

**As Introduced**

**132nd General Assembly**

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**H. B. No. 351**

**Representatives Perales, Butler**

**Cosponsors: Representatives Becker, Bocchieri, Goodman, Hood, Johnson,  
McColley, Vitale**

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**A BILL**

To amend section 718.01 of the Revised Code to 1  
require municipal corporations to exempt from 2  
taxation the military pay of members of the 3  
commissioned corps of the National Oceanic and 4  
Atmospheric Administration and Public Health 5  
Service. 6

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

**Section 1.** That section 718.01 of the Revised Code be 7  
amended to read as follows: 8

**Sec. 718.01.** Any term used in this chapter that is not 9  
otherwise defined in this chapter has the same meaning as when 10  
used in a comparable context in laws of the United States 11  
relating to federal income taxation or in Title LVII of the 12  
Revised Code, unless a different meaning is clearly required. If 13  
a term used in this chapter that is not otherwise defined in 14  
this chapter is used in a comparable context in both the laws of 15  
the United States relating to federal income tax and in Title 16  
LVII of the Revised Code and the use is not consistent, then the 17  
use of the term in the laws of the United States relating to 18

federal income tax shall control over the use of the term in 19  
Title LVIII of the Revised Code. 20

As used in this chapter: 21

(A) (1) "Municipal taxable income" means the following: 22

(a) For a person other than an individual, income reduced 23  
by exempt income to the extent otherwise included in income and 24  
then, as applicable, apportioned or situated to the municipal 25  
corporation under section 718.02 of the Revised Code, and 26  
further reduced by any pre-2017 net operating loss carryforward 27  
available to the person for the municipal corporation. 28

(b) (i) For an individual who is a resident of a municipal 29  
corporation other than a qualified municipal corporation, income 30  
reduced by exempt income to the extent otherwise included in 31  
income, then reduced as provided in division (A) (2) of this 32  
section, and further reduced by any pre-2017 net operating loss 33  
carryforward available to the individual for the municipal 34  
corporation. 35

(ii) For an individual who is a resident of a qualified 36  
municipal corporation, Ohio adjusted gross income reduced by 37  
income exempted, and increased by deductions excluded, by the 38  
qualified municipal corporation from the qualified municipal 39  
corporation's tax. If a qualified municipal corporation, on or 40  
before December 31, 2013, exempts income earned by individuals 41  
who are not residents of the qualified municipal corporation and 42  
net profit of persons that are not wholly located within the 43  
qualified municipal corporation, such individual or person shall 44  
have no municipal taxable income for the purposes of the tax 45  
levied by the qualified municipal corporation and may be 46  
exempted by the qualified municipal corporation from the 47

requirements of section 718.03 of the Revised Code. 48

(c) For an individual who is a nonresident of a municipal 49  
corporation, income reduced by exempt income to the extent 50  
otherwise included in income and then, as applicable, 51  
apportioned or situated to the municipal corporation under 52  
section 718.02 of the Revised Code, then reduced as provided in 53  
division (A)(2) of this section, and further reduced by any pre- 54  
2017 net operating loss carryforward available to the individual 55  
for the municipal corporation. 56

(2) In computing the municipal taxable income of a 57  
taxpayer who is an individual, the taxpayer may subtract, as 58  
provided in division (A)(1)(b)(i) or (c) of this section, the 59  
amount of the individual's employee business expenses reported 60  
on the individual's form 2106 that the individual deducted for 61  
federal income tax purposes for the taxable year, subject to the 62  
limitation imposed by section 67 of the Internal Revenue Code. 63  
For the municipal corporation in which the taxpayer is a 64  
resident, the taxpayer may deduct all such expenses allowed for 65  
federal income tax purposes. For a municipal corporation in 66  
which the taxpayer is not a resident, the taxpayer may deduct 67  
such expenses only to the extent the expenses are related to the 68  
taxpayer's performance of personal services in that nonresident 69  
municipal corporation. 70

(B) "Income" means the following: 71

(1)(a) For residents, all income, salaries, qualifying 72  
wages, commissions, and other compensation from whatever source 73  
earned or received by the resident, including the resident's 74  
distributive share of the net profit of pass-through entities 75  
owned directly or indirectly by the resident and any net profit 76  
of the resident, except as provided in division (D)(4) of this 77

section.	78
(b) For the purposes of division (B) (1) (a) of this section:	79 80
(i) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (B) (1) (d) of this section;	81 82 83 84 85 86 87 88 89 90
(ii) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.	91 92 93 94 95 96
(c) Division (B) (1) (b) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C) (14) (b) or (c) of this section.	97 98 99 100 101 102
(d) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the	103 104 105 106

cumulative deductions for all taxable years with respect to a 107  
taxpayer's net operating loss exceed the original amount of that 108  
net operating loss available to that taxpayer. 109

