

As Reported by the House Ways and Means Committee

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 228

Representative Roemer

Cosponsors: Representatives Fowler Arthur, Seitz, Young, T., Riedel, McClain

A BILL

To amend sections 718.01, 718.80, 718.81, 718.83, 1
718.85, 718.90, and 5703.77 and to enact section 2
718.841 of the Revised Code to make changes 3
related to the state administration of municipal 4
net profits taxes and the municipal taxation of 5
retirement benefits. 6

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

Section 1. That sections 718.01, 718.80, 718.81, 718.83, 7
718.85, 718.90, and 5703.77 be amended and section 718.841 of 8
the Revised Code be enacted to read as follows: 9

Sec. 718.01. Any term used in this chapter that is not 10
otherwise defined in this chapter has the same meaning as when 11
used in a comparable context in laws of the United States 12
relating to federal income taxation or in Title LVII of the 13
Revised Code, unless a different meaning is clearly required. 14
Except as provided in section 718.81 of the Revised Code, if a 15
term used in this chapter that is not otherwise defined in this 16
chapter is used in a comparable context in both the laws of the 17
United States relating to federal income tax and in Title LVII 18

of the Revised Code and the use is not consistent, then the use 19
of the term in the laws of the United States relating to federal 20
income tax shall control over the use of the term in Title LVII 21
of the Revised Code. 22

Except as otherwise provided in section 718.81 of the 23
Revised Code, as used in this chapter: 24

(A) (1) "Municipal taxable income" means the following: 25

(a) For a person other than an individual, income 26
apportioned or sitused to the municipal corporation under 27
section 718.02 of the Revised Code, as applicable, reduced by 28
any pre-2017 net operating loss carryforward available to the 29
person for the municipal corporation. 30

(b) (i) For an individual who is a resident of a municipal 31
corporation other than a qualified municipal corporation, income 32
reduced by exempt income to the extent otherwise included in 33
income, then reduced as provided in division (A) (2) of this 34
section, and further reduced by any pre-2017 net operating loss 35
carryforward available to the individual for the municipal 36
corporation. 37

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

levied by the qualified municipal corporation and may be 48
exempted by the qualified municipal corporation from the 49
requirements of section 718.03 of the Revised Code. 50

(c) For an individual who is a nonresident of a municipal 51
corporation, income reduced by exempt income to the extent 52
otherwise included in income and then, as applicable, 53
apportioned or situated to the municipal corporation under 54
section 718.02 of the Revised Code, then reduced as provided in 55
division (A)(2) of this section, and further reduced by any pre- 56
2017 net operating loss carryforward available to the individual 57
for the municipal corporation. 58

(2) In computing the municipal taxable income of a 59
taxpayer who is an individual, the taxpayer may subtract, as 60
provided in division (A)(1)(b)(i) or (c) of this section, the 61
amount of the individual's employee business expenses reported 62
on the individual's form 2106 that the individual deducted for 63
federal income tax purposes for the taxable year, subject to the 64
limitation imposed by section 67 of the Internal Revenue Code. 65
For the municipal corporation in which the taxpayer is a 66
resident, the taxpayer may deduct all such expenses allowed for 67
federal income tax purposes. For a municipal corporation in 68
which the taxpayer is not a resident, the taxpayer may deduct 69
such expenses only to the extent the expenses are related to the 70
taxpayer's performance of personal services in that nonresident 71
municipal corporation. 72

(B) "Income" means the following: 73

(1)(a) For residents, all income, salaries, qualifying 74
wages, commissions, and other compensation from whatever source 75
earned or received by the resident, including the resident's 76
distributive share of the net profit of pass-through entities 77

owned directly or indirectly by the resident and any net profit	78
of the resident, except as provided in division (D) (5) of this	79
section.	80
(b) For the purposes of division (B) (1) (a) of this	81
section:	82
(i) Any net operating loss of the resident incurred in the	83
taxable year and the resident's distributive share of any net	84
operating loss generated in the same taxable year and	85
attributable to the resident's ownership interest in a pass-	86
through entity shall be allowed as a deduction, for that taxable	87
year and the following five taxable years, against any other net	88
profit of the resident or the resident's distributive share of	89
any net profit attributable to the resident's ownership interest	90
in a pass-through entity until fully utilized, subject to	91
division (B) (1) (d) of this section;	92
(ii) The resident's distributive share of the net profit	93
of each pass-through entity owned directly or indirectly by the	94
resident shall be calculated without regard to any net operating	95
loss that is carried forward by that entity from a prior taxable	96
year and applied to reduce the entity's net profit for the	97
current taxable year.	98
(c) Division (B) (1) (b) of this section does not apply with	99
respect to any net profit or net operating loss attributable to	100
an ownership interest in an S corporation unless shareholders'	101
distributive shares of net profits from S corporations are	102
subject to tax in the municipal corporation as provided in	103
division (C) (14) (b) or (c) of this section.	104
(d) Any amount of a net operating loss used to reduce a	105
taxpayer's net profit for a taxable year shall reduce the amount	106

of net operating loss that may be carried forward to any 107
subsequent year for use by that taxpayer. In no event shall the 108
cumulative deductions for all taxable years with respect to a 109
taxpayer's net operating loss exceed the original amount of that 110
net operating loss available to that taxpayer. 111

(2) In the case of nonresidents, all income, salaries, 112
qualifying wages, commissions, and other compensation from 113
whatever source earned or received by the nonresident for work 114
done, services performed or rendered, or activities conducted in 115
the municipal corporation, including any net profit of the 116
nonresident, but excluding the nonresident's distributive share 117
of the net profit or loss of only pass-through entities owned 118
directly or indirectly by the nonresident. 119

(3) For taxpayers that are not individuals, net profit of 120
the taxpayer; 121

(4) Lottery, sweepstakes, gambling and sports winnings, 122
winnings from games of chance, and prizes and awards. If the 123
taxpayer is a professional gambler for federal income tax 124
purposes, the taxpayer may deduct related wagering losses and 125
expenses to the extent authorized under the Internal Revenue 126
Code and claimed against such winnings. 127

(C) "Exempt income" means all of the following: 128

(1) The military pay or allowances of members of the armed 129
forces of the United States or members of their reserve 130
components, including the national guard of any state; 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 section does not apply to qualifying wages if both of the following conditions apply:	255 256 257
(i) For qualifying wages described in division (B)(1) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;	258 259 260 261 262 263 264 265 266
(ii) The employee receives a refund of the tax described in division (C)(16)(d)(i) of this section on the basis of the employee not performing services in that municipal corporation.	267 268 269
(17)(a) Except as provided in division (C)(17)(b) or (c) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipal corporation on not more than twenty days in a taxable year.	270 271 272 273 274
(b) The exemption provided in division (C)(17)(a) of this section does not apply under either of the following circumstances:	275 276 277
(i) The individual's base of operation is located in the municipal corporation.	278 279
(ii) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's	280 281 282

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) All of the following: 317

(a) Income derived from disaster work conducted in this 318
state by an out-of-state disaster business during a disaster 319
response period pursuant to a qualifying solicitation received 320
by the business; 321

(b) Income of a qualifying employee described in division 322
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 323
such income is derived from disaster work conducted in this 324
state by the employee during a disaster response period pursuant 325
to a qualifying solicitation received by the employee's 326
employer; 327

(c) Income of a qualifying employee described in division 328
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 329
such income is derived from disaster work conducted in this 330
state by the employee during a disaster response period on 331
critical infrastructure owned or used by the employee's 332
employer. 333

(21) Income the taxation of which is prohibited by the 334
constitution or laws of the United States. 335

Any item of income that is exempt income of a pass-through 336
entity under division (C) of this section is exempt income of 337
each owner of the pass-through entity to the extent of that 338
owner's distributive or proportionate share of that item of the 339
entity's income. 340

