2430

under section 5919.33 of the Revised Code. 2431

(24) Deduct, to the extent included in federal adjusted 2432
gross income and not otherwise allowable as a deduction or 2433
exclusion in computing federal or Ohio adjusted gross income for 2434
the taxable year, military pay and allowances received by the 2435
taxpayer during the taxable year for active duty service in the 2436
United States army, air force, navy, marine corps, or coast 2437
guard or reserve components thereof or the national guard. The 2438
deduction may not be claimed for military pay and allowances 2439
received by the taxpayer while the taxpayer is stationed in this 2440
state. 2441

(25) Deduct, to the extent not otherwise allowable as a 2442
deduction or exclusion in computing federal or Ohio adjusted 2443
gross income for the taxable year and not otherwise compensated 2444
for by any other source, the amount of qualified organ donation 2445
expenses incurred by the taxpayer during the taxable year, not 2446
to exceed ten thousand dollars. A taxpayer may deduct qualified 2447
organ donation expenses only once for all taxable years 2448
beginning with taxable years beginning in 2007. 2449

For the purposes of division (A) (25) of this section: 2450

(a) "Human organ" means all or any portion of a human 2451
liver, pancreas, kidney, intestine, or lung, and any portion of 2452
human bone marrow. 2453

(b) "Qualified organ donation expenses" means travel 2454
expenses, lodging expenses, and wages and salary forgone by a 2455
taxpayer in connection with the taxpayer's donation, while 2456
living, of one or more of the taxpayer's human organs to another 2457
human being. 2458

(26) Deduct, to the extent not otherwise deducted or 2459

excluded in computing federal or Ohio adjusted gross income for 2460
the taxable year, amounts received by the taxpayer as retired 2461
personnel pay for service in the uniformed services or reserve 2462
components thereof, or the national guard, or received by the 2463
surviving spouse or former spouse of such a taxpayer under the 2464
survivor benefit plan on account of such a taxpayer's death. If 2465
the taxpayer receives income on account of retirement paid under 2466
the federal civil service retirement system or federal employees 2467
retirement system, or under any successor retirement program 2468
enacted by the congress of the United States that is established 2469
and maintained for retired employees of the United States 2470
government, and such retirement income is based, in whole or in 2471
part, on credit for the taxpayer's uniformed service, the 2472
deduction allowed under this division shall include only that 2473
portion of such retirement income that is attributable to the 2474
taxpayer's uniformed service, to the extent that portion of such 2475
retirement income is otherwise included in federal adjusted 2476
gross income and is not otherwise deducted under this section. 2477
Any amount deducted under division (A) (26) of this section is 2478
not included in a taxpayer's adjusted gross income for the 2479
purposes of section 5747.055 of the Revised Code. No amount may 2480
be deducted under division (A) (26) of this section on the basis 2481
of which a credit was claimed under section 5747.055 of the 2482
Revised Code. 2483

(27) Deduct, to the extent not otherwise deducted or 2484
excluded in computing federal or Ohio adjusted gross income for 2485
the taxable year, the amount the taxpayer received during the 2486
taxable year from the military injury relief fund created in 2487
section 5902.05 of the Revised Code. 2488

(28) Deduct, to the extent not otherwise deducted or 2489
excluded in computing federal or Ohio adjusted gross income for 2490

the taxable year, the amount the taxpayer received as a veterans 2491
bonus during the taxable year from the Ohio department of 2492
veterans services as authorized by Section 2r of Article VIII, 2493
Ohio Constitution. 2494

(29) Deduct, to the extent not otherwise deducted or 2495
excluded in computing federal or Ohio adjusted gross income for 2496
the taxable year, any income derived from a transfer agreement 2497
or from the enterprise transferred under that agreement under 2498
section 4313.02 of the Revised Code. 2499

(30) Deduct, to the extent not otherwise deducted or 2500
excluded in computing federal or Ohio adjusted gross income for 2501
the taxable year, Ohio college opportunity or federal Pell grant 2502
amounts received by the taxpayer or the taxpayer's spouse or 2503
dependent pursuant to section 3333.122 of the Revised Code or 20 2504
U.S.C. 1070a, et seq., and used to pay room or board furnished 2505
by the educational institution for which the grant was awarded 2506
at the institution's facilities, including meal plans 2507
administered by the institution. For the purposes of this 2508
division, receipt of a grant includes the distribution of a 2509
grant directly to an educational institution and the crediting 2510
of the grant to the enrollee's account with the institution. 2511

(31) (a) For taxable years beginning in 2015, deduct from 2512
the portion of an individual's adjusted gross income that is 2513
business income, to the extent not otherwise deducted or 2514
excluded in computing federal or Ohio adjusted gross income for 2515
the taxable year, the lesser of the following amounts: 2516

(i) Seventy-five per cent of the individual's business 2517
income; 2518

(ii) Ninety-three thousand seven hundred fifty dollars for 2519

each spouse if spouses file separate returns under section 2520
5747.08 of the Revised Code or one hundred eighty-seven thousand 2521
five hundred dollars for all other individuals. 2522

(b) For taxable years beginning in 2016 or thereafter, 2523
deduct from the portion of an individual's adjusted gross income 2524
that is business income, to the extent not otherwise deducted or 2525
excluded in computing federal adjusted gross income for the 2526
taxable year, one hundred twenty-five thousand dollars for each 2527
spouse if spouses file separate returns under section 5747.08 of 2528
the Revised Code or two hundred fifty thousand dollars for all 2529
other individuals. 2530

(32) Deduct, as provided under section 5747.78 of the 2531
Revised Code, contributions to ABLE savings accounts made in 2532
accordance with sections 113.50 to 113.56 of the Revised Code. 2533

(33) (a) Deduct, to the extent not otherwise deducted or 2534
excluded in computing federal or Ohio adjusted gross income 2535
during the taxable year, all of the following: 2536

(i) Compensation paid to a qualifying employee described 2537
in division (A) (14) (a) of section 5703.94 of the Revised Code to 2538
the extent such compensation is for disaster work conducted in 2539
this state during a disaster response period pursuant to a 2540
qualifying solicitation received by the employee's employer; 2541

(ii) Compensation paid to a qualifying employee described 2542
in division (A) (14) (b) of section 5703.94 of the Revised Code to 2543
the extent such compensation is for disaster work conducted in 2544
this state by the employee during the disaster response period 2545
on critical infrastructure owned or used by the employee's 2546
employer; 2547

(iii) Income received by an out-of-state disaster business 2548

for disaster work conducted in this state during a disaster 2549
response period, or, if the out-of-state disaster business is a 2550
pass-through entity, a taxpayer's distributive share of the 2551
pass-through entity's income from the business conducting 2552
disaster work in this state during a disaster response period, 2553
if, in either case, the disaster work is conducted pursuant to a 2554
qualifying solicitation received by the business. 2555

(b) All terms used in division (A) (33) of this section 2556
have the same meanings as in section 5703.94 of the Revised 2557
Code. 2558

(B) "Business income" means income, including gain or 2559
loss, arising from transactions, activities, and sources in the 2560
regular course of a trade or business and includes income, gain, 2561
or loss from real property, tangible property, and intangible 2562
property if the acquisition, rental, management, and disposition 2563
of the property constitute integral parts of the regular course 2564
of a trade or business operation. "Business income" includes 2565
income, including gain or loss, from a partial or complete 2566
liquidation of a business, including, but not limited to, gain 2567
or loss from the sale or other disposition of goodwill. 2568

(C) "Nonbusiness income" means all income other than 2569
business income and may include, but is not limited to, 2570
compensation, rents and royalties from real or tangible personal 2571
property, capital gains, interest, dividends and distributions, 2572
patent or copyright royalties, or lottery winnings, prizes, and 2573
awards. 2574

(D) "Compensation" means any form of remuneration paid to 2575
an employee for personal services. 2576

(E) "Fiduciary" means a guardian, trustee, executor, 2577

administrator, receiver, conservator, or any other person acting	2578
in any fiduciary capacity for any individual, trust, or estate.	2579
(F) "Fiscal year" means an accounting period of twelve	2580
months ending on the last day of any month other than December.	2581
(G) "Individual" means any natural person.	2582
(H) "Internal Revenue Code" means the "Internal Revenue	2583
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	2584
(I) "Resident" means any of the following, provided that	2585
division (I) (3) of this section applies only to taxable years of	2586
a trust beginning in 2002 or thereafter:	2587
(1) An individual who is domiciled in this state, subject	2588
to section 5747.24 of the Revised Code;	2589
(2) The estate of a decedent who at the time of death was	2590
domiciled in this state. The domicile tests of section 5747.24	2591
of the Revised Code are not controlling for purposes of division	2592
(I) (2) of this section.	2593
(3) A trust that, in whole or part, resides in this state.	2594
If only part of a trust resides in this state, the trust is a	2595
resident only with respect to that part.	2596
For the purposes of division (I) (3) of this section:	2597
(a) A trust resides in this state for the trust's current	2598
taxable year to the extent, as described in division (I) (3) (d)	2599
of this section, that the trust consists directly or indirectly,	2600
in whole or in part, of assets, net of any related liabilities,	2601
that were transferred, or caused to be transferred, directly or	2602
indirectly, to the trust by any of the following:	2603
(i) A person, a court, or a governmental entity or	2604

instrumentality on account of the death of a decedent, but only 2605
if the trust is described in division (I) (3) (e) (i) or (ii) of 2606
this section; 2607

(ii) A person who was domiciled in this state for the 2608
purposes of this chapter when the person directly or indirectly 2609
transferred assets to an irrevocable trust, but only if at least 2610
one of the trust's qualifying beneficiaries is domiciled in this 2611
state for the purposes of this chapter during all or some 2612
portion of the trust's current taxable year; 2613

(iii) A person who was domiciled in this state for the 2614
purposes of this chapter when the trust document or instrument 2615
or part of the trust document or instrument became irrevocable, 2616
but only if at least one of the trust's qualifying beneficiaries 2617
is a resident domiciled in this state for the purposes of this 2618
chapter during all or some portion of the trust's current 2619
taxable year. If a trust document or instrument became 2620
irrevocable upon the death of a person who at the time of death 2621
was domiciled in this state for purposes of this chapter, that 2622
person is a person described in division (I) (3) (a) (iii) of this 2623
section. 2624

(b) A trust is irrevocable to the extent that the 2625
transferor is not considered to be the owner of the net assets 2626
of the trust under sections 671 to 678 of the Internal Revenue 2627
Code. 2628