(2) In the case of nonresidents, all income, salaries, 110  
qualifying wages, commissions, and other compensation from 111  
whatever source earned or received by the nonresident for work 112  
done, services performed or rendered, or activities conducted in 113  
the municipal corporation, including any net profit of the 114  
nonresident, but excluding the nonresident's distributive share 115  
of the net profit or loss of only pass-through entities owned 116  
directly or indirectly by the nonresident. 117

(3) For taxpayers that are not individuals, net profit of 118  
the taxpayer; 119

(4) Lottery, sweepstakes, gambling and sports winnings, 120  
winnings from games of chance, and prizes and awards. If the 121  
taxpayer is a professional gambler for federal income tax 122  
purposes, the taxpayer may deduct related wagering losses and 123  
expenses to the extent authorized under the Internal Revenue 124  
Code and claimed against such winnings. 125

(C) "Exempt income" means all of the following: 126

(1) The military pay or allowances of members of the ~~armed-~~ 127  
~~forces-uniformed services~~ of the United States or members of 128  
their reserve components, including the national guard of any 129  
state. As used in division (C)(1) of this section, "uniformed 130  
services" has the same meaning as in 10 U.S.C. 101. 131

(2) (a) Except as provided in division (C)(2)(b) of this 132  
section, intangible income; 133

(b) A municipal corporation that taxed any type of 134  
intangible income on March 29, 1988, pursuant to Section 3 of 135

S.B. 238 of the 116th general assembly, may continue to tax that 136  
type of income if a majority of the electors of the municipal 137  
corporation voting on the question of whether to permit the 138  
taxation of that type of intangible income after 1988 voted in 139  
favor thereof at an election held on November 8, 1988. 140

(3) Social security benefits, railroad retirement 141  
benefits, unemployment compensation, pensions, retirement 142  
benefit payments, payments from annuities, and similar payments 143  
made to an employee or to the beneficiary of an employee under a 144  
retirement program or plan, disability payments received from 145  
private industry or local, state, or federal governments or from 146  
charitable, religious or educational organizations, and the 147  
proceeds of sickness, accident, or liability insurance policies. 148  
As used in division (C) (3) of this section, "unemployment 149  
compensation" does not include supplemental unemployment 150  
compensation described in section 3402(o) (2) of the Internal 151  
Revenue Code. 152

(4) The income of religious, fraternal, charitable, 153  
scientific, literary, or educational institutions to the extent 154  
such income is derived from tax-exempt real estate, tax-exempt 155  
tangible or intangible property, or tax-exempt activities. 156

(5) Compensation paid under section 3501.28 or 3501.36 of 157  
the Revised Code to a person serving as a precinct election 158  
official to the extent that such compensation does not exceed 159  
one thousand dollars for the taxable year. Such compensation in 160  
excess of one thousand dollars for the taxable year may be 161  
subject to taxation by a municipal corporation. A municipal 162  
corporation shall not require the payer of such compensation to 163  
withhold any tax from that compensation. 164

(6) Dues, contributions, and similar payments received by 165

charitable, religious, educational, or literary organizations or	166
labor unions, lodges, and similar organizations;	167
(7) Alimony and child support received;	168
(8) Compensation for personal injuries or for damages to	169
property from insurance proceeds or otherwise, excluding	170
compensation paid for lost salaries or wages or compensation	171
from punitive damages;	172
(9) Income of a public utility when that public utility is	173
subject to the tax levied under section 5727.24 or 5727.30 of	174
the Revised Code. Division (C) (9) of this section does not apply	175
for purposes of Chapter 5745. of the Revised Code.	176
(10) Gains from involuntary conversions, interest on	177
federal obligations, items of income subject to a tax levied by	178
the state and that a municipal corporation is specifically	179
prohibited by law from taxing, and income of a decedent's estate	180
during the period of administration except such income from the	181
operation of a trade or business;	182
(11) Compensation or allowances excluded from federal	183
gross income under section 107 of the Internal Revenue Code;	184
(12) Employee compensation that is not qualifying wages as	185
defined in division (R) of this section;	186
(13) Compensation paid to a person employed within the	187
boundaries of a United States air force base under the	188
jurisdiction of the United States air force that is used for the	189
housing of members of the United States air force and is a	190
center for air force operations, unless the person is subject to	191
taxation because of residence or domicile. If the compensation	192
is subject to taxation because of residence or domicile, tax on	193
such income shall be payable only to the municipal corporation	194

