

I_135_0537-2

135th General Assembly
Regular Session
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Sub. H. B. No. 189

A BILL

To amend sections 107.036, 5739.02, 5747.98, and 1
5751.98 and to enact sections 122.1712, 2
5747.053, and 5751.56 of the Revised Code to 3
exempt from the sales and use tax the sale of 4
certain firearms and ammunition and to authorize 5
refundable tax credits for small arms and 6
ammunition manufacturing projects. 7

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

Section 1. That sections 107.036, 5739.02, 5747.98, and 8
5751.98 be amended and sections 122.1712, 5747.053, and 5751.56 9
of the Revised Code be enacted to read as follows: 10

Sec. 107.036. (A) For each business incentive tax credit, 11
the main operating appropriations act shall contain a detailed 12
estimate of the total amount of credits that may be authorized 13
in each year, an estimate of the amount of credits expected to 14
be claimed in each year, and an estimate of the amount of 15
credits expected to remain outstanding at the end of the 16
biennium. The governor shall include such estimates in the state 17
budget submitted to the general assembly pursuant to section 18



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107.03 of the Revised Code.	19
(B) As used in this section, "business incentive tax credit" means all of the following:	20 21
(1) The job creation tax credit under section 122.17 of the Revised Code;	22 23
(2) The job retention tax credit under section 122.171 of the Revised Code;	24 25
(3) The historic preservation tax credit under section 149.311 of the Revised Code;	26 27
(4) The motion picture and Broadway theatrical production tax credit under section 122.85 of the Revised Code;	28 29
(5) The new markets tax credit under section 5725.33 of the Revised Code;	30 31
(6) The research and development credit under section 166.21 of the Revised Code;	32 33
(7) The small business investment credit under section 122.86 of the Revised Code;	34 35
(8) The rural growth investment credit under section 122.152 of the Revised Code;	36 37
(9) The opportunity zone investment credit under section 122.84 of the Revised Code;	38 39
(10) The transformational mixed use development credit under section 122.09 of the Revised Code;	40 41
<u>(11) The constitutional commerce credit under section 122.1712 of the Revised Code.</u>	42 43
<u>Sec. 122.1712.</u> (A) As used in this section:	44

(1) "Payroll" means the total taxable income paid by the 45
employer during the employer's taxable year, or during the 46
calendar year that includes the employer's tax period, to each 47
employee employed in the project. "Payroll" excludes amounts 48
paid before the day the taxpayer becomes eligible for the credit 49
and retirement or other benefits paid or contributed by the 50
employer to or on behalf of employees. 51

(2) "Baseline payroll" means Ohio employee payroll, except 52
that the applicable measurement period is the twelve months 53
immediately preceding the date the tax credit authority approves 54
the taxpayer's application multiplied by the sum of one plus an 55
annual pay increase factor to be determined by the tax credit 56
authority. 57

(3) "Ohio employee payroll" means the amount of 58
compensation used to determine the withholding obligations in 59
division (A) of section 5747.06 of the Revised Code and paid by 60
the employer during the employer's taxable year, or during the 61
calendar year that includes the employer's tax period, to the 62
following: 63

(a) An employee employed in the project who is a resident 64
of this state; 65

(b) An employee employed at the project location who is 66
not a resident and whose compensation is not exempt from the tax 67
imposed under section 5747.02 of the Revised Code pursuant to a 68
reciprocity agreement with another state under division (A) (2) 69
of section 5747.05 of the Revised Code. 70

"Ohio employee payroll" excludes any such compensation to 71
the extent it is used to determine the credit under section 72
122.17 or 122.171 of the Revised Code, and excludes amounts paid 73

before the day the taxpayer becomes eligible for the credit 74
under this section. 75

(4) "Excess payroll" means Ohio employee payroll minus 76
baseline payroll. 77

(5) "Full-time equivalent employees" means the quotient 78
obtained by dividing the total number of hours for which 79
employees were compensated for employment in the project by two 80
thousand eighty. "Full-time equivalent employees" excludes hours 81
that are counted for a credit under section 122.17 or 122.171 of 82
the Revised Code. 83

(6) "Metric evaluation date" means the date by which the 84
taxpayer must meet all of the commitments included in the 85
agreement with the tax credit authority under division (D) of 86
this section. 87

(7) "Resident" or "resident of this state" means an 88
individual who is a resident as defined in section 5747.01 of 89
the Revised Code. 90

(8) "Reporting period" means a period corresponding to the 91
annual report required under division (D)(6) of this section. 92

(9) "Small arms and ammunition manufacturing" means a 93
business activity which is or may be classified under the north 94
American industry classification system with code number 332992 95
or 332994. 96

(10) "Small arms and ammunition manufacturing facility" 97
and "facility" mean a factory, mill, plant, warehouse, building, 98
or complex of buildings located in this state and used primarily 99
for small arms and ammunition manufacturing, including both of 100
the following: 101

<u>(a) The land on which the facility is located;</u>	102
<u>(b) All machinery, equipment, and other tangible personal property located at or within the facility and used in connection with the operation of the facility.</u>	103 104 105
<u>(11) "Tax credit authority" means the tax credit authority created under section 122.17 of the Revised Code.</u>	106 107
<u>(B)(1) The tax credit authority may make grants under this section in the form of a refundable credit allowed against the tax imposed by section 5747.02 or 5751.02 of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. The credit shall be claimed in the order required under section 5747.98 or 5751.98 of the Revised Code, as applicable. Except as provided in division (B)(2) of this section, the amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the excess payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority.</u>	108 109 110 111 112 113 114 115 116 117 118 119 120
<u>(2) The tax credit authority shall not issue credits under this section totaling more than ten million dollars in a fiscal year.</u>	121 122 123
<u>(3) This credit shall be known as the constitutional commerce credit.</u>	124 125
<u>(C) A taxpayer or potential taxpayer who proposes a small arms and ammunition manufacturing facility project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section.</u>	126 127 128 129
<u>The director of development shall prescribe the form of</u>	130

the application. After receipt of an application, the authority 131
may enter into an agreement with the taxpayer for a credit under 132
this section if it determines all of the following: 133

(1) The taxpayer's project will increase payroll; 134

(2) The taxpayer's project is economically sound and will 135
benefit the people of this state by increasing opportunities for 136
employment and strengthening the economy of this state; 137

(3) Receiving the tax credit is a major factor in the 138
taxpayer's decision to go forward with the project. 139

(D) An agreement under this section shall include all of 140
the following: 141

(1) A detailed description of the small arms and 142
ammunition manufacturing facility project that is the subject of 143
the agreement, including the taxpayer's capital investment in 144
the project which shall not be less than two million dollars; 145

(2) The term of the tax credit, which shall not exceed 146
fifteen years, and the first taxable year, or first tax period, 147
for which the credit may be claimed; 148

(3) A requirement that the taxpayer shall maintain 149
operations at the project location for at least the greater of 150
seven years or the term of the credit plus three years; 151