(c) With respect to a trust other than a charitable lead 2629
trust, "qualifying beneficiary" has the same meaning as 2630
"potential current beneficiary" as defined in section 1361(e) (2) 2631
of the Internal Revenue Code, and with respect to a charitable 2632
lead trust "qualifying beneficiary" is any current, future, or 2633
contingent beneficiary, but with respect to any trust 2634

"qualifying beneficiary" excludes a person or a governmental 2635
entity or instrumentality to any of which a contribution would 2636
qualify for the charitable deduction under section 170 of the 2637
Internal Revenue Code. 2638

(d) For the purposes of division (I) (3) (a) of this 2639
section, the extent to which a trust consists directly or 2640
indirectly, in whole or in part, of assets, net of any related 2641
liabilities, that were transferred directly or indirectly, in 2642
whole or part, to the trust by any of the sources enumerated in 2643
that division shall be ascertained by multiplying the fair 2644
market value of the trust's assets, net of related liabilities, 2645
by the qualifying ratio, which shall be computed as follows: 2646

(i) The first time the trust receives assets, the 2647
numerator of the qualifying ratio is the fair market value of 2648
those assets at that time, net of any related liabilities, from 2649
sources enumerated in division (I) (3) (a) of this section. The 2650
denominator of the qualifying ratio is the fair market value of 2651
all the trust's assets at that time, net of any related 2652
liabilities. 2653

(ii) Each subsequent time the trust receives assets, a 2654
revised qualifying ratio shall be computed. The numerator of the 2655
revised qualifying ratio is the sum of (1) the fair market value 2656
of the trust's assets immediately prior to the subsequent 2657
transfer, net of any related liabilities, multiplied by the 2658
qualifying ratio last computed without regard to the subsequent 2659
transfer, and (2) the fair market value of the subsequently 2660
transferred assets at the time transferred, net of any related 2661
liabilities, from sources enumerated in division (I) (3) (a) of 2662
this section. The denominator of the revised qualifying ratio is 2663
the fair market value of all the trust's assets immediately 2664

after the subsequent transfer, net of any related liabilities. 2665

(iii) Whether a transfer to the trust is by or from any of 2666
the sources enumerated in division (I) (3) (a) of this section 2667
shall be ascertained without regard to the domicile of the 2668
trust's beneficiaries. 2669

(e) For the purposes of division (I) (3) (a) (i) of this 2670
section: 2671

(i) A trust is described in division (I) (3) (e) (i) of this 2672
section if the trust is a testamentary trust and the testator of 2673
that testamentary trust was domiciled in this state at the time 2674
of the testator's death for purposes of the taxes levied under 2675
Chapter 5731. of the Revised Code. 2676

(ii) A trust is described in division (I) (3) (e) (ii) of 2677
this section if the transfer is a qualifying transfer described 2678
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 2679
trust is an irrevocable inter vivos trust, and at least one of 2680
the trust's qualifying beneficiaries is domiciled in this state 2681
for purposes of this chapter during all or some portion of the 2682
trust's current taxable year. 2683

(f) For the purposes of division (I) (3) (e) (ii) of this 2684
section, a "qualifying transfer" is a transfer of assets, net of 2685
any related liabilities, directly or indirectly to a trust, if 2686
the transfer is described in any of the following: 2687

(i) The transfer is made to a trust, created by the 2688
decedent before the decedent's death and while the decedent was 2689
domiciled in this state for the purposes of this chapter, and, 2690
prior to the death of the decedent, the trust became irrevocable 2691
while the decedent was domiciled in this state for the purposes 2692
of this chapter. 2693

(ii) The transfer is made to a trust to which the 2694
decedent, prior to the decedent's death, had directly or 2695
indirectly transferred assets, net of any related liabilities, 2696
while the decedent was domiciled in this state for the purposes 2697
of this chapter, and prior to the death of the decedent the 2698
trust became irrevocable while the decedent was domiciled in 2699
this state for the purposes of this chapter. 2700

(iii) The transfer is made on account of a contractual 2701
relationship existing directly or indirectly between the 2702
transferor and either the decedent or the estate of the decedent 2703
at any time prior to the date of the decedent's death, and the 2704
decedent was domiciled in this state at the time of death for 2705
purposes of the taxes levied under Chapter 5731. of the Revised 2706
Code. 2707

(iv) The transfer is made to a trust on account of a 2708
contractual relationship existing directly or indirectly between 2709
the transferor and another person who at the time of the 2710
decedent's death was domiciled in this state for purposes of 2711
this chapter. 2712

(v) The transfer is made to a trust on account of the will 2713
of a testator who was domiciled in this state at the time of the 2714
testator's death for purposes of the taxes levied under Chapter 2715
5731. of the Revised Code. 2716

(vi) The transfer is made to a trust created by or caused 2717
to be created by a court, and the trust was directly or 2718
indirectly created in connection with or as a result of the 2719
death of an individual who, for purposes of the taxes levied 2720
under Chapter 5731. of the Revised Code, was domiciled in this 2721
state at the time of the individual's death. 2722

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.	2723 2724
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	2725 2726 2727 2728
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	2729 2730
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	2731 2732 2733 2734
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	2735 2736 2737 2738
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.	2739 2740 2741 2742
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	2743 2744 2745 2746 2747
(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major	2748 2749 2750 2751

portion of the services are performed.	2752
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	2753
	2754
(1) "Subdivision" means any county, municipal corporation, park district, or township.	2755
	2756
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	2757
	2758
	2759
	2760
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	2761
	2762
	2763
(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:	2764
	2765
	2766
	2767
(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:	2768
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	2775
(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;	2776
	2777
	2778
(b) The net amount is attributable to the S portion of an	2779

electing small business trust for the taxable year.	2780
(2) Add interest or dividends, net of ordinary, necessary,	2781
and reasonable expenses not deducted in computing federal	2782
taxable income, on obligations of any authority, commission,	2783
instrumentality, territory, or possession of the United States	2784
to the extent that the interest or dividends are exempt from	2785
federal income taxes but not from state income taxes, but only	2786
to the extent that such net amount is not otherwise includible	2787
in Ohio taxable income and is described in either division (S)	2788
(1) (a) or (b) of this section;	2789
(3) Add the amount of personal exemption allowed to the	2790
estate pursuant to section 642(b) of the Internal Revenue Code;	2791
(4) Deduct interest or dividends, net of related expenses	2792
deducted in computing federal taxable income, on obligations of	2793
the United States and its territories and possessions or of any	2794
authority, commission, or instrumentality of the United States	2795
to the extent that the interest or dividends are exempt from	2796
state taxes under the laws of the United States, but only to the	2797
extent that such amount is included in federal taxable income	2798
and is described in either division (S) (1) (a) or (b) of this	2799
section;	2800
(5) Deduct the amount of wages and salaries, if any, not	2801
otherwise allowable as a deduction but that would have been	2802
allowable as a deduction in computing federal taxable income for	2803
the taxable year, had the targeted jobs credit allowed under	2804
sections 38, 51, and 52 of the Internal Revenue Code not been in	2805
effect, but only to the extent such amount relates either to	2806
income included in federal taxable income for the taxable year	2807
or to income of the S portion of an electing small business	2808
trust for the taxable year;	2809

(6) Deduct any interest or interest equivalent, net of 2810
related expenses deducted in computing federal taxable income, 2811
on public obligations and purchase obligations, but only to the 2812
extent that such net amount relates either to income included in 2813
federal taxable income for the taxable year or to income of the 2814
S portion of an electing small business trust for the taxable 2815
year; 2816

(7) Add any loss or deduct any gain resulting from sale, 2817
exchange, or other disposition of public obligations to the 2818
extent that such loss has been deducted or such gain has been 2819
included in computing either federal taxable income or income of 2820
the S portion of an electing small business trust for the 2821
taxable year; 2822

(8) Except in the case of the final return of an estate, 2823
add any amount deducted by the taxpayer on both its Ohio estate 2824
tax return pursuant to section 5731.14 of the Revised Code, and 2825
on its federal income tax return in determining federal taxable 2826
income; 2827

(9) (a) Deduct any amount included in federal taxable 2828
income solely because the amount represents a reimbursement or 2829
refund of expenses that in a previous year the decedent had 2830
deducted as an itemized deduction pursuant to section 63 of the 2831
Internal Revenue Code and applicable treasury regulations. The 2832
deduction otherwise allowed under division (S) (9) (a) of this 2833
section shall be reduced to the extent the reimbursement is 2834
attributable to an amount the taxpayer or decedent deducted 2835
under this section in any taxable year. 2836

(b) Add any amount not otherwise included in Ohio taxable 2837
income for any taxable year to the extent that the amount is 2838
attributable to the recovery during the taxable year of any 2839

amount deducted or excluded in computing federal or Ohio taxable 2840
income in any taxable year, but only to the extent such amount 2841
has not been distributed to beneficiaries for the taxable year. 2842

(10) Deduct any portion of the deduction described in 2843
section 1341(a)(2) of the Internal Revenue Code, for repaying 2844
previously reported income received under a claim of right, that 2845
meets both of the following requirements: 2846

(a) It is allowable for repayment of an item that was 2847
included in the taxpayer's taxable income or the decedent's 2848
adjusted gross income for a prior taxable year and did not 2849
qualify for a credit under division (A) or (B) of section 2850
5747.05 of the Revised Code for that year. 2851

(b) It does not otherwise reduce the taxpayer's taxable 2852
income or the decedent's adjusted gross income for the current 2853
or any other taxable year. 2854

(11) Add any amount claimed as a credit under section 2855
5747.059 or 5747.65 of the Revised Code to the extent that the 2856
amount satisfies either of the following: 2857

(a) The amount was deducted or excluded from the 2858
computation of the taxpayer's federal taxable income as required 2859
to be reported for the taxpayer's taxable year under the 2860
Internal Revenue Code; 2861

(b) The amount resulted in a reduction in the taxpayer's 2862
federal taxable income as required to be reported for any of the 2863
taxpayer's taxable years under the Internal Revenue Code. 2864

(12) Deduct any amount, net of related expenses deducted 2865
in computing federal taxable income, that a trust is required to 2866
report as farm income on its federal income tax return, but only 2867
if the assets of the trust include at least ten acres of land 2868

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

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

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

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

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

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)

(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

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

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

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

(Y) "Month" means a calendar month.