of residence or domicile.	195
(14) (a) Except as provided in division (C) (14) (b) or (c)	196
of this section, an S corporation shareholder's distributive	197
share of net profits of the S corporation, other than any part	198
of the distributive share of net profits that represents wages	199
as defined in section 3121(a) of the Internal Revenue Code or	200
net earnings from self-employment as defined in section 1402(a)	201
of the Internal Revenue Code.	202
(b) If, pursuant to division (H) of former section 718.01	203
of the Revised Code as it existed before March 11, 2004, a	204
majority of the electors of a municipal corporation voted in	205
favor of the question at an election held on November 4, 2003,	206
the municipal corporation may continue after 2002 to tax an S	207
corporation shareholder's distributive share of net profits of	208
an S corporation.	209
(c) If, on December 6, 2002, a municipal corporation was	210
imposing, assessing, and collecting a tax on an S corporation	211
shareholder's distributive share of net profits of the S	212
corporation to the extent the distributive share would be	213
allocated or apportioned to this state under divisions (B) (1)	214
and (2) of section 5733.05 of the Revised Code if the S	215
corporation were a corporation subject to taxes imposed under	216
Chapter 5733. of the Revised Code, the municipal corporation may	217
continue to impose the tax on such distributive shares to the	218
extent such shares would be so allocated or apportioned to this	219
state only until December 31, 2004, unless a majority of the	220
electors of the municipal corporation voting on the question of	221
continuing to tax such shares after that date voted in favor of	222
that question at an election held November 2, 2004. If a	223
majority of those electors voted in favor of the question, the	224



municipal corporation may continue after December 31, 2004, to 225  
impose the tax on such distributive shares only to the extent 226  
such shares would be so allocated or apportioned to this state. 227

(d) A municipal corporation shall be deemed to have 228  
elected to tax S corporation shareholders' distributive shares 229  
of net profits of the S corporation in the hands of the 230  
shareholders if a majority of the electors of a municipal 231  
corporation voted in favor of a question at an election held 232  
under division (C) (14) (b) or (c) of this section. The municipal 233  
corporation shall specify by resolution or ordinance that the 234  
tax applies to the distributive share of a shareholder of an S 235  
corporation in the hands of the shareholder of the S 236  
corporation. 237

(15) To the extent authorized under a resolution or 238  
ordinance adopted by a municipal corporation before January 1, 239  
2016, all or a portion of the income of individuals or a class 240  
of individuals under eighteen years of age. 241

(16) (a) Except as provided in divisions (C) (16) (b), (c), 242  
and (d) of this section, qualifying wages described in division 243  
(B) (1) or (E) of section 718.011 of the Revised Code to the 244  
extent the qualifying wages are not subject to withholding for 245  
the municipal corporation under either of those divisions. 246

(b) The exemption provided in division (C) (16) (a) of this 247  
section does not apply with respect to the municipal corporation 248  
in which the employee resided at the time the employee earned 249  
the qualifying wages. 250

(c) The exemption provided in division (C) (16) (a) of this 251  
section does not apply to qualifying wages that an employer 252  
elects to withhold under division (D) (2) of section 718.011 of 253

the Revised Code.	254
(d) The exemption provided in division (C) (16) (a) of this	255
section does not apply to qualifying wages if both of the	256
following conditions apply:	257
(i) For qualifying wages described in division (B) (1) of	258
section 718.011 of the Revised Code, the employee's employer	259
withholds and remits tax on the qualifying wages to the	260
municipal corporation in which the employee's principal place of	261
work is situated, or, for qualifying wages described in division	262
(E) of section 718.011 of the Revised Code, the employee's	263
employer withholds and remits tax on the qualifying wages to the	264
municipal corporation in which the employer's fixed location is	265
located;	266
(ii) The employee receives a refund of the tax described	267
in division (C) (16) (d) (i) of this section on the basis of the	268
employee not performing services in that municipal corporation.	269
(17) (a) Except as provided in division (C) (17) (b) or (c)	270
of this section, compensation that is not qualifying wages paid	271
to a nonresident individual for personal services performed in	272
the municipal corporation on not more than twenty days in a	273
taxable year.	274
(b) The exemption provided in division (C) (17) (a) of this	275
section does not apply under either of the following	276
circumstances:	277
(i) The individual's base of operation is located in the	278
municipal corporation.	279
(ii) The individual is a professional athlete,	280
professional entertainer, or public figure, and the compensation	281
is paid for the performance of services in the individual's	282

capacity as a professional athlete, professional entertainer, or 283  
public figure. For purposes of division (C) (17) (b) (ii) of this 284  
section, "professional athlete," "professional entertainer," and 285  
"public figure" have the same meanings as in section 718.011 of 286  
the Revised Code. 287