(4) The percentage, as determined by the tax credit 152
authority, of excess payroll that will be allowed as the amount 153
of the credit for each taxable year or tax period; 154

(5) The pay increase factor to be applied to the 155
taxpayer's baseline payroll; 156

(6) A requirement that the taxpayer annually shall report 157

to the director of development full-time equivalent employees, 158
payroll, Ohio employee payroll, investment, and other 159
information the director needs to perform the director's duties 160
under this section; 161

(7) A requirement that the director of development 162
annually review the information reported under division (D) (6) 163
of this section and verify compliance with the agreement; if the 164
taxpayer is in compliance, a requirement that the director issue 165
a certificate to the taxpayer stating that the information has 166
been verified and identifying the amount of the credit that may 167
be claimed for the taxable year or tax period stated in the 168
certificate; 169

(8) A provision providing that the taxpayer may not 170
relocate a substantial number of employment positions from 171
elsewhere in this state to the project location unless the 172
director of development determines that the legislative 173
authority of the county, township, or municipal corporation from 174
which the employment positions would be relocated has been 175
notified by the taxpayer of the relocation. 176

For purposes of this section, the movement of an 177
employment position from one political subdivision to another 178
political subdivision shall be considered a relocation of an 179
employment position unless the employment position in the first 180
political subdivision is replaced. 181

(E) If a taxpayer fails to meet or comply with any 182
condition or requirement set forth in a tax credit agreement, 183
the tax credit authority may amend the agreement to reduce the 184
percentage or term of the tax credit. The reduction of the 185
percentage or term may take effect in the current taxable or 186
calendar year. 187

(F) Financial statements and other information submitted 188
to the department of development or the tax credit authority by 189
an applicant or recipient of a tax credit under this section, 190
and any information taken for any purpose from such statements 191
or information, are not public records subject to section 149.43 192
of the Revised Code. However, the chairperson of the authority 193
may make use of the statements and other information for 194
purposes of issuing public reports or in connection with court 195
proceedings concerning tax credit agreements under this section. 196
Upon the request of the tax commissioner, the chairperson of the 197
authority shall provide to the commissioner any statement or 198
information submitted by an applicant or recipient of a tax 199
credit in connection with the credit. The commissioner shall 200
preserve the confidentiality of the statement or information. 201

(G) A taxpayer claiming a credit under this section shall 202
submit to the tax commissioner a copy of the director of 203
development's certificate of verification issued under division 204
(D) (7) of this section with the taxpayer's tax report or return 205
for the taxable year or tax period. Failure to submit a copy of 206
the certificate with the report or return does not invalidate a 207
claim for a credit if the taxpayer submits a copy of the 208
certificate to the commissioner within the time prescribed by 209
section 5703.0510 of the Revised Code or within thirty days 210
after the commissioner requests it. 211

(H) The director of development, after consultation with 212
the tax commissioner and in accordance with Chapter 119. of the 213
Revised Code, shall adopt rules necessary to implement this 214
section. The rules may provide for recipients of tax credits 215
under this section to be charged fees to cover administrative 216
costs of the tax credit program. The fees collected shall be 217
credited to the tax incentives operating fund created in section 218

122.174 of the Revised Code. 219

(I) For purposes of this section, a taxpayer may include a 220
pass-through entity. A pass-through entity may elect to pass the 221
credit received under this section against the tax imposed under 222
section 5747.02 of the Revised Code through to the persons to 223
whom the income or profit of the entity is distributed. The 224
election shall be made on the annual report required under 225
division (D) (6) of this section. The election applies to and is 226
irrevocable for the credit for which the report is submitted. If 227
the election is made, the credit shall be apportioned among 228
those persons in the same proportions as those in which the 229
income or profit is distributed. 230

(J) (1) If the director of development determines that a 231
taxpayer who has received a credit under this section is not 232
complying with the requirements of the agreement, the director 233
shall notify the tax credit authority of the noncompliance. 234
After receiving such a notice, and after giving the taxpayer an 235
opportunity to explain the noncompliance, the tax credit 236
authority may require the taxpayer to refund to this state a 237
portion of the credit in accordance with the following: 238

(a) If the taxpayer fails to comply with the requirement 239
under division (D) (3) of this section, an amount determined in 240
accordance with the following: 241

(i) If the taxpayer maintained operations at the project 242
location for a period less than or equal to the term of the 243
credit, an amount not exceeding one hundred per cent of the sum 244
of any credits allowed and received under this section; 245

(ii) If the taxpayer maintained operations at the project 246
location for a period longer than the term of the credit, but 247

less than the greater of seven years or the term of the credit 248
plus three years, an amount not exceeding seventy-five per cent 249
of the sum of any credits allowed and received under this 250
section. 251

(b) If, on the metric evaluation date, the taxpayer fails 252
to substantially meet the job creation, payroll, or investment 253
requirements included in the agreement, an amount determined at 254
the discretion of the authority; 255

(c) If the taxpayer fails to substantially maintain the 256
number of new full-time equivalent employees or amount of 257
payroll required under the agreement at any time during the term 258
of the agreement after the metric evaluation date, an amount 259
determined at the discretion of the authority. 260

(2) If a taxpayer files for bankruptcy and fails as 261
described in division (J) (1) (a), (b), or (c) of this section, 262
the director may immediately commence an action to recoup an 263
amount not exceeding one hundred per cent of the sum of any 264
credits received by the taxpayer under this section. 265

(3) In determining the portion of the tax credit to be 266
refunded to this state, the tax credit authority shall consider 267
the effect of market conditions on the taxpayer's project and 268
whether the taxpayer continues to maintain other operations in 269
this state. After making the determination, the authority shall 270
certify the amount to be refunded to the tax commissioner. The 271
commissioner shall make an assessment for that amount against 272
the taxpayer under Chapter 5747. or 5751. of the Revised Code. 273
The time limitations on assessments under those chapters do not 274
apply to an assessment under this division, but the commissioner 275
shall make the assessment within one year after the date the 276
authority certifies to the commissioner the amount to be 277

refunded. 278

Sec. 5739.02. For the purpose of providing revenue with 279
which to meet the needs of the state, for the use of the general 280
revenue fund of the state, for the purpose of securing a 281
thorough and efficient system of common schools throughout the 282
state, for the purpose of affording revenues, in addition to 283
those from general property taxes, permitted under 284
constitutional limitations, and from other sources, for the 285
support of local governmental functions, and for the purpose of 286
reimbursing the state for the expense of administering this 287
chapter, an excise tax is hereby levied on each retail sale made 288
in this state. 289

(A) (1) The tax shall be collected as provided in section 290
5739.025 of the Revised Code. The rate of the tax shall be five 291
and three-fourths per cent. The tax applies and is collectible 292
when the sale is made, regardless of the time when the price is 293
paid or delivered. 294