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

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

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary

education. If the individual is a part-time student, "qualified
tuition and fees" includes tuition and fees paid for the
academic equivalent of the first two years of post-secondary
education during a maximum of five taxable years, not exceeding
a total of five thousand dollars. "Qualified tuition and fees"
does not include:

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

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

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

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

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

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

loss, is available to the trust.	2956
(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.	2957 2958 2959
Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.	2960 2961 2962
(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.	2963 2964 2965 2966 2967 2968
(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB) (4) (a) to (c) of this section:	2969 2970 2971
(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:	2972 2973 2974
(i) The trust's modified business income;	2975
(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.	2976 2977 2978 2979 2980
(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last	2981 2982 2983

day of the qualifying investee's fiscal or calendar year ending 2984
immediately prior to the day on which the trust recognizes the 2985
qualifying trust amount, and the denominator of which is the sum 2986
of the book value of the qualifying investee's total physical 2987
assets everywhere on the last day of the qualifying investee's 2988
fiscal or calendar year ending immediately prior to the day on 2989
which the trust recognizes the qualifying trust amount. If, for 2990
a taxable year, the trust recognizes a qualifying trust amount 2991
with respect to more than one qualifying investee, the amount 2992
described in division (BB) (4) (b) of this section shall equal the 2993
sum of the products so computed for each such qualifying 2994
investee. 2995

(c) (i) With respect to a trust or portion of a trust that 2996
is a resident as ascertained in accordance with division (I) (3) 2997
(d) of this section, its modified nonbusiness income. 2998

(ii) With respect to a trust or portion of a trust that is 2999
not a resident as ascertained in accordance with division (I) (3) 3000
(d) of this section, the amount of its modified nonbusiness 3001
income satisfying the descriptions in divisions (B) (2) to (5) of 3002
section 5747.20 of the Revised Code, except as otherwise 3003
provided in division (BB) (4) (c) (ii) of this section. With 3004
respect to a trust or portion of a trust that is not a resident 3005
as ascertained in accordance with division (I) (3) (d) of this 3006
section, the trust's portion of modified nonbusiness income 3007
recognized from the sale, exchange, or other disposition of a 3008
debt interest in or equity interest in a section 5747.212 3009
entity, as defined in section 5747.212 of the Revised Code, 3010
without regard to division (A) of that section, shall not be 3011
allocated to this state in accordance with section 5747.20 of 3012
the Revised Code but shall be apportioned to this state in 3013
accordance with division (B) of section 5747.212 of the Revised 3014

Code without regard to division (A) of that section. 3015

If the allocation and apportionment of a trust's income 3016
under divisions (BB)(4)(a) and (c) of this section do not fairly 3017
represent the modified Ohio taxable income of the trust in this 3018
state, the alternative methods described in division (C) of 3019
section 5747.21 of the Revised Code may be applied in the manner 3020
and to the same extent provided in that section. 3021

(5)(a) Except as set forth in division (BB)(5)(b) of this 3022
section, "qualifying investee" means a person in which a trust 3023
has an equity or ownership interest, or a person or unit of 3024
government the debt obligations of either of which are owned by 3025
a trust. For the purposes of division (BB)(2)(a) of this section 3026
and for the purpose of computing the fraction described in 3027
division (BB)(4)(b) of this section, all of the following apply: 3028

(i) If the qualifying investee is a member of a qualifying 3029
controlled group on the last day of the qualifying investee's 3030
fiscal or calendar year ending immediately prior to the date on 3031
which the trust recognizes the gain or loss, then "qualifying 3032
investee" includes all persons in the qualifying controlled 3033
group on such last day. 3034

(ii) If the qualifying investee, or if the qualifying 3035
investee and any members of the qualifying controlled group of 3036
which the qualifying investee is a member on the last day of the 3037
qualifying investee's fiscal or calendar year ending immediately 3038
prior to the date on which the trust recognizes the gain or 3039
loss, separately or cumulatively own, directly or indirectly, on 3040
the last day of the qualifying investee's fiscal or calendar 3041
year ending immediately prior to the date on which the trust 3042
recognizes the qualifying trust amount, more than fifty per cent 3043
of the equity of a pass-through entity, then the qualifying 3044

investee and the other members are deemed to own the 3045
proportionate share of the pass-through entity's physical assets 3046
which the pass-through entity directly or indirectly owns on the 3047
last day of the pass-through entity's calendar or fiscal year 3048
ending within or with the last day of the qualifying investee's 3049
fiscal or calendar year ending immediately prior to the date on 3050
which the trust recognizes the qualifying trust amount. 3051

(iii) For the purposes of division (BB) (5) (a) (iii) of this 3052
section, "upper level pass-through entity" means a pass-through 3053
entity directly or indirectly owning any equity of another pass- 3054
through entity, and "lower level pass-through entity" means that 3055
other pass-through entity. 3056

An upper level pass-through entity, whether or not it is 3057
also a qualifying investee, is deemed to own, on the last day of 3058
the upper level pass-through entity's calendar or fiscal year, 3059
the proportionate share of the lower level pass-through entity's 3060
physical assets that the lower level pass-through entity 3061
directly or indirectly owns on the last day of the lower level 3062
pass-through entity's calendar or fiscal year ending within or 3063
with the last day of the upper level pass-through entity's 3064
fiscal or calendar year. If the upper level pass-through entity 3065
directly and indirectly owns less than fifty per cent of the 3066
equity of the lower level pass-through entity on each day of the 3067
upper level pass-through entity's calendar or fiscal year in 3068
which or with which ends the calendar or fiscal year of the 3069
lower level pass-through entity and if, based upon clear and 3070
convincing evidence, complete information about the location and 3071
cost of the physical assets of the lower pass-through entity is 3072
not available to the upper level pass-through entity, then 3073
solely for purposes of ascertaining if a gain or loss 3074
constitutes a qualifying trust amount, the upper level pass- 3075

through entity shall be deemed as owning no equity of the lower 3076
level pass-through entity for each day during the upper level 3077
pass-through entity's calendar or fiscal year in which or with 3078
which ends the lower level pass-through entity's calendar or 3079
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 3080
shall be construed to provide for any deduction or exclusion in 3081
computing any trust's Ohio taxable income. 3082

(b) With respect to a trust that is not a resident for the 3083
taxable year and with respect to a part of a trust that is not a 3084
resident for the taxable year, "qualifying investee" for that 3085
taxable year does not include a C corporation if both of the 3086
following apply: 3087

(i) During the taxable year the trust or part of the trust 3088
recognizes a gain or loss from the sale, exchange, or other 3089
disposition of equity or ownership interests in, or debt 3090
obligations of, the C corporation. 3091

(ii) Such gain or loss constitutes nonbusiness income. 3092

(6) "Available" means information is such that a person is 3093
able to learn of the information by the due date plus 3094
extensions, if any, for filing the return for the taxable year 3095
in which the trust recognizes the gain or loss. 3096

(CC) "Qualifying controlled group" has the same meaning as 3097
in section 5733.04 of the Revised Code. 3098

(DD) "Related member" has the same meaning as in section 3099
5733.042 of the Revised Code. 3100

(EE) (1) For the purposes of division (EE) of this section: 3101

(a) "Qualifying person" means any person other than a 3102
qualifying corporation. 3103

(b) "Qualifying corporation" means any person classified 3104
for federal income tax purposes as an association taxable as a 3105
corporation, except either of the following: 3106

(i) A corporation that has made an election under 3107
subchapter S, chapter one, subtitle A, of the Internal Revenue 3108
Code for its taxable year ending within, or on the last day of, 3109
the investor's taxable year; 3110

(ii) A subsidiary that is wholly owned by any corporation 3111
that has made an election under subchapter S, chapter one, 3112
subtitle A of the Internal Revenue Code for its taxable year 3113
ending within, or on the last day of, the investor's taxable 3114
year. 3115

(2) For the purposes of this chapter, unless expressly 3116
stated otherwise, no qualifying person indirectly owns any asset 3117
directly or indirectly owned by any qualifying corporation. 3118

(FF) For purposes of this chapter and Chapter 5751. of the 3119
Revised Code: 3120

(1) "Trust" does not include a qualified pre-income tax 3121
trust. 3122

(2) A "qualified pre-income tax trust" is any pre-income 3123
tax trust that makes a qualifying pre-income tax trust election 3124
as described in division (FF)(3) of this section. 3125

(3) A "qualifying pre-income tax trust election" is an 3126
election by a pre-income tax trust to subject to the tax imposed 3127
by section 5751.02 of the Revised Code the pre-income tax trust 3128
and all pass-through entities of which the trust owns or 3129
controls, directly, indirectly, or constructively through 3130
related interests, five per cent or more of the ownership or 3131
equity interests. The trustee shall notify the tax commissioner 3132

in writing of the election on or before April 15, 2006. The 3133
election, if timely made, shall be effective on and after 3134
January 1, 2006, and shall apply for all tax periods and tax 3135
years until revoked by the trustee of the trust. 3136

(4) A "pre-income tax trust" is a trust that satisfies all 3137
of the following requirements: 3138

(a) The document or instrument creating the trust was 3139
executed by the grantor before January 1, 1972; 3140

(b) The trust became irrevocable upon the creation of the 3141
trust; and 3142

(c) The grantor was domiciled in this state at the time 3143
the trust was created. 3144

(GG) "Uniformed services" has the same meaning as in 10 3145
U.S.C. 101. 3146

(HH) "Taxable business income" means the amount by which 3147
an individual's business income that is included in federal 3148
adjusted gross income exceeds the amount of business income the 3149
individual is authorized to deduct under division (A) (31) of 3150
this section for the taxable year. 3151

Sec. 5747.09. (A) As used in this section: 3152

(1) "Estimated taxes" means the amount that the taxpayer 3153
estimates to be the taxpayer's combined tax liability under this 3154
chapter and Chapter 5748. of the Revised Code for the current 3155
taxable year. 3156

(2) "Tax liability" means the total taxes due for the 3157
taxable year, after allowing any credit to which the taxpayer is 3158
entitled, but prior to applying any estimated tax payment, 3159
withholding payment, or refund from another tax year. 3160

(3) "Taxes paid" include payments of estimated taxes made 3161
under division (C) of this section, taxes withheld from the 3162
taxpayer's compensation, and tax refunds applied by the taxpayer 3163
in payment of estimated taxes. 3164

(4) "Required installment" means a payment equal to 3165
twenty-five per cent of the lesser of the following: 3166

(a) Ninety per cent of the tax liability for the taxable 3167
year; 3168

(b) One hundred per cent of the tax liability shown on the 3169
return of a taxpayer for the preceding taxable year. 3170