(c) Compensation to which division (C) (17) of this section 288  
applies shall be treated as earned or received at the 289  
individual's base of operation. If the individual does not have 290  
a base of operation, the compensation shall be treated as earned 291  
or received where the individual is domiciled. 292

(d) For purposes of division (C) (17) of this section, 293  
"base of operation" means the location where an individual owns 294  
or rents an office, storefront, or similar facility to which the 295  
individual regularly reports and at which the individual 296  
regularly performs personal services for compensation. 297

(18) Compensation paid to a person for personal services 298  
performed for a political subdivision on property owned by the 299  
political subdivision, regardless of whether the compensation is 300  
received by an employee of the subdivision or another person 301  
performing services for the subdivision under a contract with 302  
the subdivision, if the property on which services are performed 303  
is annexed to a municipal corporation pursuant to section 304  
709.023 of the Revised Code on or after March 27, 2013, unless 305  
the person is subject to such taxation because of residence. If 306  
the compensation is subject to taxation because of residence, 307  
municipal income tax shall be payable only to the municipal 308  
corporation of residence. 309

(19) In the case of a tax administered, collected, and 310  
enforced by a municipal corporation pursuant to an agreement 311  
with the board of directors of a joint economic development 312

district under section 715.72 of the Revised Code, the net 313  
profits of a business, and the income of the employees of that 314  
business, exempted from the tax under division (Q) of that 315  
section. 316

(20) Income the taxation of which is prohibited by the 317  
constitution or laws of the United States. 318

Any item of income that is exempt income of a pass-through 319  
entity under division (C) of this section is exempt income of 320  
each owner of the pass-through entity to the extent of that 321  
owner's distributive or proportionate share of that item of the 322  
entity's income. 323

(D) (1) "Net profit" for a person other than an individual 324  
means adjusted federal taxable income. 325

(2) "Net profit" for a person who is an individual means 326  
the individual's net profit required to be reported on schedule 327  
C, schedule E, or schedule F reduced by any net operating loss 328  
carried forward. For the purposes of division (D) (2) of this 329  
section, the net operating loss carried forward shall be 330  
calculated and deducted in the same manner as provided in 331  
division (E) (8) of this section. 332

(3) For the purposes of this chapter, and notwithstanding 333  
division (D) (1) of this section, net profit of a disregarded 334  
entity shall not be taxable as against that disregarded entity, 335  
but shall instead be included in the net profit of the owner of 336  
the disregarded entity. 337

(4) For the purposes of this chapter, and notwithstanding 338  
any other provision of this chapter, the net profit of a 339  
publicly traded partnership that makes the election described in 340  
division (D) (4) of this section shall be taxed as if the 341

partnership were a C corporation, and shall not be treated as 342  
the net profit or income of any owner of the partnership. 343

A publicly traded partnership that is treated as a 344  
partnership for federal income tax purposes and that is subject 345  
to tax on its net profits in one or more municipal corporations 346  
in this state may elect to be treated as a C corporation for 347  
municipal income tax purposes. The publicly traded partnership 348  
shall make the election in every municipal corporation in which 349  
the partnership is subject to taxation on its net profits. The 350  
election shall be made on the annual tax return filed in each 351  
such municipal corporation. The publicly traded partnership 352  
shall not be required to file the election with any municipal 353  
corporation in which the partnership is not subject to taxation 354  
on its net profits, but division (D)(4) of this section applies 355  
to all municipal corporations in which an individual owner of 356  
the partnership resides. 357

(E) "Adjusted federal taxable income," for a person 358  
required to file as a C corporation, or for a person that has 359  
elected to be taxed as a C corporation under division (D)(4) of 360  
this section, means a C corporation's federal taxable income 361  
before net operating losses and special deductions as determined 362  
under the Internal Revenue Code, adjusted as follows: 363

(1) Deduct intangible income to the extent included in 364  
federal taxable income. The deduction shall be allowed 365  
regardless of whether the intangible income relates to assets 366  
used in a trade or business or assets held for the production of 367  
income. 368