(2) In the case of the lease or rental, with a fixed term 295
of more than thirty days or an indefinite term with a minimum 296
period of more than thirty days, of any motor vehicles designed 297
by the manufacturer to carry a load of not more than one ton, 298
watercraft, outboard motor, or aircraft, or of any tangible 299
personal property, other than motor vehicles designed by the 300
manufacturer to carry a load of more than one ton, to be used by 301
the lessee or renter primarily for business purposes, the tax 302
shall be collected by the vendor at the time the lease or rental 303
is consummated and shall be calculated by the vendor on the 304
basis of the total amount to be paid by the lessee or renter 305
under the lease agreement. If the total amount of the 306
consideration for the lease or rental includes amounts that are 307

not calculated at the time the lease or rental is executed, the 308
tax shall be calculated and collected by the vendor at the time 309
such amounts are billed to the lessee or renter. In the case of 310
an open-end lease or rental, the tax shall be calculated by the 311
vendor on the basis of the total amount to be paid during the 312
initial fixed term of the lease or rental, and for each 313
subsequent renewal period as it comes due. As used in this 314
division, "motor vehicle" has the same meaning as in section 315
4501.01 of the Revised Code, and "watercraft" includes an 316
outdrive unit attached to the watercraft. 317

A lease with a renewal clause and a termination penalty or 318
similar provision that applies if the renewal clause is not 319
exercised is presumed to be a sham transaction. In such a case, 320
the tax shall be calculated and paid on the basis of the entire 321
length of the lease period, including any renewal periods, until 322
the termination penalty or similar provision no longer applies. 323
The taxpayer shall bear the burden, by a preponderance of the 324
evidence, that the transaction or series of transactions is not 325
a sham transaction. 326

(3) Except as provided in division (A) (2) of this section, 327
in the case of a sale, the price of which consists in whole or 328
in part of the lease or rental of tangible personal property, 329
the tax shall be measured by the installments of that lease or 330
rental. 331

(4) In the case of a sale of a physical fitness facility 332
service or recreation and sports club service, the price of 333
which consists in whole or in part of a membership for the 334
receipt of the benefit of the service, the tax applicable to the 335
sale shall be measured by the installments thereof. 336

(B) The tax does not apply to the following: 337

(1) Sales to the state or any of its political 338
subdivisions, or to any other state or its political 339
subdivisions if the laws of that state exempt from taxation 340
sales made to this state and its political subdivisions 341
including either of the following: 342

(a) Sales or rentals of tangible personal property by 343
construction contractors or subcontractors to provide temporary 344
traffic control or temporary structures, including material and 345
equipment used to comply with the Ohio manual of uniform traffic 346
control devices adopted pursuant to section 4511.09 of the 347
Revised Code, whereby the state or any of its political 348
subdivisions take title to, or permanent or temporary possession 349
of, such tangible personal property for use by the state or any 350
of its political subdivisions, including for use by the general 351
public thereof; 352

(b) Sales of services by construction contractors or 353
subcontractors to provide temporary traffic control or 354
structures, including labor used to comply with the Ohio manual 355
of uniform traffic control devices adopted pursuant to section 356
4511.09 of the Revised Code, whereby the state or any of its 357
political subdivisions, including the general public thereof, 358
receive the benefit of such services. 359

As used in divisions (B) (1) (a) and (b) of this section, 360
"temporary structures" include temporary roads, bridges, drains, 361
and pavement. 362

(2) Sales of food for human consumption off the premises 363
where sold; 364

(3) Sales of food sold to students only in a cafeteria, 365
dormitory, fraternity, or sorority maintained in a private, 366

public, or parochial school, college, or university;	367
(4) Sales of newspapers and sales or transfers of	368
magazines distributed as controlled circulation publications;	369
(5) The furnishing, preparing, or serving of meals without	370
charge by an employer to an employee provided the employer	371
records the meals as part compensation for services performed or	372
work done;	373
(6) (a) Sales of motor fuel upon receipt, use,	374
distribution, or sale of which in this state a tax is imposed by	375
the law of this state, but this exemption shall not apply to the	376
sale of motor fuel on which a refund of the tax is allowable	377
under division (A) of section 5735.14 of the Revised Code; and	378
the tax commissioner may deduct the amount of tax levied by this	379
section applicable to the price of motor fuel when granting a	380
refund of motor fuel tax pursuant to division (A) of section	381
5735.14 of the Revised Code and shall cause the amount deducted	382
to be paid into the general revenue fund of this state;	383
(b) Sales of motor fuel other than that described in	384
division (B) (6) (a) of this section and used for powering a	385
refrigeration unit on a vehicle other than one used primarily to	386
provide comfort to the operator or occupants of the vehicle.	387
(7) Sales of natural gas by a natural gas company or	388
municipal gas utility, of water by a water-works company, or of	389
steam by a heating company, if in each case the thing sold is	390
delivered to consumers through pipes or conduits, and all sales	391
of communications services by a telegraph company, all terms as	392
defined in section 5727.01 of the Revised Code, and sales of	393
electricity delivered through wires;	394
(8) Casual sales by a person, or auctioneer employed	395

directly by the person to conduct such sales, except as to such 396
sales of motor vehicles, watercraft or outboard motors required 397
to be titled under section 1548.06 of the Revised Code, 398
watercraft documented with the United States coast guard, 399
snowmobiles, and all-purpose vehicles as defined in section 400
4519.01 of the Revised Code; 401

(9) (a) Sales of services or tangible personal property, 402
other than motor vehicles, mobile homes, and manufactured homes, 403
by churches, organizations exempt from taxation under section 404
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 405
organizations operated exclusively for charitable purposes as 406
defined in division (B) (12) of this section, provided that the 407
number of days on which such tangible personal property or 408
services, other than items never subject to the tax, are sold 409
does not exceed six in any calendar year, except as otherwise 410
provided in division (B) (9) (b) of this section. If the number of 411
days on which such sales are made exceeds six in any calendar 412
year, the church or organization shall be considered to be 413
engaged in business and all subsequent sales by it shall be 414
subject to the tax. In counting the number of days, all sales by 415
groups within a church or within an organization shall be 416
considered to be sales of that church or organization. 417

(b) The limitation on the number of days on which tax- 418
exempt sales may be made by a church or organization under 419
division (B) (9) (a) of this section does not apply to sales made 420
by student clubs and other groups of students of a primary or 421
secondary school, or a parent-teacher association, booster 422
group, or similar organization that raises money to support or 423
fund curricular or extracurricular activities of a primary or 424
secondary school. 425

(c) Divisions (B) (9) (a) and (b) of this section do not 426
apply to sales by a noncommercial educational radio or 427
television broadcasting station. 428

(10) Sales not within the taxing power of this state under 429
the Constitution or laws of the United States or the 430
Constitution of this state including either of the following: 431

(a) Sales or rentals of tangible personal property by 432
construction contractors or subcontractors to provide temporary 433
traffic control or temporary structures, including material and 434
equipment used to comply with the Ohio manual of uniform traffic 435
control devices adopted pursuant to section 4511.09 of the 436
Revised Code, whereby the United States takes title to, or 437
permanent or temporary possession of, such tangible personal 438
property for use by the United States including for use by the 439
general public thereof; 440