Division (A) (4) (b) of this section applies only if the 3171
taxpayer filed a return under section 5747.08 of the Revised 3172
Code for the preceding taxable year and if the preceding taxable 3173
year was a twelve-month taxable year. 3174

(B) Every taxpayer shall make declaration of estimated 3175
taxes for the current taxable year, in the form that the tax 3176
commissioner shall prescribe, if the amount payable as estimated 3177
taxes, less the amount to be withheld from the taxpayer's 3178
compensation, is more than five hundred dollars. For purposes of 3179
this section, taxes withheld from compensation shall be 3180
considered as paid in equal amounts on each payment date unless 3181
the taxpayer establishes the dates on which all amounts were 3182
actually withheld, in which case the amounts withheld shall be 3183
considered as paid on the dates on which the amounts were 3184
actually withheld. Taxpayers filing joint returns pursuant to 3185
section 5747.08 of the Revised Code shall file joint 3186
declarations of estimated taxes. A taxpayer may amend a 3187
declaration under rules prescribed by the commissioner. A 3188
taxpayer having a taxable year of less than twelve months shall 3189

make a declaration under rules prescribed by the commissioner. 3190
The declaration of estimated taxes for an individual under a 3191
disability shall be made and filed by the person who is required 3192
to file the income tax return. 3193

The declaration of estimated taxes shall be filed on or 3194
before the fifteenth day of April of each year or on or before 3195
the fifteenth day of the fourth month after the taxpayer becomes 3196
subject to tax for the first time. 3197

Taxpayers reporting on a fiscal year basis shall file a 3198
declaration on or before the fifteenth day of the fourth month 3199
after the beginning of each fiscal year or period. 3200

The declaration shall be filed upon a form prescribed by 3201
the commissioner and furnished by or obtainable from the 3202
commissioner. 3203

The original declaration or any subsequent amendment may 3204
be increased or decreased on or before any subsequent quarterly 3205
payment day as provided in this section. 3206

(C) The required portion of the tax liability for the 3207
taxable year that shall be paid through estimated taxes made 3208
payable to the treasurer of state, including the application of 3209
tax refunds to estimated taxes, and withholding on or before the 3210
applicable payment date shall be as follows: 3211

(1) On or before the fifteenth day of the fourth month 3212
after the beginning of the taxable year, twenty-two and one-half 3213
per cent of the tax liability for the taxable year; 3214

(2) On or before the fifteenth day of the sixth month 3215
after the beginning of the taxable year, forty-five per cent of 3216
the tax liability for the taxable year; 3217

(3) On or before the fifteenth day of the ninth month 3218
after the beginning of the taxable year, sixty-seven and one- 3219
half per cent of the tax liability for the taxable year; 3220

(4) On or before the fifteenth day of the first month of 3221
the following taxable year, ninety per cent of the tax liability 3222
for the taxable year. 3223

When an amended return has been filed, the unpaid balance 3224
shown due on the amended return shall be paid in equal 3225
installments on or before the remaining payment dates. 3226

On or before the fifteenth day of the fourth month of the 3227
year following that for which the declaration or amended 3228
declaration was filed, an annual return shall be filed and any 3229
balance which may be due shall be paid with the return in 3230
accordance with section 5747.08 of the Revised Code. 3231

(D) In the case of any underpayment of estimated taxes, an 3232
interest penalty shall be added to the taxes for the tax year at 3233
the rate per annum prescribed by section 5703.47 of the Revised 3234
Code upon the amount of underpayment for the period of 3235
underpayment, unless the underpayment is due to reasonable cause 3236
as described in division (E) of this section. The amount of the 3237
underpayment shall be determined as follows: 3238

(1) For the first payment of estimated taxes each year, 3239
~~twenty two and one half per cent of the tax liability, the~~ 3240
required installment less the amount of taxes paid by the date 3241
prescribed for that payment; 3242

(2) For the second payment of estimated taxes each year, 3243
~~forty five per cent of the tax liability, the required~~ 3244
installment less the amount of taxes paid by the date prescribed 3245
for that payment; 3246

(3) For the third payment of estimated taxes each year, 3247
~~sixty-seven and one-half per cent of the tax liability, the~~ 3248
required installment less the amount of taxes paid by the date 3249
prescribed for that payment; 3250

(4) For the fourth payment of estimated taxes each year, 3251
~~ninety per cent of the tax liability, the required installment~~ 3252
less the amount of taxes paid by the date prescribed for that 3253
payment. 3254

The period of the underpayment shall run from the day the 3255
estimated payment was required to be made to the date on which 3256
the payment is made. For purposes of this section, a payment of 3257
estimated taxes on or before any payment date shall be 3258
considered a payment of any previous underpayment only to the 3259
extent the payment of estimated taxes exceeds the amount of the 3260
payment presently required to be paid to avoid any penalty. 3261

The interest penalty imposed under division (D) of this 3262
section shall be in lieu of any other interest charge or penalty 3263
imposed for failure to file an estimated return and make 3264
estimated payments as required by this section. 3265

(E) An underpayment of estimated taxes determined under 3266
division (D) of this section shall be due to reasonable cause 3267
and the interest penalty imposed by this section shall not be 3268
added to the taxes for the tax year if either of the following 3269
apply: 3270

(1) The amount of tax that was paid equals at least ninety 3271
per cent of the tax liability for the current taxable year, 3272
determined by annualizing the income received during the year up 3273
to the end of the month immediately preceding the month in which 3274
the payment is due; 3275

(2) The amount of tax that was paid equals at least one 3276
hundred per cent of the tax liability shown on the return of the 3277
taxpayer for the preceding taxable year, provided that the 3278
immediately preceding taxable year reflected a period of twelve 3279
months and the taxpayer filed a return under section 5747.08 of 3280
the Revised Code for that year. 3281

The tax commissioner may waive the requirement for filing 3282
a declaration of estimated taxes for any class of taxpayers 3283
after finding that the waiver is reasonable and proper in view 3284
of administrative costs and other factors. 3285

Sec. 5747.43. (A) As used in this section: 3286

(1) "Estimated taxes" means the amount that a qualifying 3287
entity estimates to be the sum of its liability under sections 3288
5733.41 and 5747.41 of the Revised Code for its current 3289
qualifying taxable year. 3290

(2) "Tax liability" means the total of the taxes and 3291
withholding taxes due under sections 5733.41 and 5747.41 of the 3292
Revised Code for the qualifying taxable year prior to applying 3293
any estimated tax payment or refund from another year. 3294

(3) "Taxes paid" includes payments of estimated taxes made 3295
under division (C) of this section and tax refunds applied by 3296
the qualifying entity in payment of estimated taxes. 3297

(4) "Required installment" means a payment equal to 3298
twenty-five per cent of the lesser of the following: 3299

(a) Ninety per cent of the tax liability for the 3300
qualifying taxable year; 3301

(b) One hundred per cent of the tax liability shown on the 3302
return of a qualifying entity for the preceding qualifying 3303

taxable year. 3304

Division (A) (4) (b) of this section applies only if the 3305
qualifying entity filed a return under section 5747.42 of the 3306
Revised Code for the preceding qualifying taxable year and if 3307
the preceding qualifying taxable year was a twelve-month taxable 3308
year. 3309

(B) In addition to the return required to be filed 3310
pursuant to section 5747.42 of the Revised Code, each qualifying 3311
entity subject to the tax imposed under section 5733.41 and to 3312
the withholding tax imposed by section 5747.41 of the Revised 3313
Code shall file an estimated tax return and pay a portion of the 3314
qualifying entity's tax liability for its qualifying taxable 3315
year. The portion of those taxes required to be paid, and the 3316
last day prescribed for payment thereof, shall be as prescribed 3317
by divisions (B) (1), (2), (3), and (4) of this section: 3318

(1) On or before the fifteenth day of the month following 3319
the last day of the first quarter of the qualifying entity's 3320
qualifying taxable year, twenty-two and one-half per cent of the 3321
qualifying entity's estimated tax liability for that taxable 3322
year; 3323

(2) On or before the fifteenth day of the month following 3324
the last day of the second quarter of the qualifying entity's 3325
qualifying taxable year, forty-five per cent of the qualifying 3326
entity's estimated tax liability for that taxable year; 3327

(3) On or before the fifteenth day of the month following 3328
the last day of the third quarter of the qualifying entity's 3329
qualifying taxable year, sixty-seven and one-half per cent of 3330
the qualifying entity's estimated tax liability for that taxable 3331
year; 3332

(4) On or before the fifteenth day of the month following 3333
the last day of the fourth quarter of the qualifying entity's 3334
qualifying taxable year, ninety per cent of the qualifying 3335
entity's estimated tax liability for that taxable year. 3336

Payments of estimated taxes shall be made payable to the 3337
treasurer of state. 3338

(C) If a payment of estimated taxes is not paid in the 3339
full amount required under division (B) of this section, a 3340
penalty shall be added to the taxes charged for the qualifying 3341
taxable year unless the underpayment is due to reasonable cause 3342
as described in division (D) of this section. The penalty shall 3343
accrue at the rate per annum prescribed by section 5703.47 of 3344
the Revised Code upon the amount of underpayment from the day 3345
the estimated payment was required to be made to the day the 3346
payment is made. 3347

The amount of the underpayment upon which the penalty 3348
shall accrue shall be determined as follows: 3349

(1) For the first payment of estimated taxes each year, 3350
~~twenty two and one half per cent of the tax liability the~~ 3351
required installment less the amount of taxes paid by the date 3352
prescribed for that payment; 3353

(2) For the second payment of estimated taxes each year, 3354
~~forty five per cent of the tax liability the required~~ 3355
installment less the amount of taxes paid by the date prescribed 3356
for that payment; 3357

(3) For the third payment of estimated taxes each year, 3358
~~sixty seven and one half per cent of the tax liability the~~ 3359
required installment less the amount of taxes paid by the date 3360
prescribed for that payment; 3361

(4) For the fourth payment of estimated taxes each year, 3362
~~ninety per cent of the tax liability the required installment~~ 3363
less the amount of taxes paid by the date prescribed for that 3364
payment. 3365

For the purposes of this section, a payment of estimated 3366
taxes on or before any payment date shall be considered a 3367
payment of a previous underpayment only to the extent the 3368
payment of estimated taxes exceeds the amount of the payment 3369
presently required to be paid to avoid any penalty. 3370

The penalty imposed under division (C) of this section is 3371
in lieu of any other interest charge or penalty imposed for 3372
failure to file a declaration of estimated tax report and make 3373
estimated payments as required by this section. 3374

(D) An underpayment of estimated taxes determined under 3375
division (C) of this section is due to reasonable cause if any 3376
of the following apply: 3377

(1) The amount of tax that was paid equals at least ninety 3378
per cent of the tax liability for the current qualifying taxable 3379
year, determined by annualizing the income received during that 3380
year up to the end of the month immediately preceding the month 3381
in which the payment is due; 3382

(2) The amount of tax liability that was paid equals at 3383
least ninety per cent of the tax liability for the current 3384
qualifying taxable year; 3385

(3) The amount of tax liability that was paid equals at 3386
least one hundred per cent of the tax liability shown on the 3387
return of the qualifying entity for the preceding qualifying 3388
taxable year, provided that the immediately preceding qualifying 3389
taxable year reflected a period of twelve months and the 3390

qualifying entity filed a return under section 5747.42 of the Revised Code for that year.