(D) (1) "Net profit" for a person who is an individual 341

means the individual's net profit required to be reported on 342
schedule C, schedule E, or schedule F reduced by any net 343
operating loss carried forward. For the purposes of division (D) 344
(1) of this section, the net operating loss carried forward 345
shall be calculated and deducted in the same manner as provided 346
in division (D) (3) of this section. 347

(2) "Net profit" for a person other than an individual 348
means adjusted federal taxable income reduced by any net 349
operating loss incurred by the person in a taxable year 350
beginning on or after January 1, 2017, subject to the 351
limitations of division (D) (3) of this section. 352

(3) (a) The amount of such net operating loss shall be 353
deducted from net profit to the extent necessary to reduce 354
municipal taxable income to zero, with any remaining unused 355
portion of the net operating loss carried forward to not more 356
than five consecutive taxable years following the taxable year 357
in which the loss was incurred, but in no case for more years 358
than necessary for the deduction to be fully utilized. 359

(b) No person shall use the deduction allowed by division 360
(D) (3) of this section to offset qualifying wages. 361

(c) (i) For taxable years beginning in 2018, 2019, 2020, 362
2021, or 2022, a person may not deduct, for purposes of an 363
income tax levied by a municipal corporation that levies an 364
income tax before January 1, 2016, more than fifty per cent of 365
the amount of the deduction otherwise allowed by division (D) (3) 366
of this section. 367

(ii) For taxable years beginning in 2023 or thereafter, a 368
person may deduct, for purposes of an income tax levied by a 369
municipal corporation that levies an income tax before January 370

1, 2016, the full amount allowed by division (D) (3) of this 371
section without regard to the limitation of division (D) (3) (b) 372
(i) of this section. 373

(d) Any pre-2017 net operating loss carryforward deduction 374
that is available may be utilized before a taxpayer may deduct 375
any amount pursuant to division (D) (3) of this section. 376

(e) Nothing in division (D) (3) (c) (i) of this section 377
precludes a person from carrying forward, for use with respect 378
to any return filed for a taxable year beginning after 2018, any 379
amount of net operating loss that was not fully utilized by 380
operation of division (D) (3) (c) (i) of this section. To the 381
extent that an amount of net operating loss that was not fully 382
utilized in one or more taxable years by operation of division 383
(D) (3) (c) (i) of this section is carried forward for use with 384
respect to a return filed for a taxable year beginning in 2019, 385
2020, 2021, or 2022, the limitation described in division (D) (3) 386
(c) (i) of this section shall apply to the amount carried 387
forward. 388

(4) For the purposes of this chapter, and notwithstanding 389
division (D) (2) of this section, net profit of a disregarded 390
entity shall not be taxable as against that disregarded entity, 391
but shall instead be included in the net profit of the owner of 392
the disregarded entity. 393

(5) For the purposes of this chapter, and notwithstanding 394
any other provision of this chapter, the net profit of a 395
publicly traded partnership that makes the election described in 396
division (D) (5) of this section shall be taxed as if the 397
partnership were a C corporation, and shall not be treated as 398
the net profit or income of any owner of the partnership. 399

A publicly traded partnership that is treated as a 400
partnership for federal income tax purposes and that is subject 401
to tax on its net profits in one or more municipal corporations 402
in this state may elect to be treated as a C corporation for 403
municipal income tax purposes. The publicly traded partnership 404
shall make the election in every municipal corporation in which 405
the partnership is subject to taxation on its net profits. The 406
election shall be made on the annual tax return filed in each 407
such municipal corporation. The publicly traded partnership 408
shall not be required to file the election with any municipal 409
corporation in which the partnership is not subject to taxation 410
on its net profits, but division (D) (5) of this section applies 411
to all municipal corporations in which an individual owner of 412
the partnership resides. 413

(E) "Adjusted federal taxable income," for a person 414
required to file as a C corporation, or for a person that has 415
elected to be taxed as a C corporation under division (D) (5) of 416
this section, means a C corporation's federal taxable income 417
before net operating losses and special deductions as determined 418
under the Internal Revenue Code, adjusted as follows: 419

(1) Deduct intangible income to the extent included in 420
federal taxable income. The deduction shall be allowed 421
regardless of whether the intangible income relates to assets 422
used in a trade or business or assets held for the production of 423
income. 424

(2) Add an amount equal to five per cent of intangible 425
income deducted under division (E) (1) of this section, but 426
excluding that portion of intangible income directly related to 427
the sale, exchange, or other disposition of property described 428
in section 1221 of the Internal Revenue Code; 429

(3) Add any losses allowed as a deduction in the	430
computation of federal taxable income if the losses directly	431
relate to the sale, exchange, or other disposition of an asset	432
described in section 1221 or 1231 of the Internal Revenue Code;	433
(4) (a) Except as provided in division (E) (4) (b) of this	434
section, deduct income and gain included in federal taxable	435
income to the extent the income and gain directly relate to the	436
sale, exchange, or other disposition of an asset described in	437
section 1221 or 1231 of the Internal Revenue Code;	438
(b) Division (E) (4) (a) of this section does not apply to	439
the extent the income or gain is income or gain described in	440
section 1245 or 1250 of the Internal Revenue Code.	441
(5) Add taxes on or measured by net income allowed as a	442
deduction in the computation of federal taxable income;	443
(6) In the case of a real estate investment trust or	444
regulated investment company, add all amounts with respect to	445
dividends to, distributions to, or amounts set aside for or	446
credited to the benefit of investors and allowed as a deduction	447
in the computation of federal taxable income;	448
(7) Deduct, to the extent not otherwise deducted or	449
excluded in computing federal taxable income, any income derived	450
from a transfer agreement or from the enterprise transferred	451
under that agreement under section 4313.02 of the Revised Code;	452
(8) Deduct exempt income to the extent not otherwise	453
deducted or excluded in computing adjusted federal taxable	454
income.	455
(9) Deduct any net profit of a pass-through entity owned	456
directly or indirectly by the taxpayer and included in the	457
taxpayer's federal taxable income unless an affiliated group of	458

corporations includes that net profit in the group's federal 459
taxable income in accordance with division (E) (3) (b) of section 460
718.06 of the Revised Code. 461

(10) Add any loss incurred by a pass-through entity owned 462
directly or indirectly by the taxpayer and included in the 463
taxpayer's federal taxable income unless an affiliated group of 464
corporations includes that loss in the group's federal taxable 465
income in accordance with division (E) (3) (b) of section 718.06 466
of the Revised Code. 467

If the taxpayer is not a C corporation, is not a 468
disregarded entity that has made the election described in 469
division (L) (2) of this section, is not a publicly traded 470
partnership that has made the election described in division (D) 471
(5) of this section, and is not an individual, the taxpayer 472
shall compute adjusted federal taxable income under this section 473
as if the taxpayer were a C corporation, except guaranteed 474
payments and other similar amounts paid or accrued to a partner, 475
former partner, shareholder, former shareholder, member, or 476
former member shall not be allowed as a deductible expense 477
unless such payments are a pension or retirement benefit payment 478
paid to a retired partner, retired shareholder, or retired 479
member or are in consideration for the use of capital and 480
treated as payment of interest under section 469 of the Internal 481
Revenue Code or United States treasury regulations. Amounts paid 482
or accrued to a qualified self-employed retirement plan with 483
respect to a partner, former partner, shareholder, former 484
shareholder, member, or former member of the taxpayer, amounts 485
paid or accrued to or for health insurance for a partner, former 486
partner, shareholder, former shareholder, member, or former 487
member, and amounts paid or accrued to or for life insurance for 488
a partner, former partner, shareholder, former shareholder, 489