(b) Sales of services by construction contractors or 441
subcontractors to provide temporary traffic control or 442
structures, including labor used to comply with the Ohio manual 443
of uniform traffic control devices adopted pursuant to section 444
4511.09 of the Revised Code, whereby the United States, 445
including the general public thereof, receives the benefit of 446
such services. 447

As used in divisions (B) (10) (a) and (b) of this section, 448
"temporary structures" include temporary roads, bridges, drains, 449
and pavement. 450

(11) Except for transactions that are sales under division 451
(B) (3) (p) of section 5739.01 of the Revised Code, the 452
transportation of persons or property, unless the transportation 453
is by a private investigation and security service; 454

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

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the

operation of a community or area center in which presentations 486
in music, dramatics, the arts, and related fields are made in 487
order to foster public interest and education therein; the 488
production of performances in music, dramatics, and the arts; or 489
the promotion of education by an organization engaged in 490
carrying on research in, or the dissemination of, scientific and 491
technological knowledge and information primarily for the 492
public. 493

Nothing in this division shall be deemed to exempt sales 494
to any organization for use in the operation or carrying on of a 495
trade or business, or sales to a home for the aged for use in 496
the operation of independent living facilities as defined in 497
division (A) of section 5709.12 of the Revised Code. 498

(13) Building and construction materials and services sold 499
to construction contractors for incorporation into a structure 500
or improvement to real property under a construction contract 501
with this state or a political subdivision of this state, or 502
with the United States government or any of its agencies; 503
building and construction materials and services sold to 504
construction contractors for incorporation into a structure or 505
improvement to real property that are accepted for ownership by 506
this state or any of its political subdivisions, or by the 507
United States government or any of its agencies at the time of 508
completion of the structures or improvements; building and 509
construction materials sold to construction contractors for 510
incorporation into a horticulture structure or livestock 511
structure for a person engaged in the business of horticulture 512
or producing livestock; building materials and services sold to 513
a construction contractor for incorporation into a house of 514
public worship or religious education, or a building used 515
exclusively for charitable purposes under a construction 516

contract with an organization whose purpose is as described in 517
division (B) (12) of this section; building materials and 518
services sold to a construction contractor for incorporation 519
into a building under a construction contract with an 520
organization exempt from taxation under section 501(c) (3) of the 521
Internal Revenue Code of 1986 when the building is to be used 522
exclusively for the organization's exempt purposes; building and 523
construction materials sold for incorporation into the original 524
construction of a sports facility under section 307.696 of the 525
Revised Code; building and construction materials and services 526
sold to a construction contractor for incorporation into real 527
property outside this state if such materials and services, when 528
sold to a construction contractor in the state in which the real 529
property is located for incorporation into real property in that 530
state, would be exempt from a tax on sales levied by that state; 531
building and construction materials for incorporation into a 532
transportation facility pursuant to a public-private agreement 533
entered into under sections 5501.70 to 5501.83 of the Revised 534
Code; until one calendar year after the construction of a 535
convention center that qualifies for property tax exemption 536
under section 5709.084 of the Revised Code is completed, 537
building and construction materials and services sold to a 538
construction contractor for incorporation into the real property 539
comprising that convention center; and building and construction 540
materials sold for incorporation into a structure or improvement 541
to real property that is used primarily as, or primarily in 542
support of, a manufacturing facility or research and development 543
facility and that is to be owned by a megaproject operator upon 544
completion and located at the site of a megaproject that 545
satisfies the criteria described in division (A) (11) (a) (ii) of 546
section 122.17 of the Revised Code, provided that the sale 547
occurs during the period that the megaproject operator has an 548

agreement for such megaproject with the tax credit authority 549
under division (D) of section 122.17 of the Revised Code that 550
remains in effect and has not expired or been terminated. 551

(14) Sales of ships or vessels or rail rolling stock used 552
or to be used principally in interstate or foreign commerce, and 553
repairs, alterations, fuel, and lubricants for such ships or 554
vessels or rail rolling stock; 555

(15) Sales to persons primarily engaged in any of the 556
activities mentioned in division (B) (42) (a), (g), or (h) of this 557
section, to persons engaged in making retail sales, or to 558
persons who purchase for sale from a manufacturer tangible 559
personal property that was produced by the manufacturer in 560
accordance with specific designs provided by the purchaser, of 561
packages, including material, labels, and parts for packages, 562
and of machinery, equipment, and material for use primarily in 563
packaging tangible personal property produced for sale, 564
including any machinery, equipment, and supplies used to make 565
labels or packages, to prepare packages or products for 566
labeling, or to label packages or products, by or on the order 567
of the person doing the packaging, or sold at retail. "Packages" 568
includes bags, baskets, cartons, crates, boxes, cans, bottles, 569
bindings, wrappings, and other similar devices and containers, 570
but does not include motor vehicles or bulk tanks, trailers, or 571
similar devices attached to motor vehicles. "Packaging" means 572
placing in a package. Division (B) (15) of this section does not 573
apply to persons engaged in highway transportation for hire. 574

(16) Sales of food to persons using supplemental nutrition 575
assistance program benefits to purchase the food. As used in 576
this division, "food" has the same meaning as in 7 U.S.C. 2012 577
and federal regulations adopted pursuant to the Food and 578

Nutrition Act of 2008.	579
(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;	580 581 582 583 584 585 586 587 588 589 590 591 592 593
(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;	594 595 596 597 598 599 600 601 602 603 604
(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.	605 606 607 608

(20) Sales of emergency and fire protection vehicles and 609
equipment to nonprofit organizations for use solely in providing 610
fire protection and emergency services, including trauma care 611
and emergency medical services, for political subdivisions of 612
the state; 613

(21) Sales of tangible personal property manufactured in 614
this state, if sold by the manufacturer in this state to a 615
retailer for use in the retail business of the retailer outside 616
of this state and if possession is taken from the manufacturer 617
by the purchaser within this state for the sole purpose of 618
immediately removing the same from this state in a vehicle owned 619
by the purchaser; 620

(22) Sales of services provided by the state or any of its 621
political subdivisions, agencies, instrumentalities, 622
institutions, or authorities, or by governmental entities of the 623
state or any of its political subdivisions, agencies, 624
instrumentalities, institutions, or authorities; 625

(23) Sales of motor vehicles to nonresidents of this state 626
under the circumstances described in division (B) of section 627
5739.029 of the Revised Code; 628

(24) Sales to persons engaged in the preparation of eggs 629
for sale of tangible personal property used or consumed directly 630
in such preparation, including such tangible personal property 631
used for cleaning, sanitizing, preserving, grading, sorting, and 632
classifying by size; packages, including material and parts for 633
packages, and machinery, equipment, and material for use in 634
packaging eggs for sale; and handling and transportation 635
equipment and parts therefor, except motor vehicles licensed to 636
operate on public highways, used in intraplant or interplant 637
transfers or shipment of eggs in the process of preparation for 638

sale, when the plant or plants within or between which such 639
transfers or shipments occur are operated by the same person. 640
"Packages" includes containers, cases, baskets, flats, fillers, 641
filler flats, cartons, closure materials, labels, and labeling 642
materials, and "packaging" means placing therein. 643