(E) (1) Divisions (B) and (C) of this section do not apply for a taxable year if either of the following applies to the qualifying entity:

(a) For the immediately preceding taxable year, the entity computes in good faith and in a reasonable manner that the sum of its adjusted qualifying amounts is ten thousand dollars or less.

(b) For the taxable year the entity computes in good faith and in a reasonable manner that the sum of its adjusted qualifying amounts is ten thousand dollars or less.

(2) Notwithstanding any other provision of Title LVII of the Revised Code to the contrary, the entity shall establish by a preponderance of the evidence that its computation of the adjusted qualifying amounts for the immediately preceding taxable year and the taxable year was, in fact, made in good faith and in a reasonable manner.

(F) The tax commissioner may waive the requirement for filing a declaration of estimated taxes for any class of qualifying entities if the commissioner finds the waiver is reasonable and proper in view of administrative costs and other factors.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint

ventures, clubs, societies, for-profit corporations, S 3420
corporations, qualified subchapter S subsidiaries, qualified 3421
subchapter S trusts, trusts, entities that are disregarded for 3422
federal income tax purposes, and any other entities. 3423

(B) "Consolidated elected taxpayer" means a group of two 3424
or more persons treated as a single taxpayer for purposes of 3425
this chapter as the result of an election made under section 3426
5751.011 of the Revised Code. 3427

(C) "Combined taxpayer" means a group of two or more 3428
persons treated as a single taxpayer for purposes of this 3429
chapter under section 5751.012 of the Revised Code. 3430

(D) "Taxpayer" means any person, or any group of persons 3431
in the case of a consolidated elected taxpayer or combined 3432
taxpayer treated as one taxpayer, required to register or pay 3433
tax under this chapter. "Taxpayer" does not include excluded 3434
persons. 3435

(E) "Excluded person" means any of the following: 3436

(1) Any person with not more than one hundred fifty 3437
thousand dollars of taxable gross receipts during the calendar 3438
year. Division (E)(1) of this section does not apply to a person 3439
that is a member of a consolidated elected taxpayer; 3440

(2) A public utility that paid the excise tax imposed by 3441
section 5727.24 or 5727.30 of the Revised Code based on one or 3442
more measurement periods that include the entire tax period 3443
under this chapter, except that a public utility that is a 3444
combined company is a taxpayer with regard to the following 3445
gross receipts: 3446

(a) Taxable gross receipts directly attributed to a public 3447
utility activity, but not directly attributed to an activity 3448

that is subject to the excise tax imposed by section 5727.24 or 3449
5727.30 of the Revised Code; 3450

(b) Taxable gross receipts that cannot be directly 3451
attributed to any activity, multiplied by a fraction whose 3452
numerator is the taxable gross receipts described in division 3453
(E) (2) (a) of this section and whose denominator is the total 3454
taxable gross receipts that can be directly attributed to any 3455
activity; 3456

(c) Except for any differences resulting from the use of 3457
an accrual basis method of accounting for purposes of 3458
determining gross receipts under this chapter and the use of the 3459
cash basis method of accounting for purposes of determining 3460
gross receipts under section 5727.24 of the Revised Code, the 3461
gross receipts directly attributed to the activity of a natural 3462
gas company shall be determined in a manner consistent with 3463
division (D) of section 5727.03 of the Revised Code. 3464

As used in division (E) (2) of this section, "combined 3465
company" and "public utility" have the same meanings as in 3466
section 5727.01 of the Revised Code. 3467

(3) A financial institution, as defined in section 5726.01 3468
of the Revised Code, that paid the tax imposed by section 3469
5726.02 of the Revised Code based on one or more taxable years 3470
that include the entire tax period under this chapter; 3471

(4) A person directly or indirectly owned by one or more 3472
financial institutions, as defined in section 5726.01 of the 3473
Revised Code, that paid the tax imposed by section 5726.02 of 3474
the Revised Code based on one or more taxable years that include 3475
the entire tax period under this chapter. 3476

For the purposes of division (E) (4) of this section, a 3477

person owns another person under the following circumstances:	3478
(a) In the case of corporations issuing capital stock, one	3479
corporation owns another corporation if it owns fifty per cent	3480
or more of the other corporation's capital stock with current	3481
voting rights;	3482
(b) In the case of a limited liability company, one person	3483
owns the company if that person's membership interest, as	3484
defined in section 1705.01 of the Revised Code, is fifty per	3485
cent or more of the combined membership interests of all persons	3486
owning such interests in the company;	3487
(c) In the case of a partnership, trust, or other	3488
unincorporated business organization other than a limited	3489
liability company, one person owns the organization if, under	3490
the articles of organization or other instrument governing the	3491
affairs of the organization, that person has a beneficial	3492
interest in the organization's profits, surpluses, losses, or	3493
distributions of fifty per cent or more of the combined	3494
beneficial interests of all persons having such an interest in	3495
the organization.	3496
(5) A domestic insurance company or foreign insurance	3497
company, as defined in section 5725.01 of the Revised Code, that	3498
paid the insurance company premiums tax imposed by section	3499
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized	3500
insurance company whose gross premiums are subject to tax under	3501
section 3905.36 of the Revised Code based on one or more	3502
measurement periods that include the entire tax period under	3503
this chapter;	3504
(6) A person that solely facilitates or services one or	3505
more securitizations of phase-in-recovery property pursuant to a	3506

final financing order as those terms are defined in section 3507
4928.23 of the Revised Code. For purposes of this division, 3508
"securitization" means transferring one or more assets to one or 3509
more persons and then issuing securities backed by the right to 3510
receive payment from the asset or assets so transferred. 3511

(7) Except as otherwise provided in this division, a pre- 3512
income tax trust as defined in division (FF) (4) of section 3513
5747.01 of the Revised Code and any pass-through entity of which 3514
such pre-income tax trust owns or controls, directly, 3515
indirectly, or constructively through related interests, more 3516
than five per cent of the ownership or equity interests. If the 3517
pre-income tax trust has made a qualifying pre-income tax trust 3518
election under division (FF) (3) of section 5747.01 of the 3519
Revised Code, then the trust and the pass-through entities of 3520
which it owns or controls, directly, indirectly, or 3521
constructively through related interests, more than five per 3522
cent of the ownership or equity interests, shall not be excluded 3523
persons for purposes of the tax imposed under section 5751.02 of 3524
the Revised Code. 3525

(8) Nonprofit organizations or the state and its agencies, 3526
instrumentalities, or political subdivisions. 3527

(F) Except as otherwise provided in divisions (F) (2), (3), 3528
and (4) of this section, "gross receipts" means the total amount 3529
realized by a person, without deduction for the cost of goods 3530
sold or other expenses incurred, that contributes to the 3531
production of gross income of the person, including the fair 3532
market value of any property and any services received, and any 3533
debt transferred or forgiven as consideration. 3534

(1) The following are examples of gross receipts: 3535

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;	3536 3537
(b) Amounts realized from the taxpayer's performance of services for another;	3538 3539
(c) Amounts realized from another's use or possession of the taxpayer's property or capital;	3540 3541
(d) Any combination of the foregoing amounts.	3542
(2) "Gross receipts" excludes the following amounts:	3543
(a) Interest income except interest on credit sales;	3544
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	3545 3546 3547 3548
(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the	3549 3550 3551 3552 3553 3554 3555 3556 3557 3558 3559 3560 3561 3562 3563 3564

purposes of division (F) (2) (c) of this section, the actual 3565
transfer of title of real or tangible personal property to 3566
another entity is not a hedging transaction. 3567

(d) Proceeds received attributable to the repayment, 3568
maturity, or redemption of the principal of a loan, bond, mutual 3569
fund, certificate of deposit, or marketable instrument; 3570

(e) The principal amount received under a repurchase 3571
agreement or on account of any transaction properly 3572
characterized as a loan to the person; 3573

(f) Contributions received by a trust, plan, or other 3574
arrangement, any of which is described in section 501(a) of the 3575
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 3576
1, Subchapter (D) of the Internal Revenue Code applies; 3577

(g) Compensation, whether current or deferred, and whether 3578
in cash or in kind, received or to be received by an employee, 3579
former employee, or the employee's legal successor for services 3580
rendered to or for an employer, including reimbursements 3581
received by or for an individual for medical or education 3582
expenses, health insurance premiums, or employee expenses, or on 3583
account of a dependent care spending account, legal services 3584
plan, any cafeteria plan described in section 125 of the 3585
Internal Revenue Code, or any similar employee reimbursement; 3586

(h) Proceeds received from the issuance of the taxpayer's 3587
own stock, options, warrants, puts, or calls, or from the sale 3588
of the taxpayer's treasury stock; 3589

(i) Proceeds received on the account of payments from 3590
insurance policies, except those proceeds received for the loss 3591
of business revenue; 3592

(j) Gifts or charitable contributions received; membership 3593

dues received by trade, professional, homeowners', or	3594
condominium associations; and payments received for educational	3595
courses, meetings, meals, or similar payments to a trade,	3596
professional, or other similar association; and fundraising	3597
receipts received by any person when any excess receipts are	3598
donated or used exclusively for charitable purposes;	3599
(k) Damages received as the result of litigation in excess	3600
of amounts that, if received without litigation, would be gross	3601
receipts;	3602
(l) Property, money, and other amounts received or	3603
acquired by an agent on behalf of another in excess of the	3604
agent's commission, fee, or other remuneration;	3605
(m) Tax refunds, other tax benefit recoveries, and	3606
reimbursements for the tax imposed under this chapter made by	3607
entities that are part of the same combined taxpayer or	3608
consolidated elected taxpayer group, and reimbursements made by	3609
entities that are not members of a combined taxpayer or	3610
consolidated elected taxpayer group that are required to be made	3611
for economic parity among multiple owners of an entity whose tax	3612
obligation under this chapter is required to be reported and	3613
paid entirely by one owner, pursuant to the requirements of	3614
sections 5751.011 and 5751.012 of the Revised Code;	3615
(n) Pension reversions;	3616
(o) Contributions to capital;	3617
(p) Sales or use taxes collected as a vendor or an out-of-	3618
state seller on behalf of the taxing jurisdiction from a	3619
consumer or other taxes the taxpayer is required by law to	3620
collect directly from a purchaser and remit to a local, state,	3621
or federal tax authority;	3622