member, or former member shall not be allowed as a deduction.	490
Nothing in division (E) of this section shall be construed	491
as allowing the taxpayer to add or deduct any amount more than	492
once or shall be construed as allowing any taxpayer to deduct	493
any amount paid to or accrued for purposes of federal self-	494
employment tax.	495
(F) "Schedule C" means internal revenue service schedule C	496
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	497
Code.	498
(G) "Schedule E" means internal revenue service schedule E	499
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	500
Code.	501
(H) "Schedule F" means internal revenue service schedule F	502
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	503
Code.	504
(I) "Internal Revenue Code" has the same meaning as in	505
section 5747.01 of the Revised Code.	506
(J) "Resident" means an individual who is domiciled in the	507
municipal corporation as determined under section 718.012 of the	508
Revised Code.	509
(K) "Nonresident" means an individual that is not a	510
resident.	511
(L) (1) "Taxpayer" means a person subject to a tax levied	512
on income by a municipal corporation in accordance with this	513
chapter. "Taxpayer" does not include a grantor trust or, except	514
as provided in division (L) (2) (a) of this section, a disregarded	515
entity.	516
(2) (a) A single member limited liability company that is a	517

disregarded entity for federal tax purposes may be a separate 518
taxpayer from its single member in all Ohio municipal 519
corporations in which it either filed as a separate taxpayer or 520
did not file for its taxable year ending in 2003, if all of the 521
following conditions are met: 522

(i) The limited liability company's single member is also 523
a limited liability company. 524

(ii) The limited liability company and its single member 525
were formed and doing business in one or more Ohio municipal 526
corporations for at least five years before January 1, 2004. 527

(iii) Not later than December 31, 2004, the limited 528
liability company and its single member each made an election to 529
be treated as a separate taxpayer under division (L) of this 530
section as this section existed on December 31, 2004. 531

(iv) The limited liability company was not formed for the 532
purpose of evading or reducing Ohio municipal corporation income 533
tax liability of the limited liability company or its single 534
member. 535

(v) The Ohio municipal corporation that was the primary 536
place of business of the sole member of the limited liability 537
company consented to the election. 538

(b) For purposes of division (L) (2) (a) (v) of this section, 539
a municipal corporation was the primary place of business of a 540
limited liability company if, for the limited liability 541
company's taxable year ending in 2003, its income tax liability 542
was greater in that municipal corporation than in any other 543
municipal corporation in Ohio, and that tax liability to that 544
municipal corporation for its taxable year ending in 2003 was at 545
least four hundred thousand dollars. 546

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

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

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

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

(Q) "Limited liability company" means a limited liability company formed under Chapter 1705. or 1706. 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 576
payment on account of a disability related to sickness or an 577
accident paid by a party unrelated to the employer, agent of an 578
employer, or other payer. 579

(c) Any amount attributable to a nonqualified deferred 580
compensation plan or program described in section 3121(v) (2) (C) 581
of the Internal Revenue Code if the compensation is included in 582
wages and the municipal corporation has, by resolution or 583
ordinance adopted before January 1, 2016, exempted the amount 584
from withholding and tax. 585

(d) Any amount included in wages if the amount arises from 586
the sale, exchange, or other disposition of a stock option, the 587
exercise of a stock option, or the sale, exchange, or other 588
disposition of stock purchased under a stock option and the 589
municipal corporation has, by resolution or ordinance adopted 590
before January 1, 2016, exempted the amount from withholding and 591
tax. 592

(e) Any amount included in wages that is exempt income. 593

(2) Add the following amounts: 594

(a) Any amount not included in wages solely because the 595
employee was employed by the employer before April 1, 1986. 596

(b) Any amount not included in wages because the amount 597
arises from the sale, exchange, or other disposition of a stock 598
option, the exercise of a stock option, or the sale, exchange, 599
or other disposition of stock purchased under a stock option and 600
the municipal corporation has not, by resolution or ordinance, 601
exempted the amount from withholding and tax adopted before 602
January 1, 2016. Division (R) (2) (b) of this section applies only 603
to those amounts constituting ordinary income. 604

(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.

(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.

(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.

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

(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 Internal Revenue Code;

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

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

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

(S) "Intangible income" means income of any of the 634
following types: income yield, interest, capital gains, 635
dividends, or other income arising from the ownership, sale, 636
exchange, or other disposition of intangible property including, 637
but not limited to, investments, deposits, money, or credits as 638
those terms are defined in Chapter 5701. of the Revised Code, 639
and patents, copyrights, trademarks, tradenames, investments in 640
real estate investment trusts, investments in regulated 641
investment companies, and appreciation on deferred compensation. 642
"Intangible income" does not include prizes, awards, or other 643
income associated with any lottery winnings, gambling winnings, 644
or other similar games of chance. 645

(T) "Taxable year" means the corresponding tax reporting 646
period as prescribed for the taxpayer under the Internal Revenue 647
Code. 648

(U) "Tax administrator" means the individual charged with 649
direct responsibility for administration of an income tax levied 650
by a municipal corporation in accordance with this chapter, and 651
also includes the following: 652

(1) A municipal corporation acting as the agent of another 653
municipal corporation; 654

(2) A person retained by a municipal corporation to 655
administer a tax levied by the municipal corporation, but only 656
if the municipal corporation does not compensate the person in 657
whole or in part on a contingency basis; 658

(3) The central collection agency or the regional income 659
tax agency or their successors in interest, or another entity 660
organized to perform functions similar to those performed by the 661
central collection agency and the regional income tax agency. 662

"Tax administrator" does not include the tax commissioner.	663
(V) "Employer" means a person that is an employer for federal income tax purposes.	664 665
(W) "Employee" means an individual who is an employee for federal income tax purposes.	666 667
(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.	668 669 670 671 672
(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.	673 674
(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.	675 676
(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.	677 678 679 680
(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.	681 682 683 684
(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.	685 686 687 688 689 690

(DD) "Tax return preparer" means any individual described 691
in section 7701(a)(36) of the Internal Revenue Code and 26 692
C.F.R. 301.7701-15. 693

(EE) "Ohio business gateway" means the online computer 694
network system, created under section 125.30 of the Revised 695
Code, that allows persons to electronically file business reply 696
forms with state agencies and includes any successor electronic 697
filing and payment system. 698

(FF) "Local board of tax review" and "board of tax review" 699
mean the entity created under section 718.11 of the Revised 700
Code. 701

(GG) "Net operating loss" means a loss incurred by a 702
person in the operation of a trade or business. "Net operating 703
loss" does not include unutilized losses resulting from basis 704
limitations, at-risk limitations, or passive activity loss 705
limitations. 706

(HH) "Casino operator" and "casino facility" have the same 707
meanings as in section 3772.01 of the Revised Code. 708

(II) "Video lottery terminal" has the same meaning as in 709
section 3770.21 of the Revised Code. 710

(JJ) "Video lottery terminal sales agent" means a lottery 711
sales agent licensed under Chapter 3770. of the Revised Code to 712
conduct video lottery terminals on behalf of the state pursuant 713
to section 3770.21 of the Revised Code. 714

(KK) "Postal service" means the United States postal 715
service. 716

(LL) "Certified mail," "express mail," "United States 717
mail," "postal service," and similar terms include any delivery 718

service authorized pursuant to section 5703.056 of the Revised Code. 719
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(MM) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B) (3) of section 5703.056 of the Revised Code. 721
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(NN) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code. 725
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(OO) "Related entity" means any of the following: 735

(1) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock; 736
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(2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock; 742
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(3) A corporation, or a party related to the corporation 748
in a manner that would require an attribution of stock from the 749
corporation to the party or from the party to the corporation 750
under division (00) (4) of this section, provided the taxpayer 751
owns directly, indirectly, beneficially, or constructively, at 752
least fifty per cent of the value of the corporation's 753
outstanding stock; 754