(25) (a) Sales of water to a consumer for residential use; 644

(b) Sales of water by a nonprofit corporation engaged 645
exclusively in the treatment, distribution, and sale of water to 646
consumers, if such water is delivered to consumers through pipes 647
or tubing. 648

(26) Fees charged for inspection or reinspection of motor 649
vehicles under section 3704.14 of the Revised Code; 650

(27) Sales to persons licensed to conduct a food service 651
operation pursuant to section 3717.43 of the Revised Code, of 652
tangible personal property primarily used directly for the 653
following: 654

(a) To prepare food for human consumption for sale; 655

(b) To preserve food that has been or will be prepared for 656
human consumption for sale by the food service operator, not 657
including tangible personal property used to display food for 658
selection by the consumer; 659

(c) To clean tangible personal property used to prepare or 660
serve food for human consumption for sale. 661

(28) Sales of animals by nonprofit animal adoption 662
services or county humane societies; 663

(29) Sales of services to a corporation described in 664
division (A) of section 5709.72 of the Revised Code, and sales 665
of tangible personal property that qualifies for exemption from 666

taxation under section 5709.72 of the Revised Code; 667

(30) Sales and installation of agricultural land tile, as 668
defined in division (B)(5)(a) of section 5739.01 of the Revised 669
Code; 670

(31) Sales and erection or installation of portable grain 671
bins, as defined in division (B)(5)(b) of section 5739.01 of the 672
Revised Code; 673

(32) The sale, lease, repair, and maintenance of, parts 674
for, or items attached to or incorporated in, motor vehicles 675
that are primarily used for transporting tangible personal 676
property belonging to others by a person engaged in highway 677
transportation for hire, except for packages and packaging used 678
for the transportation of tangible personal property; 679

(33) Sales to the state headquarters of any veterans' 680
organization in this state that is either incorporated and 681
issued a charter by the congress of the United States or is 682
recognized by the United States veterans administration, for use 683
by the headquarters; 684

(34) Sales to a telecommunications service vendor, mobile 685
telecommunications service vendor, or satellite broadcasting 686
service vendor of tangible personal property and services used 687
directly and primarily in transmitting, receiving, switching, or 688
recording any interactive, one- or two-way electromagnetic 689
communications, including voice, image, data, and information, 690
through the use of any medium, including, but not limited to, 691
poles, wires, cables, switching equipment, computers, and record 692
storage devices and media, and component parts for the tangible 693
personal property. The exemption provided in this division shall 694
be in lieu of all other exemptions under division (B)(42)(a) or 695

(n) of this section to which the vendor may otherwise be 696
entitled, based upon the use of the thing purchased in providing 697
the telecommunications, mobile telecommunications, or satellite 698
broadcasting service. 699

(35) (a) Sales where the purpose of the consumer is to use 700
or consume the things transferred in making retail sales and 701
consisting of newspaper inserts, catalogues, coupons, flyers, 702
gift certificates, or other advertising material that prices and 703
describes tangible personal property offered for retail sale. 704

(b) Sales to direct marketing vendors of preliminary 705
materials such as photographs, artwork, and typesetting that 706
will be used in printing advertising material; and of printed 707
matter that offers free merchandise or chances to win sweepstake 708
prizes and that is mailed to potential customers with 709
advertising material described in division (B) (35) (a) of this 710
section; 711

(c) Sales of equipment such as telephones, computers, 712
facsimile machines, and similar tangible personal property 713
primarily used to accept orders for direct marketing retail 714
sales. 715

(d) Sales of automatic food vending machines that preserve 716
food with a shelf life of forty-five days or less by 717
refrigeration and dispense it to the consumer. 718

For purposes of division (B) (35) of this section, "direct 719
marketing" means the method of selling where consumers order 720
tangible personal property by United States mail, delivery 721
service, or telecommunication and the vendor delivers or ships 722
the tangible personal property sold to the consumer from a 723
warehouse, catalogue distribution center, or similar fulfillment 724

facility by means of the United States mail, delivery service, 725
or common carrier. 726

(36) Sales to a person engaged in the business of 727
horticulture or producing livestock of materials to be 728
incorporated into a horticulture structure or livestock 729
structure; 730

(37) Sales of personal computers, computer monitors, 731
computer keyboards, modems, and other peripheral computer 732
equipment to an individual who is licensed or certified to teach 733
in an elementary or a secondary school in this state for use by 734
that individual in preparation for teaching elementary or 735
secondary school students; 736

(38) Sales of tangible personal property that is not 737
required to be registered or licensed under the laws of this 738
state to a citizen of a foreign nation that is not a citizen of 739
the United States, provided the property is delivered to a 740
person in this state that is not a related member of the 741
purchaser, is physically present in this state for the sole 742
purpose of temporary storage and package consolidation, and is 743
subsequently delivered to the purchaser at a delivery address in 744
a foreign nation. As used in division (B)(38) of this section, 745
"related member" has the same meaning as in section 5733.042 of 746
the Revised Code, and "temporary storage" means the storage of 747
tangible personal property for a period of not more than sixty 748
days. 749

(39) Sales of used manufactured homes and used mobile 750
homes, as defined in section 5739.0210 of the Revised Code, made 751
on or after January 1, 2000; 752

(40) Sales of tangible personal property and services to a 753

provider of electricity used or consumed directly and primarily 754
in generating, transmitting, or distributing electricity for use 755
by others, including property that is or is to be incorporated 756
into and will become a part of the consumer's production, 757
transmission, or distribution system and that retains its 758
classification as tangible personal property after 759
incorporation; fuel or power used in the production, 760
transmission, or distribution of electricity; energy conversion 761
equipment as defined in section 5727.01 of the Revised Code; and 762
tangible personal property and services used in the repair and 763
maintenance of the production, transmission, or distribution 764
system, including only those motor vehicles as are specially 765
designed and equipped for such use. The exemption provided in 766
this division shall be in lieu of all other exemptions in 767
division (B) (42) (a) or (n) of this section to which a provider 768
of electricity may otherwise be entitled based on the use of the 769
tangible personal property or service purchased in generating, 770
transmitting, or distributing electricity. 771

(41) Sales to a person providing services under division 772
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 773
personal property and services used directly and primarily in 774
providing taxable services under that section. 775

(42) Sales where the purpose of the purchaser is to do any 776
of the following: 777

(a) To incorporate the thing transferred as a material or 778
a part into tangible personal property to be produced for sale 779
by manufacturing, assembling, processing, or refining; or to use 780
or consume the thing transferred directly in producing tangible 781
personal property for sale by mining, including, without 782
limitation, the extraction from the earth of all substances that 783

are classed geologically as minerals, or directly in the 784
rendition of a public utility service, except that the sales tax 785
levied by this section shall be collected upon all meals, 786
drinks, and food for human consumption sold when transporting 787
persons. This paragraph does not exempt from "retail sale" or 788
"sales at retail" the sale of tangible personal property that is 789
to be incorporated into a structure or improvement to real 790
property. 791