(2) Add an amount equal to five per cent of intangible 369  
income deducted under division (E)(1) of this section, but 370  
excluding that portion of intangible income directly related to 371

the sale, exchange, or other disposition of property described	372
in section 1221 of the Internal Revenue Code;	373
(3) Add any losses allowed as a deduction in the	374
computation of federal taxable income if the losses directly	375
relate to the sale, exchange, or other disposition of an asset	376
described in section 1221 or 1231 of the Internal Revenue Code;	377
(4) (a) Except as provided in division (E) (4) (b) of this	378
section, deduct income and gain included in federal taxable	379
income to the extent the income and gain directly relate to the	380
sale, exchange, or other disposition of an asset described in	381
section 1221 or 1231 of the Internal Revenue Code;	382
(b) Division (E) (4) (a) of this section does not apply to	383
the extent the income or gain is income or gain described in	384
section 1245 or 1250 of the Internal Revenue Code.	385
(5) Add taxes on or measured by net income allowed as a	386
deduction in the computation of federal taxable income;	387
(6) In the case of a real estate investment trust or	388
regulated investment company, add all amounts with respect to	389
dividends to, distributions to, or amounts set aside for or	390
credited to the benefit of investors and allowed as a deduction	391
in the computation of federal taxable income;	392
(7) Deduct, to the extent not otherwise deducted or	393
excluded in computing federal taxable income, any income derived	394
from a transfer agreement or from the enterprise transferred	395
under that agreement under section 4313.02 of the Revised Code;	396
(8) (a) Except as limited by divisions (E) (8) (b), (c), and	397
(d) of this section, deduct any net operating loss incurred by	398
the person in a taxable year beginning on or after January 1,	399
2017.	400

The amount of such net operating loss shall be deducted 401  
from net profit that is reduced by exempt income to the extent 402  
necessary to reduce municipal taxable income to zero, with any 403  
remaining unused portion of the net operating loss carried 404  
forward to not more than five consecutive taxable years 405  
following the taxable year in which the loss was incurred, but 406  
in no case for more years than necessary for the deduction to be 407  
fully utilized. 408

(b) No person shall use the deduction allowed by division 409  
(E) (8) of this section to offset qualifying wages. 410

(c) (i) For taxable years beginning in 2018, 2019, 2020, 411  
2021, or 2022, a person may not deduct, for purposes of an 412  
income tax levied by a municipal corporation that levies an 413  
income tax before January 1, 2016, more than fifty per cent of 414  
the amount of the deduction otherwise allowed by division (E) (8) 415  
(a) of this section. 416

(ii) For taxable years beginning in 2023 or thereafter, a 417  
person may deduct, for purposes of an income tax levied by a 418  
municipal corporation that levies an income tax before January 419  
1, 2016, the full amount allowed by division (E) (8) (a) of this 420  
section. 421

(d) Any pre-2017 net operating loss carryforward deduction 422  
that is available must be utilized before a taxpayer may deduct 423  
any amount pursuant to division (E) (8) of this section. 424

(e) Nothing in division (E) (8) (c) (i) of this section 425  
precludes a person from carrying forward, for use with respect 426  
to any return filed for a taxable year beginning after 2018, any 427  
amount of net operating loss that was not fully utilized by 428  
operation of division (E) (8) (c) (i) of this section. To the 429

extent that an amount of net operating loss that was not fully 430  
utilized in one or more taxable years by operation of division 431  
(E) (8) (c) (i) of this section is carried forward for use with 432  
respect to a return filed for a taxable year beginning in 2019, 433  
2020, 2021, or 2022, the limitation described in division (E) (8) 434  
(c) (i) of this section shall apply to the amount carried 435  
forward. 436

(9) Deduct any net profit of a pass-through entity owned 437  
directly or indirectly by the taxpayer and included in the 438  
taxpayer's federal taxable income unless an affiliated group of 439  
corporations includes that net profit in the group's federal 440  
taxable income in accordance with division (E) (3) (b) of section 441  
718.06 of the Revised Code. 442

(10) Add any loss incurred by a pass-through entity owned 443  
directly or indirectly by the taxpayer and included in the 444  
taxpayer's federal taxable income unless an affiliated group of 445  
corporations includes that loss in the group's federal taxable 446  
income in accordance with division (E) (3) (b) of section 718.06 447  
of the Revised Code. 448