(4) The attribution rules described in section 318 of the 755
Internal Revenue Code apply for the purpose of determining 756
whether the ownership requirements in divisions (00) (1) to (3) 757
of this section have been met. 758

(PP) (1) "Assessment" means a written finding by the tax 759
administrator that a person has underpaid municipal income tax, 760
or owes penalty and interest, or any combination of tax, 761
penalty, or interest, to the municipal corporation that 762
commences the person's time limitation for making an appeal to 763
the local board of tax review pursuant to section 718.11 of the 764
Revised Code, and has "ASSESSMENT" written in all capital 765
letters at the top of such finding. 766

(2) "Assessment" does not include an informal notice 767
denying a request for refund issued under division (B) (3) of 768
section 718.19 of the Revised Code, a billing statement 769
notifying a taxpayer of current or past-due balances owed to the 770
municipal corporation, a tax administrator's request for 771
additional information, a notification to the taxpayer of 772
mathematical errors, or a tax administrator's other written 773
correspondence to a person or taxpayer that does meet the 774
criteria prescribed by division (PP) (1) of this section. 775

(QQ) "Taxpayers' rights and responsibilities" means the 776
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 777

718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 778
Revised Code and the responsibilities of taxpayers to file, 779
report, withhold, remit, and pay municipal income tax and 780
otherwise comply with Chapter 718. of the Revised Code and 781
resolutions, ordinances, and rules adopted by a municipal 782
corporation for the imposition and administration of a municipal 783
income tax. 784

(RR) "Qualified municipal corporation" means a municipal 785
corporation that, by resolution or ordinance adopted on or 786
before December 31, 2011, adopted Ohio adjusted gross income, as 787
defined by section 5747.01 of the Revised Code, as the income 788
subject to tax for the purposes of imposing a municipal income 789
tax. 790

(SS) (1) "Pre-2017 net operating loss carryforward" means 791
any net operating loss incurred in a taxable year beginning 792
before January 1, 2017, to the extent such loss was permitted, 793
by a resolution or ordinance of the municipal corporation that 794
was adopted by the municipal corporation before January 1, 2016, 795
to be carried forward and utilized to offset income or net 796
profit generated in such municipal corporation in future taxable 797
years. 798

(2) For the purpose of calculating municipal taxable 799
income, any pre-2017 net operating loss carryforward may be 800
carried forward to any taxable year, including taxable years 801
beginning in 2017 or thereafter, for the number of taxable years 802
provided in the resolution or ordinance or until fully utilized, 803
whichever is earlier. 804

(TT) "Small employer" means any employer that had total 805
revenue of less than five hundred thousand dollars during the 806
preceding taxable year. For purposes of this division, "total 807

revenue" means receipts of any type or kind, including, but not 808
limited to, sales receipts; payments; rents; profits; gains, 809
dividends, and other investment income; compensation; 810
commissions; premiums; money; property; grants; contributions; 811
donations; gifts; program service revenue; patient service 812
revenue; premiums; fees, including premium fees and service 813
fees; tuition payments; unrelated business revenue; 814
reimbursements; any type of payment from a governmental unit, 815
including grants and other allocations; and any other similar 816
receipts reported for federal income tax purposes or under 817
generally accepted accounting principles. "Small employer" does 818
not include the federal government; any state government, 819
including any state agency or instrumentality; any political 820
subdivision; or any entity treated as a government for financial 821
accounting and reporting purposes. 822

(UU) "Audit" means the examination of a person or the 823
inspection of the books, records, memoranda, or accounts of a 824
person for the purpose of determining liability for a municipal 825
income tax. 826

(VV) "Publicly traded partnership" means any partnership, 827
an interest in which is regularly traded on an established 828
securities market. A "publicly traded partnership" may have any 829
number of partners. 830

(WW) "Tax commissioner" means the tax commissioner 831
appointed under section 121.03 of the Revised Code. 832

(XX) "Out-of-state disaster business," "qualifying 833
solicitation," "qualifying employee," "disaster work," "critical 834
infrastructure," and "disaster response period" have the same 835
meanings as in section 5703.94 of the Revised Code. 836

(YY) "Pension" means a retirement benefit plan, regardless 837
of whether the plan satisfies the qualifications described under 838
section 401(a) of the Internal Revenue Code, including amounts 839
that are taxable under the "Federal Insurance Contributions 840
Act," Chapter 21 of the Internal Revenue Code, excluding 841
employee contributions and elective deferrals, and regardless of 842
whether such amounts are paid in the same taxable year in which 843
the amounts are included in the employee's wages, as defined by 844
section 3121(a) of the Internal Revenue Code. 845

(ZZ) "Retirement benefit plan" means an arrangement 846
whereby an entity provides benefits to individuals either on or 847
after their termination of service because of retirement or 848
disability. "Retirement benefit plan" does not include wage 849
continuation payments, severance payments, or payments made for 850
accrued personal or vacation time. 851

Sec. 718.80. (A) A taxpayer may elect to be subject to 852
sections 718.80 to 718.95 of the Revised Code in lieu of the 853
provisions set forth in the remainder of this chapter. 854
Notwithstanding any other provision of this chapter, upon the 855
taxpayer's election, both of the following shall apply: 856

(1) The tax commissioner shall serve as the sole 857
administrator of each municipal income tax for which the 858
taxpayer is liable for the term of the election; 859

(2) The commissioner shall administer the tax pursuant to 860
sections 718.80 to 718.95 of the Revised Code and any applicable 861
provision of Chapter 5703. of the Revised Code. 862

(B) (1) A taxpayer shall make the initial election on or 863
before the ~~first-fifteenth~~ day of the ~~third-fourth~~ month after 864
the beginning of the taxpayer's taxable year by ~~notifying~~ 865

providing to the tax commissioner and each a list of all 866
municipal ~~corporation~~ corporations in which the taxpayer 867
conducted business during the previous taxable year, on a form 868
prescribed by the tax commissioner. 869

~~(2)(a)~~(2) At least quarterly, the tax commissioner shall 870
notify each municipal corporation that a taxpayer lists in its 871
election under division (B)(1) of this section that the taxpayer 872
has made the election. 873

(3)(a) The election, once made by the taxpayer, applies to 874
the taxable year in which the election is made and to each 875
subsequent taxable year until the taxpayer notifies the tax 876
commissioner of its termination of the election. 877

(b) A notification of termination shall be made, on a form 878
prescribed by the tax commissioner, on or before the ~~first~~ 879
fifteenth day of the ~~third~~ fourth month of any taxable year. 880

(c) Upon a timely and valid termination of the election, 881
the taxpayer is no longer subject to sections 718.80 to 718.95 882
of the Revised Code, and is instead subject to the provisions 883
set forth in the remainder of this chapter. 884

(d) At least quarterly, the tax commissioner shall notify 885
each municipal corporation reported on a taxpayer's most recent 886
return or declaration filed with the commissioner of the 887
taxpayer's termination of its election. 888

(4) The tax commissioner shall provide to all municipal 889
corporations imposing a tax on income on or after January 1, 890
2018, a list of taxpayers that are subject to sections 718.80 to 891
718.95 of the Revised Code, including the taxpayers' names, 892
addresses, and federal employee identification numbers. The list 893
shall be made available via the portal created under section 894

718.841 of the Revised Code. 895

(C) (1) (a) On or before the thirty-first day of January 896
each year, each municipal corporation imposing a tax on income 897
shall certify to the tax commissioner the rate of the tax in 898
effect on the first day of January of that year. 899

(b) If, after the thirty-first day of January of any year, 900
the electors of a municipal corporation approve an increase in 901
the rate of the municipal corporation's tax on income that takes 902
effect within that year, the municipal corporation shall certify 903
to the tax commissioner the new rate of tax not less than sixty 904
days before the effective date of the increase, after which 905
effective date the commissioner shall apply the increased rate. 906