(b) To hold the thing transferred as security for the 792
performance of an obligation of the vendor; 793

(c) To resell, hold, use, or consume the thing transferred 794
as evidence of a contract of insurance; 795

(d) To use or consume the thing directly in commercial 796
fishing; 797

(e) To incorporate the thing transferred as a material or 798
a part into, or to use or consume the thing transferred directly 799
in the production of, magazines distributed as controlled 800
circulation publications; 801

(f) To use or consume the thing transferred in the 802
production and preparation in suitable condition for market and 803
sale of printed, imprinted, overprinted, lithographic, 804
multilithic, blueprinted, photostatic, or other productions or 805
reproductions of written or graphic matter; 806

(g) To use the thing transferred, as described in section 807
5739.011 of the Revised Code, primarily in a manufacturing 808
operation to produce tangible personal property for sale; 809

(h) To use the benefit of a warranty, maintenance or 810
service contract, or similar agreement, as described in division 811
(B) (7) of section 5739.01 of the Revised Code, to repair or 812

maintain tangible personal property, if all of the property that 813
is the subject of the warranty, contract, or agreement would not 814
be subject to the tax imposed by this section; 815

(i) To use the thing transferred as qualified research and 816
development equipment; 817

(j) To use or consume the thing transferred primarily in 818
storing, transporting, mailing, or otherwise handling purchased 819
sales inventory in a warehouse, distribution center, or similar 820
facility when the inventory is primarily distributed outside 821
this state to retail stores of the person who owns or controls 822
the warehouse, distribution center, or similar facility, to 823
retail stores of an affiliated group of which that person is a 824
member, or by means of direct marketing. This division does not 825
apply to motor vehicles registered for operation on the public 826
highways. As used in this division, "affiliated group" has the 827
same meaning as in division (B) (3) (e) of section 5739.01 of the 828
Revised Code and "direct marketing" has the same meaning as in 829
division (B) (35) of this section. 830

(k) To use or consume the thing transferred to fulfill a 831
contractual obligation incurred by a warrantor pursuant to a 832
warranty provided as a part of the price of the tangible 833
personal property sold or by a vendor of a warranty, maintenance 834
or service contract, or similar agreement the provision of which 835
is defined as a sale under division (B) (7) of section 5739.01 of 836
the Revised Code; 837

(l) To use or consume the thing transferred in the 838
production of a newspaper for distribution to the public; 839

(m) To use tangible personal property to perform a service 840
listed in division (B) (3) of section 5739.01 of the Revised 841

Code, if the property is or is to be permanently transferred to 842
the consumer of the service as an integral part of the 843
performance of the service; 844

(n) To use or consume the thing transferred primarily in 845
producing tangible personal property for sale by farming, 846
agriculture, horticulture, or floriculture. Persons engaged in 847
rendering farming, agriculture, horticulture, or floriculture 848
services for others are deemed engaged primarily in farming, 849
agriculture, horticulture, or floriculture. This paragraph does 850
not exempt from "retail sale" or "sales at retail" the sale of 851
tangible personal property that is to be incorporated into a 852
structure or improvement to real property. 853

(o) To use or consume the thing transferred in acquiring, 854
formatting, editing, storing, and disseminating data or 855
information by electronic publishing; 856

(p) To provide the thing transferred to the owner or 857
lessee of a motor vehicle that is being repaired or serviced, if 858
the thing transferred is a rented motor vehicle and the 859
purchaser is reimbursed for the cost of the rented motor vehicle 860
by a manufacturer, warrantor, or provider of a maintenance, 861
service, or other similar contract or agreement, with respect to 862
the motor vehicle that is being repaired or serviced; 863

(q) To use or consume the thing transferred directly in 864
production of crude oil and natural gas for sale. Persons 865
engaged in rendering production services for others are deemed 866
engaged in production. 867

As used in division (B) (42) (q) of this section, 868
"production" means operations and tangible personal property 869
directly used to expose and evaluate an underground reservoir 870

that may contain hydrocarbon resources, prepare the wellbore for 871
production, and lift and control all substances yielded by the 872
reservoir to the surface of the earth. 873

(i) For the purposes of division (B)(42)(q) of this 874
section, the "thing transferred" includes, but is not limited 875
to, any of the following: 876

(I) Services provided in the construction of permanent 877
access roads, services provided in the construction of the well 878
site, and services provided in the construction of temporary 879
impoundments; 880

(II) Equipment and rigging used for the specific purpose 881
of creating with integrity a wellbore pathway to underground 882
reservoirs; 883

(III) Drilling and workover services used to work within a 884
subsurface wellbore, and tangible personal property directly 885
used in providing such services; 886

(IV) Casing, tubulars, and float and centralizing 887
equipment; 888

(V) Trailers to which production equipment is attached; 889

(VI) Well completion services, including cementing of 890
casing, and tangible personal property directly used in 891
providing such services; 892

(VII) Wireline evaluation, mud logging, and perforation 893
services, and tangible personal property directly used in 894
providing such services; 895

(VIII) Reservoir stimulation, hydraulic fracturing, and 896
acidizing services, and tangible personal property directly used 897
in providing such services, including all material pumped 898

downhole;	899
(IX) Pressure pumping equipment;	900
(X) Artificial lift systems equipment;	901
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	902 903 904
(XII) Tangible personal property directly used to control production equipment.	905 906
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	907 908 909
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	910 911 912
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	913 914 915
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	916 917 918
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	919 920 921 922
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a	923 924 925

crude oil or natural gas production facility;	926
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	927 928
(VII) Well site fencing, lighting, or security systems;	929
(VIII) Communication devices or services;	930
(IX) Office supplies;	931
(X) Trailers used as offices or lodging;	932
(XI) Motor vehicles of any kind;	933
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	934 935
(XIII) Tangible personal property used primarily as a safety device;	936 937
(XIV) Data collection or monitoring devices;	938
(XV) Access ladders, stairs, or platforms attached to storage tanks.	939 940
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	941 942 943 944 945
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	946 947 948 949
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b),	950 951

and (e) of section 5739.01 of the Revised Code. 952

(43) Sales conducted through a coin operated device that 953
activates vacuum equipment or equipment that dispenses water, 954
whether or not in combination with soap or other cleaning agents 955
or wax, to the consumer for the consumer's use on the premises 956
in washing, cleaning, or waxing a motor vehicle, provided no 957
other personal property or personal service is provided as part 958
of the transaction. 959

(44) Sales of replacement and modification parts for 960
engines, airframes, instruments, and interiors in, and paint 961
for, aircraft used primarily in a fractional aircraft ownership 962
program, and sales of services for the repair, modification, and 963
maintenance of such aircraft, and machinery, equipment, and 964
supplies primarily used to provide those services. 965