If the taxpayer is not a C corporation, is not a 449  
disregarded entity that has made the election described in 450  
division (L) (2) of this section, is not a publicly traded 451  
partnership that has made the election described in division (D) 452  
(4) of this section, and is not an individual, the taxpayer 453  
shall compute adjusted federal taxable income under this section 454  
as if the taxpayer were a C corporation, except guaranteed 455  
payments and other similar amounts paid or accrued to a partner, 456  
former partner, shareholder, former shareholder, member, or 457  
former member shall not be allowed as a deductible expense 458  
unless such payments are in consideration for the use of capital 459



and treated as payment of interest under section 469 of the 460  
Internal Revenue Code or United States treasury regulations. 461  
Amounts paid or accrued to a qualified self-employed retirement 462  
plan with respect to a partner, former partner, shareholder, 463  
former shareholder, member, or former member of the taxpayer, 464  
amounts paid or accrued to or for health insurance for a 465  
partner, former partner, shareholder, former shareholder, 466  
member, or former member, and amounts paid or accrued to or for 467  
life insurance for a partner, former partner, shareholder, 468  
former shareholder, member, or former member shall not be 469  
allowed as a deduction. 470

Nothing in division (E) of this section shall be construed 471  
as allowing the taxpayer to add or deduct any amount more than 472  
once or shall be construed as allowing any taxpayer to deduct 473  
any amount paid to or accrued for purposes of federal self- 474  
employment tax. 475

(F) "Schedule C" means internal revenue service schedule C 476  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 477  
Code. 478

(G) "Schedule E" means internal revenue service schedule E 479  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 480  
Code. 481

(H) "Schedule F" means internal revenue service schedule F 482  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 483  
Code. 484

(I) "Internal Revenue Code" has the same meaning as in 485  
section 5747.01 of the Revised Code. 486

(J) "Resident" means an individual who is domiciled in the 487  
municipal corporation as determined under section 718.012 of the 488

Revised Code.	489
(K) "Nonresident" means an individual that is not a resident.	490 491
(L) (1) "Taxpayer" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (L) (2) (a) of this section, a disregarded entity.	492 493 494 495 496
(2) (a) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:	497 498 499 500 501 502
(i) The limited liability company's single member is also a limited liability company.	503 504
(ii) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.	505 506 507
(iii) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of this section as this section existed on December 31, 2004.	508 509 510 511
(iv) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.	512 513 514 515
(v) The Ohio municipal corporation that was the primary	516

place of business of the sole member of the limited liability 517  
company consented to the election. 518

(b) For purposes of division (L) (2) (a) (v) of this section, 519  
a municipal corporation was the primary place of business of a 520  
limited liability company if, for the limited liability 521  
company's taxable year ending in 2003, its income tax liability 522  
was greater in that municipal corporation than in any other 523  
municipal corporation in Ohio, and that tax liability to that 524  
municipal corporation for its taxable year ending in 2003 was at 525  
least four hundred thousand dollars. 526

(M) "Person" includes individuals, firms, companies, joint 527  
stock companies, business trusts, estates, trusts, partnerships, 528  
limited liability partnerships, limited liability companies, 529  
associations, C corporations, S corporations, governmental 530  
entities, and any other entity. 531

(N) "Pass-through entity" means a partnership not treated 532  
as an association taxable as a C corporation for federal income 533  
tax purposes, a limited liability company not treated as an 534  
association taxable as a C corporation for federal income tax 535  
purposes, an S corporation, or any other class of entity from 536  
which the income or profits of the entity are given pass-through 537  
treatment for federal income tax purposes. "Pass-through entity" 538  
does not include a trust, estate, grantor of a grantor trust, or 539  
disregarded entity. 540

(O) "S corporation" means a person that has made an 541  
election under subchapter S of Chapter 1 of Subtitle A of the 542  
Internal Revenue Code for its taxable year. 543

(P) "Single member limited liability company" means a 544  
limited liability company that has one direct member. 545

(Q) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state.

(R) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1) Deduct the following amounts:

(a) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(b) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(c) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v) (2) (C) of the Internal Revenue Code if the compensation is included in wages and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.

(d) Any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.