(2) A municipal corporation, ~~within ninety days of~~ 907
~~receiving that receives a taxpayer's notification of election~~ 908
under division (B) (2) of this section, shall submit to the tax 909
commissioner, on a form prescribed by the ~~tax~~ commissioner and 910
within the time prescribed by division (C) (3) of this section, 911
the following information regarding the taxpayer and any member 912
of an affiliated group of corporations included on the 913
taxpayer's consolidated tax return, when applicable: 914

(a) The amount of any net operating loss that the taxpayer 915
is entitled to carry forward to a future tax year; 916

(b) The amount of any net operating loss carryforward 917
utilized by the taxpayer in prior years; 918

(c) Any credits granted by the municipal corporation to 919
which the taxpayer is entitled, the amount of such credits, 920
whether the credits may be carried forward to future tax years, 921
and, if the credits may be carried forward, the duration of any 922
such carryforward; 923

(d) Any overpayments of tax that the taxpayer has elected 924
to carry forward to a subsequent tax year; 925

(e) Any other information the municipal corporation deems 926
relevant in order to effectuate the tax commissioner's efficient 927
administration of the tax on the municipal corporation's behalf. 928

(3) A municipal corporation shall submit the information 929
required under division (C) (2) of this section to the tax 930
commissioner within ninety days after the taxpayer files its 931
final return or within fifteen days after the end of the taxable 932
year for which the taxpayer made the initial election under 933
division (B) (1) of this section, whichever occurs first. For the 934
purposes of this section, "final return" means the return filed 935
with the municipal corporation for the taxable year immediately 936
preceding the taxable year for which the taxpayer made the 937
election under division (B) (1) of this section. 938

(4) If any municipal corporation fails to timely comply 939
with ~~divisions~~ division (C) (1) ~~and, (2), or (3)~~ of this section, 940
the tax commissioner ~~shall~~ may notify the director of budget and 941
management, who, upon receiving such notification, shall 942
withhold ~~from~~ a portion of each payment made to the municipal 943
corporation under section 718.83 of the Revised Code. The 944
commissioner shall specify the percentage of the payment to be 945
withheld, not to exceed fifty per cent of the amount of the 946
payment otherwise due to the municipal corporation under that 947
section. The director shall compute the withholding on the basis 948
of the tax rate most recently certified to the tax commissioner 949
until the municipal corporation complies with divisions (C) (1) 950
~~and, (2), and (3)~~ of this section. 951

If, after any such withholding, the municipal corporation 952
complies with divisions (C) (1), (2), and (3) of this section, 953

the tax commissioner shall notify the director of budget and 954
management, who shall provide payment to the municipal 955
corporation under section 718.83 of the Revised Code of such 956
amounts withheld under this division. 957

(D) The tax commissioner shall enforce and administer 958
sections 718.80 to 718.95 of the Revised Code. In addition to 959
any other powers conferred upon the tax commissioner by law, the 960
tax commissioner may: 961

(1) Prescribe all forms necessary to administer those 962
sections; 963

(2) Adopt such rules as the tax commissioner finds 964
necessary to carry out those sections; 965

(3) Appoint and employ such personnel as are necessary to 966
carry out the duties imposed upon the tax commissioner by those 967
sections. 968

(E) No tax administrator shall utilize sections 718.81 to 969
718.95 of the Revised Code in the administrator's administration 970
of a municipal income tax, and those sections shall not be 971
applied to any taxpayer that has not made the election under 972
this section. 973

(F) Nothing in this chapter shall be construed to make any 974
section of this chapter, other than sections 718.01 and 718.80 975
to 718.95 of the Revised Code, applicable to the tax 976
commissioner's administration of a municipal income tax or to 977
any taxpayer that has made the election under this section. 978

(G) The tax commissioner shall not be considered a tax 979
administrator, as that term is defined in section 718.01 of the 980
Revised Code. 981

Sec. 718.81. If a term used in sections 718.80 to 718.95 982
of the Revised Code that is not otherwise defined in this 983
chapter is used in a comparable context in both the laws of the 984
United States relating to federal income tax and in Title LVII 985
of the Revised Code and the use is not consistent, then the use 986
of the term in the laws of the United States relating to federal 987
income tax shall have control over the use of the term in Title 988
LVII of the Revised Code, unless the term is defined in Chapter 989
5703. of the Revised Code, in which case the definition in that 990
chapter shall control. Any reference in this chapter to the 991
Internal Revenue Code includes other laws of the United States 992
related to federal income taxes. If a term is defined in both 993
this section and section 718.01 of the Revised Code, the 994
definition in this section shall control for all uses of that 995
term in sections 718.80 through 718.95 of the Revised Code. 996

As used in sections 718.80 to 718.95 of the Revised Code 997
only: 998

(A) "Municipal taxable income" means income apportioned or 999
situated to the municipal corporation under section 718.82 of the 1000
Revised Code, as applicable, reduced by any pre-2017 net 1001
operating loss carryforward available to the person for the 1002
municipal corporation. 1003

(B) "Adjusted federal taxable income," for a person 1004
required to file as a C corporation, or for a person that has 1005
elected to be taxed as a C corporation as described in division 1006
(D) (5) of section 718.01 of the Revised Code, means a C 1007
corporation's federal taxable income before net operating losses 1008
and special deductions as determined under the Internal Revenue 1009
Code, adjusted as follows: 1010

(1) Deduct intangible income to the extent included in 1011

federal taxable income. The deduction shall be allowed 1012
regardless of whether the intangible income relates to assets 1013
used in a trade or business or assets held for the production of 1014
income. 1015

(2) Add an amount equal to five per cent of intangible 1016
income deducted under division (B)(1) of this section, but 1017
excluding that portion of intangible income directly related to 1018
the sale, exchange, or other disposition of property described 1019
in section 1221 of the Internal Revenue Code. 1020

(3) Add any losses allowed as a deduction in the 1021
computation of federal taxable income if the losses directly 1022
relate to the sale, exchange, or other disposition of an asset 1023
described in section 1221 or 1231 of the Internal Revenue Code. 1024

(4) (a) Except as provided in division (B)(4)(b) of this 1025
section, deduct income and gain included in federal taxable 1026
income to the extent the income and gain directly relate to the 1027
sale, exchange, or other disposition of an asset described in 1028
section 1221 or 1231 of the Internal Revenue Code. 1029

(b) Division (B)(4)(a) of this section does not apply to 1030
the extent the income or gain is income or gain described in 1031
section 1245 or 1250 of the Internal Revenue Code. 1032

(5) Add taxes on or measured by net income allowed as a 1033
deduction in the computation of federal taxable income. 1034

(6) In the case of a real estate investment trust or 1035
regulated investment company, add all amounts with respect to 1036
dividends to, distributions to, or amounts set aside for or 1037
credited to the benefit of investors and allowed as a deduction 1038
in the computation of federal taxable income. 1039

(7) Deduct, to the extent not otherwise deducted or 1040

excluded in computing federal taxable income, any income derived 1041
from a transfer agreement or from the enterprise transferred 1042
under that agreement under section 4313.02 of the Revised Code. 1043

(8) Deduct exempt income to the extent not otherwise 1044
deducted or excluded in computing adjusted federal taxable 1045
income. 1046

(9) Deduct any net profit of a pass-through entity owned 1047
directly or indirectly by the taxpayer and included in the 1048
taxpayer's federal taxable income unless an affiliated group of 1049
corporations includes that net profit in the group's federal 1050
taxable income in accordance with division (E) (3) (b) of section 1051
718.86 of the Revised Code. 1052

(10) Add any loss incurred by a pass-through entity owned 1053
directly or indirectly by the taxpayer and included in the 1054
taxpayer's federal taxable income unless an affiliated group of 1055
corporations includes that loss in the group's federal taxable 1056
income in accordance with division (E) (3) (b) of section 718.86 1057
of the Revised Code. 1058