(q) In the case of receipts from the sale of cigarettes or 3623
tobacco products by a wholesale dealer, retail dealer, 3624
distributor, manufacturer, or seller, all as defined in section 3625
5743.01 of the Revised Code, an amount equal to the federal and 3626
state excise taxes paid by any person on or for such cigarettes 3627
or tobacco products under subtitle E of the Internal Revenue 3628
Code or Chapter 5743. of the Revised Code; 3629

(r) In the case of receipts from the sale, transfer, 3630
exchange, or other disposition of motor fuel as "motor fuel" is 3631
defined in section 5736.01 of the Revised Code, an amount equal 3632
to the value of the motor fuel, including federal and state 3633
motor fuel excise taxes and receipts from billing or invoicing 3634
the tax imposed under section 5736.02 of the Revised Code to 3635
another person; 3636

(s) In the case of receipts from the sale of beer or 3637
intoxicating liquor, as defined in section 4301.01 of the 3638
Revised Code, by a person holding a permit issued under Chapter 3639
4301. or 4303. of the Revised Code, an amount equal to federal 3640
and state excise taxes paid by any person on or for such beer or 3641
intoxicating liquor under subtitle E of the Internal Revenue 3642
Code or Chapter 4301. or 4305. of the Revised Code; 3643

(t) Receipts realized by a new motor vehicle dealer or 3644
used motor vehicle dealer, as defined in section 4517.01 of the 3645
Revised Code, from the sale or other transfer of a motor 3646
vehicle, as defined in that section, to another motor vehicle 3647
dealer for the purpose of resale by the transferee motor vehicle 3648
dealer, but only if the sale or other transfer was based upon 3649
the transferee's need to meet a specific customer's preference 3650
for a motor vehicle; 3651

(u) Receipts from a financial institution described in 3652

division (E) (3) of this section for services provided to the 3653
financial institution in connection with the issuance, 3654
processing, servicing, and management of loans or credit 3655
accounts, if such financial institution and the recipient of 3656
such receipts have at least fifty per cent of their ownership 3657
interests owned or controlled, directly or constructively 3658
through related interests, by common owners; 3659

(v) Receipts realized from administering anti-neoplastic 3660
drugs and other cancer chemotherapy, biologicals, therapeutic 3661
agents, and supportive drugs in a physician's office to patients 3662
with cancer; 3663

(w) Funds received or used by a mortgage broker that is 3664
not a dealer in intangibles, other than fees or other 3665
consideration, pursuant to a table-funding mortgage loan or 3666
warehouse-lending mortgage loan. Terms used in division (F) (2) 3667
(w) of this section have the same meanings as in section 1322.01 3668
of the Revised Code, except "mortgage broker" means a person 3669
assisting a buyer in obtaining a mortgage loan for a fee or 3670
other consideration paid by the buyer or a lender, or a person 3671
engaged in table-funding or warehouse-lending mortgage loans 3672
that are first lien mortgage loans. 3673

(x) Property, money, and other amounts received by a 3674
professional employer organization, as defined in section 3675
4125.01 of the Revised Code, from a client employer, as defined 3676
in that section, in excess of the administrative fee charged by 3677
the professional employer organization to the client employer; 3678

(y) In the case of amounts retained as commissions by a 3679
permit holder under Chapter 3769. of the Revised Code, an amount 3680
equal to the amounts specified under that chapter that must be 3681
paid to or collected by the tax commissioner as a tax and the 3682

amounts specified under that chapter to be used as purse money;	3683
(z) Qualifying distribution center receipts.	3684
(i) For purposes of division (F) (2) (z) of this section:	3685
(I) "Qualifying distribution center receipts" means	3686
receipts of a supplier from qualified property that is delivered	3687
to a qualified distribution center, multiplied by a quantity	3688
that equals one minus the Ohio delivery percentage. If the	3689
qualified distribution center is a refining facility, "supplier"	3690
includes all dealers, brokers, processors, sellers, vendors,	3691
cosigners, and distributors of qualified property.	3692
(II) "Qualified property" means tangible personal property	3693
delivered to a qualified distribution center that is shipped to	3694
that qualified distribution center solely for further shipping	3695
by the qualified distribution center to another location in this	3696
state or elsewhere or, in the case of gold, silver, platinum, or	3697
palladium delivered to a refining facility solely for refining	3698
to a grade and fineness acceptable for delivery to a registered	3699
commodities exchange. "Further shipping" includes storing and	3700
repackaging property into smaller or larger bundles, so long as	3701
the property is not subject to further manufacturing or	3702
processing. "Refining" is limited to extracting impurities from	3703
gold, silver, platinum, or palladium through smelting or some	3704
other process at a refining facility.	3705
(III) "Qualified distribution center" means a warehouse, a	3706
facility similar to a warehouse, or a refining facility in this	3707
state that, for the qualifying year, is operated by a person	3708
that is not part of a combined taxpayer group and that has a	3709
qualifying certificate. All warehouses or facilities similar to	3710
warehouses that are operated by persons in the same taxpayer	3711

group and that are located within one mile of each other shall 3712
be treated as one qualified distribution center. All refining 3713
facilities that are operated by persons in the same taxpayer 3714
group and that are located in the same or adjacent counties may 3715
be treated as one qualified distribution center. 3716

(IV) "Qualifying year" means the calendar year to which 3717
the qualifying certificate applies. 3718

(V) "Qualifying period" means the period of the first day 3719
of July of the second year preceding the qualifying year through 3720
the thirtieth day of June of the year preceding the qualifying 3721
year. 3722

(VI) "Qualifying certificate" means the certificate issued 3723
by the tax commissioner after the operator of a distribution 3724
center files an annual application with the commissioner. The 3725
application and annual fee shall be filed and paid for each 3726
qualified distribution center on or before the first day of 3727
September before the qualifying year or within forty-five days 3728
after the distribution center opens, whichever is later. 3729

The applicant must substantiate to the commissioner's 3730
satisfaction that, for the qualifying period, all persons 3731
operating the distribution center have more than fifty per cent 3732
of the cost of the qualified property shipped to a location such 3733
that it would be situated outside this state under the provisions 3734
of division (E) of section 5751.033 of the Revised Code. The 3735
applicant must also substantiate that the distribution center 3736
cumulatively had costs from its suppliers equal to or exceeding 3737
five hundred million dollars during the qualifying period. (For 3738
purposes of division (F) (2) (z) (i) (VI) of this section, 3739
"supplier" excludes any person that is part of the consolidated 3740
elected taxpayer group, if applicable, of the operator of the 3741

qualified distribution center.) The commissioner may require the 3742
applicant to have an independent certified public accountant 3743
certify that the calculation of the minimum thresholds required 3744
for a qualified distribution center by the operator of a 3745
distribution center has been made in accordance with generally 3746
accepted accounting principles. The commissioner shall issue or 3747
deny the issuance of a certificate within sixty days after the 3748
receipt of the application. A denial is subject to appeal under 3749
section 5717.02 of the Revised Code. If the operator files a 3750
timely appeal under section 5717.02 of the Revised Code, the 3751
operator shall be granted a qualifying certificate effective for 3752
the remainder of the qualifying year or until the appeal is 3753
finalized, whichever is earlier. If the operator does not 3754
prevail in the appeal, the operator shall pay the ineligible 3755
operator's supplier tax liability. 3756

(VII) "Ohio delivery percentage" means the proportion of 3757
the total property delivered to a destination inside Ohio from 3758
the qualified distribution center during the qualifying period 3759
compared with total deliveries from such distribution center 3760
everywhere during the qualifying period. 3761

(VIII) "Refining facility" means one or more buildings 3762
located in a county in the Appalachian region of this state as 3763
defined by section 107.21 of the Revised Code and utilized for 3764
refining or smelting gold, silver, platinum, or palladium to a 3765
grade and fineness acceptable for delivery to a registered 3766
commodities exchange. 3767

(IX) "Registered commodities exchange" means a board of 3768
trade, such as New York mercantile exchange, inc. or commodity 3769
exchange, inc., designated as a contract market by the commodity 3770
futures trading commission under the "Commodity Exchange Act," 7 3771

U.S.C. 1 et seq., as amended. 3772

(X) "Ineligible operator's supplier tax liability" means 3773
an amount equal to the tax liability of all suppliers of a 3774
distribution center had the distribution center not been issued 3775
a qualifying certificate for the qualifying year. Ineligible 3776
operator's supplier tax liability shall not include interest or 3777
penalties. The tax commissioner shall determine an ineligible 3778
operator's supplier tax liability based on information that the 3779
commissioner may request from the operator of the distribution 3780
center. An operator shall provide a list of all suppliers of the 3781
distribution center and the corresponding costs of qualified 3782
property for the qualifying year at issue within sixty days of a 3783
request by the commissioner under this division. 3784

(ii) (I) If the distribution center is new and was not open 3785
for the entire qualifying period, the operator of the 3786
distribution center may request that the commissioner grant a 3787
qualifying certificate. If the certificate is granted and it is 3788
later determined that more than fifty per cent of the qualified 3789
property during that year was not shipped to a location such 3790
that it would be situated outside of this state under the 3791
provisions of division (E) of section 5751.033 of the Revised 3792
Code or if it is later determined that the person that operates 3793
the distribution center had average monthly costs from its 3794
suppliers of less than forty million dollars during that year, 3795
then the operator of the distribution center shall pay the 3796
ineligible operator's supplier tax liability. (For purposes of 3797
division (F) (2) (z) (ii) of this section, "supplier" excludes any 3798
person that is part of the consolidated elected taxpayer group, 3799
if applicable, of the operator of the qualified distribution 3800
center.) 3801