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

(2) Add the following amounts:	574
(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.	575 576
(b) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (R) (2) (b) of this section applies only to those amounts constituting ordinary income.	577 578 579 580 581 582 583 584
(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (R) (2) (c) of this section applies only to employee contributions and employee deferrals.	585 586 587 588
(d) Any amount that is supplemental unemployment compensation benefits described in section 3402(o) (2) of the Internal Revenue Code and not included in wages.	589 590 591
(e) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a) (8) of the Internal Revenue Code.	592 593 594
(f) Any amount not included in wages if all of the following apply:	595 596
(i) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the	597 598 599 600 601 602

Internal Revenue Code; 603

(ii) For no preceding taxable year did the amount 604  
constitute wages as defined in section 3121(a) of the Internal 605  
Revenue Code; 606

(iii) For no succeeding taxable year will the amount 607  
constitute wages; and 608

(iv) For any taxable year the amount has not otherwise 609  
been added to wages pursuant to either division (R) (2) of this 610  
section or section 718.03 of the Revised Code, as that section 611  
existed before the effective date of H.B. 5 of the 130th general 612  
assembly, March 23, 2015. 613

(S) "Intangible income" means income of any of the 614  
following types: income yield, interest, capital gains, 615  
dividends, or other income arising from the ownership, sale, 616  
exchange, or other disposition of intangible property including, 617  
but not limited to, investments, deposits, money, or credits as 618  
those terms are defined in Chapter 5701. of the Revised Code, 619  
and patents, copyrights, trademarks, tradenames, investments in 620  
real estate investment trusts, investments in regulated 621  
investment companies, and appreciation on deferred compensation. 622  
"Intangible income" does not include prizes, awards, or other 623  
income associated with any lottery winnings, gambling winnings, 624  
or other similar games of chance. 625

(T) "Taxable year" means the corresponding tax reporting 626  
period as prescribed for the taxpayer under the Internal Revenue 627  
Code. 628

(U) "Tax administrator" means the individual charged with 629  
direct responsibility for administration of an income tax levied 630  
by a municipal corporation in accordance with this chapter, and 631

also includes the following:	632
(1) A municipal corporation acting as the agent of another municipal corporation;	633 634
(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;	635 636 637 638
(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.	639 640 641 642
(V) "Employer" means a person that is an employer for federal income tax purposes.	643 644
(W) "Employee" means an individual who is an employee for federal income tax purposes.	645 646
(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.	647 648 649 650 651
(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.	652 653
(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.	654 655
(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.	656 657 658 659

(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.

(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.

(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.

(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.

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

(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 limitations, at-risk limitations, or passive activity loss limitations.

(HH) "Casino operator" and "casino facility" have the same meanings as in section 3772.01 of the Revised Code.

(II) "Video lottery terminal" has the same meaning as in



section 3770.21 of the Revised Code. 689

(JJ) "Video lottery terminal sales agent" means a lottery 690  
sales agent licensed under Chapter 3770. of the Revised Code to 691  
conduct video lottery terminals on behalf of the state pursuant 692  
to section 3770.21 of the Revised Code. 693

(KK) "Postal service" means the United States postal 694  
service. 695

(LL) "Certified mail," "express mail," "United States 696  
mail," "postal service," and similar terms include any delivery 697  
service authorized pursuant to section 5703.056 of the Revised 698  
Code. 699

(MM) "Postmark date," "date of postmark," and similar 700  
terms include the date recorded and marked in the manner 701  
described in division (B) (3) of section 5703.056 of the Revised 702  
Code. 703

(NN) "Related member" means a person that, with respect to 704  
the taxpayer during all or any portion of the taxable year, is 705  
either a related entity, a component member as defined in 706  
section 1563(b) of the Internal Revenue Code, or a person to or 707  
from whom there is attribution of stock ownership in accordance 708  
with section 1563(e) of the Internal Revenue Code except, for 709  
purposes of determining whether a person is a related member 710  
under this division, "twenty per cent" shall be substituted for 711  
"5 percent" wherever "5 percent" appears in section 1563(e) of 712  
the Internal Revenue Code. 713

(OO) "Related entity" means any of the following: 714

(1) An individual stockholder, or a member of the 715  
stockholder's family enumerated in section 318 of the Internal 716  
Revenue Code, if the stockholder and the members of the 717

stockholder's family own directly, indirectly, beneficially, or 718  
constructively, in the aggregate, at least fifty per cent of the 719  
value of the taxpayer's outstanding stock; 720

(2) A stockholder, or a stockholder's partnership, estate, 721  
trust, or corporation, if the stockholder and the stockholder's 722  
partnerships, estates, trusts, or corporations own directly, 723  
indirectly, beneficially, or constructively, in the aggregate, 724  
at least fifty per cent of the value of the taxpayer's 725  
outstanding stock; 726