If the taxpayer is not a C corporation, is not a 1059
disregarded entity that has made the election described in 1060
division (L) (2) of section 718.01 of the Revised Code, and is 1061
not a publicly traded partnership that has made the election 1062
described in division (D) (5) of section 718.01 of the Revised 1063
Code, the taxpayer shall compute adjusted federal taxable income 1064
under this section as if the taxpayer were a C corporation, 1065
except guaranteed payments and other similar amounts paid or 1066
accrued to a partner, former partner, shareholder, former 1067
shareholder, member, or former member shall not be allowed as a 1068
deductible expense unless such payments are a pension or 1069
retirement benefit payment paid to a retired partner, retired 1070

shareholder, or retired member or are in consideration for the 1071
use of capital and treated as payment of interest under section 1072
469 of the Internal Revenue Code or United States treasury 1073
regulations. Amounts paid or accrued to a qualified self- 1074
employed retirement plan with respect to a partner, former 1075
partner, shareholder, former shareholder, member, or former 1076
member of the taxpayer, amounts paid or accrued to or for health 1077
insurance for a partner, former partner, shareholder, former 1078
shareholder, member, or former member, and amounts paid or 1079
accrued to or for life insurance for a partner, former partner, 1080
shareholder, former shareholder, member, or former member shall 1081
not be allowed as a deduction. 1082

Nothing in division (B) of this section shall be construed 1083
as allowing the taxpayer to add or deduct any amount more than 1084
once or shall be construed as allowing any taxpayer to deduct 1085
any amount paid to or accrued for purposes of federal self- 1086
employment tax. 1087

(C) "Taxpayer" has the same meaning as in section 718.01 1088
of the Revised Code, except that "taxpayer" does not include 1089
natural persons or entities subject to the tax imposed under 1090
Chapter 5745. of the Revised Code. "Taxpayer" may include 1091
receivers, assignees, or trustees in bankruptcy when such 1092
persons are required to assume the role of a taxpayer. 1093

(D) "Tax return" or "return" means the notifications and 1094
reports required to be filed pursuant to sections 718.80 to 1095
718.95 of the Revised Code for the purpose of reporting 1096
municipal income taxes, and includes declarations of estimated 1097
tax. 1098

(E) ~~"Taxable year" means the calendar year or the~~ 1099
~~taxpayer's fiscal year beginning during the calendar year, or~~ 1100

~~fractional part thereof, upon which the calculation of the~~ 1101
~~taxpayer's adjusted federal taxable income is based pursuant to~~ 1102
~~this chapter. If a taxpayer's taxable year is changed for~~ 1103
~~federal income tax purposes, the taxable year for purposes of~~ 1104
~~sections 718.80 to 718.95 of the Revised Code is changed~~ 1105
~~accordingly but may consist of an aggregation of more than one~~ 1106
~~taxable year for federal income tax purposes. The tax~~ 1107
~~commissioner may prescribe by rule an appropriate period as the~~ 1108
~~taxable year for a taxpayer that has had a change of its taxable~~ 1109
~~year for federal income tax purposes, for a taxpayer that has~~ 1110
~~two or more short taxable years for federal income tax purposes~~ 1111
~~as the result of a change of ownership, or for a new taxpayer~~ 1112
~~that would otherwise have no taxable year.~~ 1113

~~(F)~~—"Assessment" means a notice of underpayment or 1114
nonpayment of a tax issued pursuant to section 718.90 of the 1115
Revised Code. 1116

Sec. 718.83. (A) On or before the last day of each month, 1117
the tax commissioner shall certify to the director of budget and 1118
management the amount to be paid to each municipal corporation, 1119
based on amounts reported on annual returns and declarations of 1120
estimated tax under sections 718.85 and 718.88 of the Revised 1121
Code, less any amounts previously distributed and net of any 1122
audit adjustments made or refunds granted by the commissioner, 1123
for the calendar month preceding the month in which the 1124
certification is made. Not later than the fifth day of each 1125
month, the director shall provide for payment of the amount 1126
certified to each municipal corporation from the municipal net 1127
profit tax fund, plus a pro rata share of any investment 1128
earnings accruing to the fund since the previous payment under 1129
this section, and minus any reduction required by the 1130
commissioner under division (D) of this section. Each municipal 1131

corporation's share of such earnings shall equal the proportion 1132
that the municipal corporation's certified tax payment is of the 1133
total taxes certified to all municipal corporations in that 1134
quarter. All investment earnings on money in the municipal net 1135
profit tax fund shall be credited to that fund. 1136

(B) If the tax commissioner determines that the amount of 1137
tax paid by a taxpayer and distributed to a municipal 1138
corporation under this section for a taxable year exceeds the 1139
amount payable to that municipal corporation under sections 1140
718.80 to 718.95 of the Revised Code after accounting for 1141
amounts remitted with the annual return and as estimated taxes, 1142
the commissioner shall proceed according to ~~divisions (A) and~~ 1143
~~(B) of~~ section 5703.77 of the Revised Code. 1144

(C) If the amount of a municipal corporation's net 1145
distribution computed by the commissioner under division (A) of 1146
this section is less than zero, the commissioner may notify the 1147
municipal corporation of the deficiency. Within thirty days 1148
after receiving such a notice, the municipal corporation shall 1149
pay an amount equal to the deficiency to the treasurer of state. 1150
The treasurer of state shall credit any payment received under 1151
this division to the municipal net profit tax fund. 1152

(D) If a municipal corporation fails to make a timely 1153
payment required under division (C) of this section, the 1154
commissioner may recover the deficiency using any or all of the 1155
following options: 1156

(1) Deduct the amount of the deficiency from the next 1157
distribution to that municipal corporation under division (A) of 1158
this section or, if the amount of the deficiency exceeds the 1159
amount of such distribution, withhold such distributions 1160
entirely until the withheld amount equals the amount of the 1161

municipal corporation's deficiency; 1162

(2) Deduct the amount of the deficiency from the next 1163
payment to that municipal corporation under division (A) of 1164
section 5745.05 of the Revised Code or, if the amount of the 1165
deficiency exceeds the amount of such distribution, withhold 1166
such distributions entirely until the withheld amount equals the 1167
amount of the municipal corporation's deficiency; 1168

(3) Deduct the amount of the deficiency from the municipal 1169
corporation's share of the next payment made by the commissioner 1170
under division (F) of section 321.24 of the Revised Code or, if 1171
the amount of the deficiency exceeds the amount of the municipal 1172
corporation's share of such payment, withhold the municipal 1173
corporation's share of the payments entirely until the withheld 1174
amount equals the amount of the municipal corporation's 1175
deficiency. 1176

(E) The total amount of payments and distributions 1177
withheld from a municipal corporation under division (D) of this 1178
section shall not exceed the unpaid portion of the municipal 1179
corporation's net distribution deficiency. All amounts withheld 1180
under division (D) of this section shall be credited to the 1181
municipal net profit tax fund. 1182

(F) The commissioner may adopt rules necessary to 1183
administer this section. 1184

Sec. 718.841. (A) The department of taxation shall create 1185
and maintain a world wide web portal capable of securely 1186
exchanging information between the department and municipal 1187
corporations. 1188

(B) The web portal created pursuant to division (A) of 1189
this section shall be used by both the department and municipal 1190

corporations to securely exchange information as required under 1191
sections 718.80 to 718.95 of the Revised Code. The tax 1192
commissioner shall establish the procedures by which municipal 1193
corporations may access the web portal and the format in which 1194
information must be submitted. 1195

(C) If the web portal is unavailable for any reason, the 1196
tax commissioner and municipal corporations shall provide the 1197
information as required under sections 718.80 to 718.95 of the 1198
Revised Code through another secure format. If the commissioner 1199
determines it reasonably necessary, the commissioner may extend 1200
the time within which information must be provided by not more 1201
than forty-five days. If the commissioner extends the time 1202
within which information must be provided, any event attaching a 1203
penalty for failure to provide such information shall be 1204
extended accordingly. 1205