(II) The commissioner may grant a qualifying certificate 3802
to a distribution center that does not qualify as a qualified 3803
distribution center for an entire qualifying period if the 3804
operator of the distribution center demonstrates that the 3805
business operations of the distribution center have changed or 3806
will change such that the distribution center will qualify as a 3807
qualified distribution center within thirty-six months after the 3808
date the operator first applies for a certificate. If, at the 3809
end of that thirty-six-month period, the business operations of 3810
the distribution center have not changed such that the 3811
distribution center qualifies as a qualified distribution 3812
center, the operator of the distribution center shall pay the 3813
ineligible operator's supplier tax liability for each year that 3814
the distribution center received a certificate but did not 3815
qualify as a qualified distribution center. For each year the 3816
distribution center receives a certificate under division (F) (2) 3817
(z) (ii) (II) of this section, the distribution center shall pay 3818
all applicable fees required under division (F) (2) (z) of this 3819
section and shall submit an updated business plan showing the 3820
progress the distribution center made toward qualifying as a 3821
qualified distribution center during the preceding year. 3822

(III) An operator may appeal a determination under 3823
division (F) (2) (z) (ii) (I) or (II) of this section that the 3824
ineligible operator is liable for the operator's supplier tax 3825
liability as a result of not qualifying as a qualified 3826
distribution center, as provided in section 5717.02 of the 3827
Revised Code. 3828

(iii) When filing an application for a qualifying 3829
certificate under division (F) (2) (z) (i) (VI) of this section, the 3830
operator of a qualified distribution center also shall provide 3831
documentation, as the commissioner requires, for the 3832

commissioner to ascertain the Ohio delivery percentage. The 3833
commissioner, upon issuing the qualifying certificate, also 3834
shall certify the Ohio delivery percentage. The operator of the 3835
qualified distribution center may appeal the commissioner's 3836
certification of the Ohio delivery percentage in the same manner 3837
as an appeal is taken from the denial of a qualifying 3838
certificate under division (F) (2) (z) (i) (VI) of this section. 3839

(iv) (I) In the case where the distribution center is new 3840
and not open for the entire qualifying period, the operator 3841
shall make a good faith estimate of an Ohio delivery percentage 3842
for use by suppliers in their reports of taxable gross receipts 3843
for the remainder of the qualifying period. The operator of the 3844
facility shall disclose to the suppliers that such Ohio delivery 3845
percentage is an estimate and is subject to recalculation. By 3846
the due date of the next application for a qualifying 3847
certificate, the operator shall determine the actual Ohio 3848
delivery percentage for the estimated qualifying period and 3849
proceed as provided in division (F) (2) (z) (iii) of this section 3850
with respect to the calculation and recalculation of the Ohio 3851
delivery percentage. The supplier is required to file, within 3852
sixty days after receiving notice from the operator of the 3853
qualified distribution center, amended reports for the impacted 3854
calendar quarter or quarters or calendar year, whichever the 3855
case may be. Any additional tax liability or tax overpayment 3856
shall be subject to interest but shall not be subject to the 3857
imposition of any penalty so long as the amended returns are 3858
timely filed. 3859

(II) The operator of a distribution center that receives a 3860
qualifying certificate under division (F) (2) (z) (ii) (II) of this 3861
section shall make a good faith estimate of the Ohio delivery 3862
percentage that the operator estimates will apply to the 3863

distribution center at the end of the thirty-six-month period 3864
after the operator first applied for a qualifying certificate 3865
under that division. The result of the estimate shall be 3866
multiplied by a factor of one and seventy-five one-hundredths. 3867
The product of that calculation shall be the Ohio delivery 3868
percentage used by suppliers in their reports of taxable gross 3869
receipts for each qualifying year that the distribution center 3870
receives a qualifying certificate under division (F) (2) (z) (ii) 3871
(II) of this section, except that, if the product is less than 3872
five per cent, the Ohio delivery percentage used shall be five 3873
per cent and that, if the product exceeds forty-nine per cent, 3874
the Ohio delivery percentage used shall be forty-nine per cent. 3875

(v) Qualifying certificates and Ohio delivery percentages 3876
issued by the commissioner shall be open to public inspection 3877
and shall be timely published by the commissioner. A supplier 3878
relying in good faith on a certificate issued under this 3879
division shall not be subject to tax on the qualifying 3880
distribution center receipts under division (F) (2) (z) of this 3881
section. An operator receiving a qualifying certificate is 3882
liable for the ineligible operator's supplier tax liability for 3883
each year the operator received a certificate but did not 3884
qualify as a qualified distribution center. 3885

(vi) The annual fee for a qualifying certificate shall be 3886
one hundred thousand dollars for each qualified distribution 3887
center. If a qualifying certificate is not issued, the annual 3888
fee is subject to refund after the exhaustion of all appeals 3889
provided for in division (F) (2) (z) (i) (VI) of this section. The 3890
first one hundred thousand dollars of the annual application 3891
fees collected each calendar year shall be credited to the 3892
revenue enhancement fund. The remainder of the annual 3893
application fees collected shall be distributed in the same 3894

manner required under section 5751.20 of the Revised Code. 3895

(vii) The tax commissioner may require that adequate 3896
security be posted by the operator of the distribution center on 3897
appeal when the commissioner disagrees that the applicant has 3898
met the minimum thresholds for a qualified distribution center 3899
as set forth in division (F) (2) (z) of this section. 3900

(aa) Receipts of an employer from payroll deductions 3901
relating to the reimbursement of the employer for advancing 3902
moneys to an unrelated third party on an employee's behalf; 3903

(bb) Cash discounts allowed and taken; 3904

(cc) Returns and allowances; 3905

(dd) Bad debts from receipts on the basis of which the tax 3906
imposed by this chapter was paid in a prior quarterly tax 3907
payment period. For the purpose of this division, "bad debts" 3908
means any debts that have become worthless or uncollectible 3909
between the preceding and current quarterly tax payment periods, 3910
have been uncollected for at least six months, and that may be 3911
claimed as a deduction under section 166 of the Internal Revenue 3912
Code and the regulations adopted under that section, or that 3913
could be claimed as such if the taxpayer kept its accounts on 3914
the accrual basis. "Bad debts" does not include repossessed 3915
property, uncollectible amounts on property that remains in the 3916
possession of the taxpayer until the full purchase price is 3917
paid, or expenses in attempting to collect any account 3918
receivable or for any portion of the debt recovered; 3919

(ee) Any amount realized from the sale of an account 3920
receivable to the extent the receipts from the underlying 3921
transaction giving rise to the account receivable were included 3922
in the gross receipts of the taxpayer; 3923

(ff) Any receipts directly attributed to a transfer 3924
agreement or to the enterprise transferred under that agreement 3925
under section 4313.02 of the Revised Code. 3926

(gg) (i) As used in this division: 3927

(I) "Qualified uranium receipts" means receipts from the 3928
sale, exchange, lease, loan, production, processing, or other 3929
disposition of uranium within a uranium enrichment zone 3930
certified by the tax commissioner under division (F) (2) (gg) (ii) 3931
of this section. "Qualified uranium receipts" does not include 3932
any receipts with a situs in this state outside a uranium 3933
enrichment zone certified by the tax commissioner under division 3934
(F) (2) (gg) (ii) of this section. 3935

(II) "Uranium enrichment zone" means all real property 3936
that is part of a uranium enrichment facility licensed by the 3937
United States nuclear regulatory commission and that was or is 3938
owned or controlled by the United States department of energy or 3939
its successor. 3940

(ii) Any person that owns, leases, or operates real or 3941
tangible personal property constituting or located within a 3942
uranium enrichment zone may apply to the tax commissioner to 3943
have the uranium enrichment zone certified for the purpose of 3944
excluding qualified uranium receipts under division (F) (2) (gg) 3945
of this section. The application shall include such information 3946
that the tax commissioner prescribes. Within sixty days after 3947
receiving the application, the tax commissioner shall certify 3948
the zone for that purpose if the commissioner determines that 3949
the property qualifies as a uranium enrichment zone as defined 3950
in division (F) (2) (gg) of this section, or, if the tax 3951
commissioner determines that the property does not qualify, the 3952
commissioner shall deny the application or request additional 3953

information from the applicant. If the tax commissioner denies 3954
an application, the commissioner shall state the reasons for the 3955
denial. The applicant may appeal the denial of an application to 3956
the board of tax appeals pursuant to section 5717.02 of the 3957
Revised Code. If the applicant files a timely appeal, the tax 3958
commissioner shall conditionally certify the applicant's 3959
property. The conditional certification shall expire when all of 3960
the applicant's appeals are exhausted. Until final resolution of 3961
the appeal, the applicant shall retain the applicant's records 3962
in accordance with section 5751.12 of the Revised Code, 3963
notwithstanding any time limit on the preservation of records 3964
under that section. 3965

(hh) In the case of amounts collected by a licensed casino 3966
operator from casino gaming, amounts in excess of the casino 3967
operator's gross casino revenue. In this division, "casino 3968
operator" and "casino gaming" have the meanings defined in 3969
section 3772.01 of the Revised Code, and "gross casino revenue" 3970
has the meaning defined in section 5753.01 of the Revised Code. 3971

(ii) Receipts realized from the sale of agricultural 3972
commodities by an agricultural commodity handler, both as 3973
defined in section 926.01 of the Revised Code, that is licensed 3974
by the director of agriculture to handle agricultural 3975
commodities in this state. 3976

(jj) Qualifying integrated supply chain receipts. 3977

As used in division (F)(2)(jj) of this section: 3978

(i) "Qualifying integrated supply chain receipts" means 3979
receipts of a qualified integrated supply chain vendor from the 3980
sale of qualified property delivered to, or integrated supply 3981
chain services provided to, another qualified integrated supply 3982

chain vendor or to a retailer that is a member of the integrated 3983
supply chain. "Qualifying integrated supply chain receipts" does 3984
not include receipts of a person that is not a qualified 3985
integrated supply chain vendor from the sale of raw materials to 3986
a member of an integrated supply chain, or receipts of a member 3987
of an integrated supply chain from the sale of qualified 3988
property or integrated supply chain services to a person that is 3989
not a member of the integrated supply chain. 3990

(ii) "Qualified property" means any of the following: 3991

(I) Component parts used to hold, contain, package, or 3992
dispense qualified products, excluding equipment; 3993

(II) Work-in-process inventory that will become, comprise, 3994
or form a component part of a qualified product capable of being 3995
sold at retail, excluding equipment, machinery, furniture, and 3996
fixtures; 3997

(III) Finished goods inventory that is a qualified product 3998
capable of being sold at retail in the inventory's present form. 3999