(45) Sales of telecommunications service that is used 966
directly and primarily to perform the functions of a call 967
center. As used in this division, "call center" means any 968
physical location where telephone calls are placed or received 969
in high volume for the purpose of making sales, marketing, 970
customer service, technical support, or other specialized 971
business activity, and that employs at least fifty individuals 972
that engage in call center activities on a full-time basis, or 973
sufficient individuals to fill fifty full-time equivalent 974
positions. 975

(46) Sales by a telecommunications service vendor of 900 976
service to a subscriber. This division does not apply to 977
information services. 978

(47) Sales of value-added non-voice data service. This 979
division does not apply to any similar service that is not 980

otherwise a telecommunications service.	981
(48) Sales of feminine hygiene products.	982
(49) Sales of materials, parts, equipment, or engines used	983
in the repair or maintenance of aircraft or avionics systems of	984
such aircraft, and sales of repair, remodeling, replacement, or	985
maintenance services in this state performed on aircraft or on	986
an aircraft's avionics, engine, or component materials or parts.	987
As used in division (B) (49) of this section, "aircraft" means	988
aircraft of more than six thousand pounds maximum certified	989
takeoff weight or used exclusively in general aviation.	990
(50) Sales of full flight simulators that are used for	991
pilot or flight-crew training, sales of repair or replacement	992
parts or components, and sales of repair or maintenance services	993
for such full flight simulators. "Full flight simulator" means a	994
replica of a specific type, or make, model, and series of	995
aircraft cockpit. It includes the assemblage of equipment and	996
computer programs necessary to represent aircraft operations in	997
ground and flight conditions, a visual system providing an out-	998
of-the-cockpit view, and a system that provides cues at least	999
equivalent to those of a three-degree-of-freedom motion system,	1000
and has the full range of capabilities of the systems installed	1001
in the device as described in appendices A and B of part 60 of	1002
chapter 1 of title 14 of the Code of Federal Regulations.	1003
(51) Any transfer or lease of tangible personal property	1004
between the state and JobsOhio in accordance with section	1005
4313.02 of the Revised Code.	1006
(52) (a) Sales to a qualifying corporation.	1007
(b) As used in division (B) (52) of this section:	1008
(i) "Qualifying corporation" means a nonprofit corporation	1009

organized in this state that leases from an eligible county 1010
land, buildings, structures, fixtures, and improvements to the 1011
land that are part of or used in a public recreational facility 1012
used by a major league professional athletic team or a class A 1013
to class AAA minor league affiliate of a major league 1014
professional athletic team for a significant portion of the 1015
team's home schedule, provided the following apply: 1016

(I) The facility is leased from the eligible county 1017
pursuant to a lease that requires substantially all of the 1018
revenue from the operation of the business or activity conducted 1019
by the nonprofit corporation at the facility in excess of 1020
operating costs, capital expenditures, and reserves to be paid 1021
to the eligible county at least once per calendar year. 1022

(II) Upon dissolution and liquidation of the nonprofit 1023
corporation, all of its net assets are distributable to the 1024
board of commissioners of the eligible county from which the 1025
corporation leases the facility. 1026

(ii) "Eligible county" has the same meaning as in section 1027
307.695 of the Revised Code. 1028

(53) Sales to or by a cable service provider, video 1029
service provider, or radio or television broadcast station 1030
regulated by the federal government of cable service or 1031
programming, video service or programming, audio service or 1032
programming, or electronically transferred digital audiovisual 1033
or audio work. As used in division (B) (53) of this section, 1034
"cable service" and "cable service provider" have the same 1035
meanings as in section 1332.01 of the Revised Code, and "video 1036
service," "video service provider," and "video programming" have 1037
the same meanings as in section 1332.21 of the Revised Code. 1038

(54) Sales of a digital audio work electronically	1039
transferred for delivery through use of a machine, such as a	1040
juke box, that does all of the following:	1041
(a) Accepts direct payments to operate;	1042
(b) Automatically plays a selected digital audio work for	1043
a single play upon receipt of a payment described in division	1044
(B) (54) (a) of this section;	1045
(c) Operates exclusively for the purpose of playing	1046
digital audio works in a commercial establishment.	1047
(55) (a) Sales of the following occurring on the first	1048
Friday of August and the following Saturday and Sunday of any	1049
year, except in 2024 or any subsequent year in which a sales tax	1050
holiday is held pursuant to section 5739.41 of the Revised Code:	1051
(i) An item of clothing, the price of which is seventy-	1052
five dollars or less;	1053
(ii) An item of school supplies, the price of which is	1054
twenty dollars or less;	1055
(iii) An item of school instructional material, the price	1056
of which is twenty dollars or less.	1057
(b) As used in division (B) (55) of this section:	1058
(i) "Clothing" means all human wearing apparel suitable	1059
for general use. "Clothing" includes, but is not limited to,	1060
aprons, household and shop; athletic supporters; baby receiving	1061
blankets; bathing suits and caps; beach capes and coats; belts	1062
and suspenders; boots; coats and jackets; costumes; diapers,	1063
children and adult, including disposable diapers; earmuffs;	1064
footlets; formal wear; garters and garter belts; girdles; gloves	1065
and mittens for general use; hats and caps; hosiery; insoles for	1066

shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1067
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1068
sneakers; socks and stockings; steel-toed shoes; underwear; 1069
uniforms, athletic and nonathletic; and wedding apparel. 1070
"Clothing" does not include items purchased for use in a trade 1071
or business; clothing accessories or equipment; protective 1072
equipment; sports or recreational equipment; belt buckles sold 1073
separately; costume masks sold separately; patches and emblems 1074
sold separately; sewing equipment and supplies including, but 1075
not limited to, knitting needles, patterns, pins, scissors, 1076
sewing machines, sewing needles, tape measures, and thimbles; 1077
and sewing materials that become part of "clothing" including, 1078
but not limited to, buttons, fabric, lace, thread, yarn, and 1079
zippers. 1080

(ii) "School supplies" means items commonly used by a 1081
student in a course of study. "School supplies" includes only 1082
the following items: binders; book bags; calculators; cellophane 1083
tape; blackboard chalk; compasses; composition books; crayons; 1084
erasers; folders, expandable, pocket, plastic, and manila; glue, 1085
paste, and paste sticks; highlighters; index cards; index card 1086
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1087
loose-leaf ruled notebook paper, copy paper, graph paper, 1088
tracing paper, manila paper, colored paper, poster board, and 1089
construction paper; pencil boxes and other school supply boxes; 1090
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1091
and writing tablets. "School supplies" does not include any item 1092
purchased for use in a trade or business. 1093

(iii) "School instructional material" means written 1094
material commonly used by a student in a course of study as a 1095
reference and to learn the subject being taught. "School 1096
instructional material" includes only the following items: 1097

reference books, reference maps and globes, textbooks, and 1098
workbooks. "School instructional material" does not include any 1099
material purchased for use in a trade or business. 1100