(D) The tax commissioner may modify the web portal created 1206
pursuant to division (A) of this section to enable the exchange 1207
of information between the commissioner and municipal 1208
corporations under Chapter 5745. and division (D) of section 1209
5747.50 of the Revised Code and as otherwise required or 1210
permitted by law. 1211

(E) The tax commissioner may adopt rules governing the use 1212
of the web portal created pursuant to division (A) of this 1213
section. 1214

Sec. 718.85. (A) (1) For each taxable year, every taxpayer 1215
shall file an annual return. Such return, along with the amount 1216
of tax shown to be due on the return less the amount paid for 1217
the taxable year under section 718.88 of the Revised Code, shall 1218
be submitted to the tax commissioner, on a form and in the 1219
manner prescribed by the commissioner, on or before the 1220

fifteenth day of the fourth month following the end of the 1221
taxpayer's taxable year. 1222

~~(2) If a taxpayer has multiple taxable years beginning 1223
within one calendar year, the taxpayer shall aggregate the facts 1224
and figures necessary to compute the tax due under this chapter, 1225
in accordance with sections 718.81, 718.82, and, if applicable, 1226
718.86 of the Revised Code onto its annual return. 1227~~

~~(3) The remittance shall be made payable to the treasurer 1228
of state and in the form prescribed by the tax commissioner. If 1229
the amount payable with the tax return is ten dollars or less, 1230
no remittance is required. 1231~~

(B) The tax commissioner shall immediately forward to the 1232
treasurer of state all amounts the commissioner receives 1233
pursuant to sections 718.80 to 718.95 of the Revised Code. The 1234
treasurer shall credit ~~ninety nine and one half per cent of such 1235
amounts to the municipal net profit tax fund which is hereby 1236
created in the state treasury, and the remainder to the 1237
municipal income tax administrative fund established under 1238
section 5745.03 of the Revised Code. 1239~~

(C) (1) Each return required to be filed under this section 1240
shall contain the signature of the taxpayer or the taxpayer's 1241
duly authorized agent and of the person who prepared the return 1242
for the taxpayer, and shall include the taxpayer's 1243
identification number. Each return shall be verified by a 1244
declaration under penalty of perjury. 1245

(2) (a) The tax commissioner may require a taxpayer to 1246
include, with each annual tax return, amended return, or request 1247
for refund filed with the commissioner under sections 718.80 to 1248
718.95 of the Revised Code, copies of any relevant documents or 1249

other information. 1250

(b) A taxpayer that files an annual tax return 1251
electronically through the Ohio business gateway or in another 1252
manner as prescribed by the tax commissioner shall either submit 1253
the documents required under this division electronically as 1254
prescribed at the time of filing or, if electronic submission is 1255
not available, mail the documents to the tax commissioner. The 1256
department of taxation shall publish a method of electronically 1257
submitting the documents required under this division on or 1258
before January 1, 2019. 1259

(3) After a taxpayer files a tax return, the tax 1260
commissioner may request, and the taxpayer shall provide, any 1261
information, statements, or documents required to determine and 1262
verify the taxpayer's municipal income tax. 1263

(D) (1) (a) Any taxpayer that has duly requested an 1264
automatic extension for filing the taxpayer's federal income tax 1265
return shall automatically receive an extension for the filing 1266
of a tax return with the commissioner under this section. The 1267
extended due date of the return shall be the fifteenth day of 1268
the tenth month after the last day of the taxable year to which 1269
the return relates. 1270

(b) A taxpayer that has not requested or received a six- 1271
month extension for filing the taxpayer's federal income tax 1272
return may request that the commissioner grant the taxpayer a 1273
six-month extension of the date for filing the taxpayer's 1274
municipal income tax return. If the commissioner receives the 1275
request on or before the date the municipal income tax return is 1276
due, the commissioner shall grant the taxpayer's extension 1277
request. 1278

(c) An extension of time to file under division (D) (1) of 1279
this section is not an extension of the time to pay any tax due 1280
unless the tax commissioner grants an extension of that date. 1281

(2) If the commissioner considers it necessary in order to 1282
ensure payment of a tax imposed in accordance with section 1283
718.04 of the Revised Code, the commissioner may require 1284
taxpayers to file returns and make payments otherwise than as 1285
provided in this section, including taxpayers not otherwise 1286
required to file annual returns. 1287

(E) Each return required to be filed in accordance with 1288
this section shall include a box that the taxpayer may check to 1289
authorize another person, including a tax return preparer who 1290
prepared the return, to communicate with the tax commissioner 1291
about matters pertaining to the return. The return or 1292
instructions accompanying the return shall indicate that by 1293
checking the box the taxpayer authorizes the commissioner to 1294
contact the preparer or other person concerning questions that 1295
arise during the examination or other review of the return and 1296
authorizes the preparer or other person only to provide the 1297
commissioner with information that is missing from the return, 1298
to contact the commissioner for information about the 1299
examination or other review of the return or the status of the 1300
taxpayer's refund or payments, and to respond to notices about 1301
mathematical errors, offsets, or return preparation that the 1302
taxpayer has received from the commissioner and has shown to the 1303
preparer or other person. 1304

(F) When income tax returns or other documents require the 1305
signature of a tax return preparer, the tax commissioner shall 1306
accept a facsimile or electronic version of such a signature in 1307
lieu of a manual signature. 1308

Sec. 718.90. (A) If any taxpayer required to file a return 1309
under section 718.80 to 718.95 of the Revised Code fails to file 1310
the return within the time prescribed, files an incorrect 1311
return, or fails to remit the full amount of the tax due for the 1312
period covered by the return, the tax commissioner may make an 1313
assessment against the taxpayer for any deficiency for the 1314
period for which the return or tax is due, based upon any 1315
information in the commissioner's possession. 1316

The tax commissioner shall not make or issue an assessment 1317
against a taxpayer more than three years after the later of the 1318
date the return subject to assessment was required to be filed 1319
or the date the return was filed. Such time limit may be 1320
extended if both the taxpayer and the commissioner consent in 1321
writing to the extension. Any such extension shall extend the 1322
three-year time limit in section 718.91 of the Revised Code for 1323
the same period of time. There shall be no bar or limit to an 1324
assessment against a taxpayer that fails to file a return 1325
subject to assessment as required by sections 718.80 to 718.95 1326
of the Revised Code, or that files a fraudulent return. The 1327
commissioner shall give the taxpayer assessed written notice of 1328
the assessment as provided in section 5703.37 of the Revised 1329
Code. With the notice, the commissioner shall provide 1330
instructions on how to petition for reassessment and request a 1331
hearing on the petition. 1332

(B) Unless the taxpayer assessed files with the tax 1333
commissioner within sixty days after service of the notice of 1334
assessment, either personally or by certified mail, a written 1335
petition for reassessment signed by the authorized agent of the 1336
taxpayer assessed having knowledge of the facts, the assessment 1337
becomes final, and the amount of the assessment is due and 1338
payable from the taxpayer to the treasurer of state. The 1339

petition shall indicate the taxpayer's objections, but 1340
additional objections may be raised in writing if received by 1341
the commissioner prior to the date shown on the final 1342
determination. If the petition has been properly filed, the 1343
commissioner shall proceed under section 5703.60 of the Revised 1344
Code. 1345

(C) After an assessment becomes final, if any portion of 1346
the assessment remains unpaid, including accrued interest, a 1347
certified copy of the tax commissioner's entry making the 1348
assessment final may be filed in the office of the clerk of the 1349
court of common pleas in the county in which the taxpayer has an 1350
office or place of business in this state, the county in which 1351
the taxpayer's statutory agent is located, or Franklin county. 1352