(iii) "Qualified integrated supply chain vendor" means a 4000
person that is a member of an integrated supply chain and that 4001
provides integrated supply chain services within a qualified 4002
integrated supply chain district to a retailer that is a member 4003
of the integrated supply chain or to another qualified 4004
integrated supply chain vendor that is located within the same 4005
such district as the person but does not share a common owner 4006
with that person. 4007

(iv) "Qualified product" means a personal care, health, or 4008
beauty product or an aromatic product, including a candle. 4009
"Qualified product" does not include a drug that may be 4010
dispensed only pursuant to a prescription, durable medical 4011

equipment, mobility enhancing equipment, or a prosthetic device, 4012
as those terms are defined in section 5739.01 of the Revised 4013
Code. 4014

(v) "Integrated supply chain" means two or more qualified 4015
integrated supply chain vendors certified on the most recent 4016
list certified to the tax commissioner under this division that 4017
systematically collaborate and coordinate business operations 4018
with a retailer on the flow of tangible personal property from 4019
material sourcing through manufacturing, assembly, packaging, 4020
and delivery to the retailer to improve long-term financial 4021
performance of each vendor and the supply chain that includes 4022
the retailer. 4023

For the purpose of the certification required under this 4024
division, the reporting person for each retailer, on or before 4025
the first day of October of each year, shall certify to the tax 4026
commissioner a list of the qualified integrated supply chain 4027
vendors providing or receiving integrated supply chain services 4028
within a qualified integrated supply chain district for the 4029
ensuing calendar year. On or before the following first day of 4030
November, the commissioner shall issue a certificate to the 4031
retailer and to each vendor certified to the commissioner on 4032
that list. The certificate shall include the names of the 4033
retailer and of the qualified integrated supply chain vendors. 4034

The retailer shall notify the commissioner of any changes 4035
to the list, including additions to or subtractions from the 4036
list or changes in the name or legal entity of vendors certified 4037
on the list, within sixty days after the date the retailer 4038
becomes aware of the change. Within thirty days after receiving 4039
that notification, the commissioner shall issue a revised 4040
certificate to the retailer and to each vendor certified on the 4041

list. The revised certificate shall include the effective date 4042
of the change. 4043

Each recipient of a certificate issued pursuant to this 4044
division shall maintain a copy of the certificate for four years 4045
from the date the certificate was received. 4046

(vi) "Integrated supply chain services" means procuring 4047
raw materials or manufacturing, processing, refining, 4048
assembling, packaging, or repackaging tangible personal property 4049
that will become finished goods inventory capable of being sold 4050
at retail by a retailer that is a member of an integrated supply 4051
chain. 4052

(vii) "Retailer" means a person primarily engaged in 4053
making retail sales and any member of that person's consolidated 4054
elected taxpayer group or combined taxpayer group, whether or 4055
not that member is primarily engaged in making retail sales. 4056

(viii) "Qualified integrated supply chain district" means 4057
the parcel or parcels of land from which a retailer's integrated 4058
supply chain that existed on September 29, 2015, provides or 4059
receives integrated supply chain services, and to which all of 4060
the following apply: 4061

(I) The parcel or parcels are located wholly in a county 4062
having a population of greater than one hundred sixty-five 4063
thousand but less than one hundred seventy thousand based on the 4064
2010 federal decennial census. 4065

(II) The parcel or parcels are located wholly in the 4066
corporate limits of a municipal corporation with a population 4067
greater than seven thousand five hundred and less than eight 4068
thousand based on the 2010 federal decennial census that is 4069
partly located in the county described in division (F) (2) (jj) 4070

(viii) (I) of this section, as those corporate limits existed on 4071
September 29, 2015. 4072

(III) The aggregate acreage of the parcel or parcels 4073
equals or exceeds one hundred acres. 4074

(kk) In the case of a railroad company described in 4075
division (D) (9) of section 5727.01 of the Revised Code that 4076
purchases dyed diesel fuel directly from a supplier as defined 4077
by section 5736.01 of the Revised Code, an amount equal to the 4078
product of the number of gallons of dyed diesel fuel purchased 4079
directly from such a supplier multiplied by the average 4080
wholesale price for a gallon of diesel fuel as determined under 4081
section 5736.02 of the Revised Code for the period during which 4082
the fuel was purchased multiplied by a fraction, the numerator 4083
of which equals the rate of tax levied by section 5736.02 of the 4084
Revised Code less the rate of tax computed in section 5751.03 of 4085
the Revised Code, and the denominator of which equals the rate 4086
of tax computed in section 5751.03 of the Revised Code. 4087

(ll) Receipts realized by an out-of-state disaster 4088
business from disaster work conducted in this state during a 4089
disaster response period pursuant to a qualifying solicitation 4090
received by the business. Terms used in this division (F) (2) (ll) 4091
have the same meanings as in section 5703.94 of the Revised 4092
Code. 4093

(mm) Any receipts for which the tax imposed by this 4094
chapter is prohibited by the constitution or laws of the United 4095
States or the constitution of this state. 4096

(3) In the case of a taxpayer when acting as a real estate 4097
broker, "gross receipts" includes only the portion of any fee 4098
for the service of a real estate broker, or service of a real 4099

estate salesperson associated with that broker, that is retained 4100
by the broker and not paid to an associated real estate 4101
salesperson or another real estate broker. For the purposes of 4102
this division, "real estate broker" and "real estate 4103
salesperson" have the same meanings as in section 4735.01 of the 4104
Revised Code. 4105

(4) A taxpayer's method of accounting for gross receipts 4106
for a tax period shall be the same as the taxpayer's method of 4107
accounting for federal income tax purposes for the taxpayer's 4108
federal taxable year that includes the tax period. If a 4109
taxpayer's method of accounting for federal income tax purposes 4110
changes, its method of accounting for gross receipts under this 4111
chapter shall be changed accordingly. 4112

(G) "Taxable gross receipts" means gross receipts situated 4113
to this state under section 5751.033 of the Revised Code. 4114

(H) A person has "substantial nexus with this state" if 4115
any of the following applies. The person: 4116

(1) Owns or uses a part or all of its capital in this 4117
state; 4118

(2) Holds a certificate of compliance with the laws of 4119
this state authorizing the person to do business in this state; 4120

(3) Has bright-line presence in this state; 4121

(4) Otherwise has nexus with this state to an extent that 4122
the person can be required to remit the tax imposed under this 4123
chapter under the Constitution of the United States. 4124

(I) A person has "bright-line presence" in this state for 4125
a reporting period and for the remaining portion of the calendar 4126
year if any of the following applies. The person: 4127

(1) Has at any time during the calendar year property in 4128
this state with an aggregate value of at least fifty thousand 4129
dollars. For the purpose of division (I) (1) of this section, 4130
owned property is valued at original cost and rented property is 4131
valued at eight times the net annual rental charge. 4132

(2) Has during the calendar year payroll in this state of 4133
at least fifty thousand dollars. Payroll in this state includes 4134
all of the following: 4135

(a) Any amount subject to withholding by the person under 4136
section 5747.06 of the Revised Code; 4137

(b) Any other amount the person pays as compensation to an 4138
individual under the supervision or control of the person for 4139
work done in this state; and 4140

(c) Any amount the person pays for services performed in 4141
this state on its behalf by another. 4142

(3) Has during the calendar year taxable gross receipts of 4143
at least five hundred thousand dollars. 4144

(4) Has at any time during the calendar year within this 4145
state at least twenty-five per cent of the person's total 4146
property, total payroll, or total gross receipts. 4147

(5) Is domiciled in this state as an individual or for 4148
corporate, commercial, or other business purposes. 4149

(J) "Tangible personal property" has the same meaning as 4150
in section 5739.01 of the Revised Code. 4151

(K) "Internal Revenue Code" means the Internal Revenue 4152
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 4153
used in this chapter that is not otherwise defined has the same 4154
meaning as when used in a comparable context in the laws of the 4155

United States relating to federal income taxes unless a 4156
different meaning is clearly required. Any reference in this 4157
chapter to the Internal Revenue Code includes other laws of the 4158
United States relating to federal income taxes. 4159

(L) "Calendar quarter" means a three-month period ending 4160
on the thirty-first day of March, the thirtieth day of June, the 4161
thirtieth day of September, or the thirty-first day of December. 4162

(M) "Tax period" means the calendar quarter or calendar 4163
year on the basis of which a taxpayer is required to pay the tax 4164
imposed under this chapter. 4165

(N) "Calendar year taxpayer" means a taxpayer for which 4166
the tax period is a calendar year. 4167

(O) "Calendar quarter taxpayer" means a taxpayer for which 4168
the tax period is a calendar quarter. 4169

(P) "Agent" means a person authorized by another person to 4170
act on its behalf to undertake a transaction for the other, 4171
including any of the following: 4172

(1) A person receiving a fee to sell financial 4173
instruments; 4174

(2) A person retaining only a commission from a 4175
transaction with the other proceeds from the transaction being 4176
remitted to another person; 4177

(3) A person issuing licenses and permits under section 4178
1533.13 of the Revised Code; 4179

(4) A lottery sales agent holding a valid license issued 4180
under section 3770.05 of the Revised Code; 4181

(5) A person acting as an agent of the division of liquor 4182

control under section 4301.17 of the Revised Code. 4183

(Q) "Received" includes amounts accrued under the accrual 4184
method of accounting. 4185

(R) "Reporting person" means a person in a consolidated 4186
elected taxpayer or combined taxpayer group that is designated 4187
by that group to legally bind the group for all filings and tax 4188
liabilities and to receive all legal notices with respect to 4189
matters under this chapter, or, for the purposes of section 4190
5751.04 of the Revised Code, a separate taxpayer that is not a 4191
member of such a group. 4192

Section 2. That existing sections 111.16, 718.01, 718.05, 4193
1329.01, 4123.01, 4141.42, 5741.02, 5747.01, 5747.09, 5747.43, 4194
and 5751.01 of the Revised Code are hereby repealed. 4195

Section 3. The amendment by this act of sections 5747.09 4196
and 5747.43 of the Revised Code applies to taxable years and to 4197
qualifying taxable years, respectively, beginning on or after 4198
January 1, 2017. 4199

Section 4. The General Assembly finds that the ability of 4200
the state to respond to a declared disaster is a matter of 4201
statewide concern and requires statewide regulation. Therefore, 4202
it is the intent of the General Assembly in enacting the 4203
Disaster Relief Act to enact a general law permitting the state 4204
to adequately respond to a declared disaster by establishing a 4205
comprehensive plan for the application of state and local laws 4206
and regulations with respect to out-of-state disaster businesses 4207
and their employees while engaging in disaster relief activities 4208
in this state. 4209