(3) A corporation, or a party related to the corporation 727  
in a manner that would require an attribution of stock from the 728  
corporation to the party or from the party to the corporation 729  
under division (00) (4) of this section, provided the taxpayer 730  
owns directly, indirectly, beneficially, or constructively, at 731  
least fifty per cent of the value of the corporation's 732  
outstanding stock; 733

(4) The attribution rules described in section 318 of the 734  
Internal Revenue Code apply for the purpose of determining 735  
whether the ownership requirements in divisions (00) (1) to (3) 736  
of this section have been met. 737

(PP) (1) "Assessment" means a written finding by the tax 738  
administrator that a person has underpaid municipal income tax, 739  
or owes penalty and interest, or any combination of tax, 740  
penalty, or interest, to the municipal corporation that 741  
commences the person's time limitation for making an appeal to 742  
the local board of tax review pursuant to section 718.11 of the 743  
Revised Code, and has "ASSESSMENT" written in all capital 744  
letters at the top of such finding. 745

(2) "Assessment" does not include an informal notice 746

denying a request for refund issued under division (B) (3) of 747  
section 718.19 of the Revised Code, a billing statement 748  
notifying a taxpayer of current or past-due balances owed to the 749  
municipal corporation, a tax administrator's request for 750  
additional information, a notification to the taxpayer of 751  
mathematical errors, or a tax administrator's other written 752  
correspondence to a person or taxpayer that does meet the 753  
criteria prescribed by division (PP) (1) of this section. 754

(QQ) "Taxpayers' rights and responsibilities" means the 755  
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 756  
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 757  
Revised Code and the responsibilities of taxpayers to file, 758  
report, withhold, remit, and pay municipal income tax and 759  
otherwise comply with Chapter 718. of the Revised Code and 760  
resolutions, ordinances, and rules adopted by a municipal 761  
corporation for the imposition and administration of a municipal 762  
income tax. 763

(RR) "Qualified municipal corporation" means a municipal 764  
corporation that, by resolution or ordinance adopted on or 765  
before December 31, 2011, adopted Ohio adjusted gross income, as 766  
defined by section 5747.01 of the Revised Code, as the income 767  
subject to tax for the purposes of imposing a municipal income 768  
tax. 769

(SS) (1) "Pre-2017 net operating loss carryforward" means 770  
any net operating loss incurred in a taxable year beginning 771  
before January 1, 2017, to the extent such loss was permitted, 772  
by a resolution or ordinance of the municipal corporation that 773  
was adopted by the municipal corporation before January 1, 2016, 774  
to be carried forward and utilized to offset income or net 775  
profit generated in such municipal corporation in future taxable 776

years. 777

(2) For the purpose of calculating municipal taxable 778  
income, any pre-2017 net operating loss carryforward may be 779  
carried forward to any taxable year, including taxable years 780  
beginning in 2017 or thereafter, for the number of taxable years 781  
provided in the resolution or ordinance or until fully utilized, 782  
whichever is earlier. 783

(TT) "Small employer" means any employer that had total 784  
revenue of less than five hundred thousand dollars during the 785  
preceding taxable year. For purposes of this division, "total 786  
revenue" means receipts of any type or kind, including, but not 787  
limited to, sales receipts; payments; rents; profits; gains, 788  
dividends, and other investment income; compensation; 789  
commissions; premiums; money; property; grants; contributions; 790  
donations; gifts; program service revenue; patient service 791  
revenue; premiums; fees, including premium fees and service 792  
fees; tuition payments; unrelated business revenue; 793  
reimbursements; any type of payment from a governmental unit, 794  
including grants and other allocations; and any other similar 795  
receipts reported for federal income tax purposes or under 796  
generally accepted accounting principles. "Small employer" does 797  
not include the federal government; any state government, 798  
including any state agency or instrumentality; any political 799  
subdivision; or any entity treated as a government for financial 800  
accounting and reporting purposes. 801

(UU) "Audit" means the examination of a person or the 802  
inspection of the books, records, memoranda, or accounts of a 803  
person for the purpose of determining liability for a municipal 804  
income tax. 805

(VV) "Publicly traded partnership" means any partnership, 806

an interest in which is regularly traded on an established 807  
securities market. A "publicly traded partnership" may have any 808  
number of partners. 809

**Section 2.** That existing section 718.01 of the Revised 810  
Code is hereby repealed. 811

**Section 3.** The amendment by this act of section 718.01 of 812  
the Revised Code applies to taxable years beginning on or after 813  
January 1, 2017. 814