Immediately upon the filing of the entry, the clerk shall 1353
enter a judgment against the taxpayer assessed in the amount 1354
shown on the entry. The judgment may be filed by the clerk in a 1355
loose-leaf book entitled "special judgments for municipal income 1356
taxes," and shall have the same effect as other judgments. 1357
Execution shall issue upon the judgment upon the request of the 1358
tax commissioner, and all laws applicable to sales on execution 1359
shall apply to sales made under the judgment. 1360

If the assessment is not paid in its entirety within sixty 1361
days after the day the assessment was issued, the portion of the 1362
assessment consisting of tax due shall bear interest at the rate 1363
per annum prescribed by section 5703.47 of the Revised Code from 1364
the day the commissioner issues the assessment until the 1365
assessment is paid or until it is certified to the attorney 1366
general for collection under section 131.02 of the Revised Code, 1367
whichever comes first. If the unpaid portion of the assessment 1368
is certified to the attorney general for collection, the entire 1369

unpaid portion of the assessment shall bear interest at the rate 1370
per annum prescribed by section 5703.47 of the Revised Code from 1371
the date of certification until the date it is paid in its 1372
entirety. Interest shall be paid in the same manner as the tax 1373
and may be collected by issuing an assessment under this 1374
section. 1375

~~(D) All~~ (D) (1) Except as provided in division (D) (2) of 1376
this section, all money collected under this section shall be 1377
credited to the municipal net profit tax fund and distributed to 1378
the municipal corporation to which the money is owed based on 1379
the assessment issued under this section. 1380

(2) The attorney general may assess collection costs as 1381
authorized under section 109.08, 109.081, or 131.02 of the 1382
Revised Code on amounts collected under this section, which 1383
shall be credited to the attorney general claims fund created 1384
under section 109.081 of the Revised Code. 1385

(E) If the tax commissioner believes that collection of 1386
the tax will be jeopardized unless proceedings to collect or 1387
secure collection of the tax are instituted without delay, the 1388
commissioner may issue a jeopardy assessment against the 1389
taxpayer liable for the tax. Immediately upon the issuance of 1390
the jeopardy assessment, the commissioner shall file an entry 1391
with the clerk of the court of common pleas in the manner 1392
prescribed by division (C) of this section. Notice of the 1393
jeopardy assessment shall be served on the taxpayer assessed or 1394
the taxpayer's legal representative in the manner provided in 1395
section 5703.37 of the Revised Code within five days of the 1396
filing of the entry with the clerk. The total amount assessed is 1397
immediately due and payable, unless the taxpayer assessed files 1398
a petition for reassessment in accordance with division (B) of 1399

this section and provides security in a form satisfactory to the 1400
commissioner and in an amount sufficient to satisfy the unpaid 1401
balance of the assessment. Full or partial payment of the 1402
assessment does not prejudice the commissioner's consideration 1403
of the petition for reassessment. 1404

(F) Notwithstanding the fact that a petition for 1405
reassessment is pending, the taxpayer may pay all or a portion 1406
of the assessment that is the subject of the petition. The 1407
acceptance of a payment by the treasurer of state does not 1408
prejudice any claim for refund upon final determination of the 1409
petition. 1410

If upon final determination of the petition an error in 1411
the assessment is corrected by the tax commissioner, upon 1412
petition so filed or pursuant to a decision of the board of tax 1413
appeals or any court to which the determination or decision has 1414
been appealed, so that the amount due from the taxpayer under 1415
the corrected assessment is less than the portion paid, there 1416
shall be issued to the taxpayer, its assigns, or legal 1417
representative a refund in the amount of the overpayment as 1418
provided by section 718.91 of the Revised Code, with interest on 1419
that amount as provided by that section. 1420

Sec. 5703.77. (A) As used in this section: 1421

(1) "Taxpayer" means a person subject to or previously 1422
subject to a tax or fee, a person that remits a tax or fee, or a 1423
person required to or previously required to withhold or collect 1424
and remit a tax or fee on behalf of another person. 1425

(2) "Tax or fee" means a tax or fee administered by the 1426
tax commissioner. 1427

(3) "Credit account balance" means the amount of a tax or 1428

fee that a taxpayer remits to the state in excess of the amount 1429
required to be remitted, after accounting for factors applicable 1430
to the taxpayer such as accelerated payments, estimated 1431
payments, tax credits, and tax credit balances that may be 1432
carried forward. 1433

(4) "Tax debt" means an unpaid tax or fee or any unpaid 1434
penalty, interest, or additional charge on such a tax or fee due 1435
the state. 1436

(B) As soon as practicable, but not later than sixty days 1437
before the expiration of the period of time during which a 1438
taxpayer may file a refund application for a tax or fee, the tax 1439
commissioner shall review the taxpayer's accounts for the tax or 1440
fee and notify the taxpayer of any credit account balance for 1441
which the commissioner is required to issue a refund if the 1442
taxpayer were to file a refund application for that balance, 1443
regardless of whether the taxpayer files a refund application or 1444
amended return with respect to that tax or fee. The notice shall 1445
be made using contact information for the taxpayer on file with 1446
the commissioner. 1447

(C) Notwithstanding sections 128.47, 718.91, 3734.905, 1448
4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 1449
5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 1450
5749.08, 5751.08, 5753.06, and any other section of the Revised 1451
Code governing refunds of taxes or fees, the commissioner may 1452
apply the amount of any credit account balance for which the 1453
commissioner is required to issue a refund if the taxpayer were 1454
to file a refund application for that balance as a credit 1455
against the taxpayer's liability for the tax or fee in the 1456
taxpayer's next reporting period for that tax or fee or issue a 1457
refund of that credit account balance to the taxpayer, subject 1458

to division (D) of this section. 1459

(D) Before issuing a refund to a taxpayer under division 1460
(C) of this section, the tax commissioner shall withhold from 1461
that refund the amount of any of the taxpayer's tax debt 1462
certified to the attorney general under section 131.02 of the 1463
Revised Code and the amount of the taxpayer's liability, if any, 1464
for a tax or fee. The commissioner shall apply any amount 1465
withheld first in satisfaction of the amount of the taxpayer's 1466
certified tax debt and then in satisfaction of the taxpayer's 1467
liability. If the credit account balance originates from the tax 1468
administered under sections 718.80 to 718.95 of the Revised 1469
Code, it may be applied only against the taxpayer's certified 1470
tax debt or tax liability due under those sections. 1471

(E) The tax commissioner may adopt rules to administer 1472
this section. 1473

Section 2. That existing sections 718.01, 718.80, 718.81, 1474
718.83, 718.85, 718.90, and 5703.77 of the Revised Code are 1475
hereby repealed. 1476

Section 3. (A) The amendment by this act of section 718.01 1477
and division (B) of section 718.81 of the Revised Code applies 1478
to municipal taxable years beginning on and after January 1, 1479
2020. 1480

(B) Except as provided in division (A) of this section, 1481
the amendment by this act of sections 718.80, 718.81, and 718.85 1482
of the Revised Code applies to municipal taxable years beginning 1483
on or after January 1, 2022. 1484

Section 4. With respect to the world wide web portal 1485
required to be established under section 718.841 of the Revised 1486
Code, the Department of Taxation shall make the portal available 1487

to municipal corporations for the exchange of information 1488
required by division (C) (1) of section 718.80 of the Revised 1489
Code and divisions (B), (C), and (D) of section 718.84 of the 1490
Revised Code upon the effective date of the enactment by this 1491
act of section 718.841 of the Revised Code, and shall continue 1492
to add functionality to the portal until such time that the 1493
portal is capable of handling the exchange of all information 1494
necessary to be exchanged for the purposes of administering 1495
sections 718.80 to 718.95 of the Revised Code. 1496