(56) (a) Sales of adult diapers or incontinence underpads 1101
sold pursuant to a prescription, for the benefit of a medicaid 1102
recipient with a diagnosis of incontinence, and by a medicaid 1103
provider that maintains a valid provider agreement under section 1104
5164.30 of the Revised Code with the department of medicaid, 1105
provided that the medicaid program covers diapers or 1106
incontinence underpads as an incontinence garment. 1107

(b) As used in division (B) (56) (a) of this section, 1108
"incontinence underpad" means an absorbent product, not worn on 1109
the body, designed to protect furniture or other tangible 1110
personal property from soiling or damage due to human 1111
incontinence. 1112

(57) Sales of investment metal bullion and investment 1113
coins. "Investment metal bullion" means any bullion described in 1114
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 1115
whether that bullion is in the physical possession of a trustee. 1116
"Investment coin" means any coin composed primarily of gold, 1117
silver, platinum, or palladium. 1118

(58) Sales of tangible personal property used primarily 1119
for any of the following purposes by a megaproject operator at 1120
the site of a megaproject that satisfies the criteria described 1121
in division (A) (11) (a) (ii) of section 122.17 of the Revised 1122
Code, provided that the sale occurs during the period that the 1123
megaproject operator has an agreement for such megaproject with 1124
the tax credit authority under division (D) of section 122.17 of 1125
the Revised Code that remains in effect and has not expired or 1126
been terminated: 1127

(a) To store, transmit, convey, distribute, recycle,	1128
circulate, or clean water, steam, or other gases used in or	1129
produced as a result of manufacturing activity, including items	1130
that support or aid in the operation of such property;	1131
(b) To clean or prepare inventory, at any stage of storage	1132
or production, or equipment used in a manufacturing activity,	1133
including chemicals, solvents, catalysts, soaps, and other items	1134
that support or aid in the operation of property;	1135
(c) To regulate, treat, filter, condition, improve, clean,	1136
maintain, or monitor environmental conditions within areas where	1137
manufacturing activities take place;	1138
(d) To handle, transport, or convey inventory during	1139
production or manufacturing.	1140
(59) Documentary services charges imposed pursuant to	1141
section 4517.261 or 4781.24 of the Revised Code.	1142
(60) Sales of children's diapers.	1143
(61) Sales of therapeutic or preventative creams and wipes	1144
marketed primarily for use on the skin of children.	1145
(62) Sales of a child restraint device or booster seat	1146
that meets the national highway traffic safety administration	1147
standard for child restraint systems under 49 C.F.R. 571.213.	1148
(63) Sales of cribs intended to provide sleeping	1149
accommodations for children that comply with the United States	1150
consumer product safety commission's safety standard for full-	1151
size baby cribs under 16 C.F.R. 1219 or the commission's safety	1152
standard for non-full-size baby cribs under 16 C.F.R. 1220.	1153
(64) Sales of strollers meant for transporting children	1154
from infancy to about thirty-six months of age that meet the	1155

United States consumer product safety commission safety standard 1156
for carriages and strollers under 16 C.F.R. 1227.2. 1157

(65) The fee imposed by section 3743.22 of the Revised 1158
Code, if it is separately stated on the invoice, bill of sale, 1159
or similar document given by the vendor to the consumer for a 1160
retail sale made in this state. 1161

(66) Sales of eligible tangible personal property 1162
occurring during the period of a sales tax holiday held pursuant 1163
to section 5739.41 of the Revised Code. 1164

(67) Sales of qualifying firearms and ammunition. 1165

As used in division (B) (67) of this section: 1166

(a) "Qualifying firearm" means a portable firearm, 1167
including a rifle, shotgun, pistol, or revolver, that is 1168
designed to be carried and operated by a single person, and 1169
excludes both of the following: 1170

(i) Any such firearm, except in the case of a shotgun, the 1171
barrel of which has an internal diameter larger than fifty 1172
caliber; 1173

(ii) A shotgun, the barrel of which has an internal 1174
diameter larger than ten gauge. 1175

(b) "Ammunition" means ammunition designed for use in a 1176
qualifying firearm. 1177

(C) For the purpose of the proper administration of this 1178
chapter, and to prevent the evasion of the tax, it is presumed 1179
that all sales made in this state are subject to the tax until 1180
the contrary is established. 1181

(D) The tax collected by the vendor from the consumer 1182

under this chapter is not part of the price, but is a tax 1183
collection for the benefit of the state, and of counties levying 1184
an additional sales tax pursuant to section 5739.021 or 5739.026 1185
of the Revised Code and of transit authorities levying an 1186
additional sales tax pursuant to section 5739.023 of the Revised 1187
Code. Except for the discount authorized under section 5739.12 1188
of the Revised Code and the effects of any rounding pursuant to 1189
section 5703.055 of the Revised Code, no person other than the 1190
state or such a county or transit authority shall derive any 1191
benefit from the collection or payment of the tax levied by this 1192
section or section 5739.021, 5739.023, or 5739.026 of the 1193
Revised Code. 1194

Sec. 5747.053. A refundable credit is allowed against a 1195
taxpayer's aggregate tax liability under section 5747.02 of the 1196
Revised Code for a taxpayer or the taxpayer owners of a pass- 1197
through entity that has been issued a tax credit certificate 1198
under division (D) (7) of section 122.1712 of the Revised Code. 1199
The credit shall be claimed for the taxable year stated in the 1200
certificate and equals the amount stated in the certificate. The 1201
credit shall be claimed in the order required under section 1202
5747.98 of the Revised Code. If the credit amount exceeds the 1203
tax otherwise due under section 5747.02 of the Revised Code 1204
after deducting all other credits in that order, the excess 1205
shall be refunded. 1206

Sec. 5747.98. (A) To provide a uniform procedure for 1207
calculating a taxpayer's aggregate tax liability under section 1208
5747.02 of the Revised Code, a taxpayer shall claim any credits 1209
to which the taxpayer is entitled in the following order: 1210

Either the retirement income credit under division (B) of 1211
section 5747.055 of the Revised Code or the lump sum retirement 1212

income credits under divisions (C), (D), and (E) of that	1213
section;	1214
Either the senior citizen credit under division (F) of	1215
section 5747.055 of the Revised Code or the lump sum	1216
distribution credit under division (G) of that section;	1217
The dependent care credit under section 5747.054 of the	1218
Revised Code;	1219
The credit for displaced workers who pay for job training	1220
under section 5747.27 of the Revised Code;	1221
The campaign contribution credit under section 5747.29 of	1222
the Revised Code;	1223
The twenty-dollar personal exemption credit under section	1224
5747.022 of the Revised Code;	1225
The joint filing credit under division (G) <u>(E)</u> of section	1226
5747.05 of the Revised Code;	1227
The earned income credit under section 5747.71 of the	1228
Revised Code;	1229
The nonrefundable credit for education expenses under	1230
section 5747.72 of the Revised Code;	1231
The nonrefundable credit for donations to scholarship	1232
granting organizations under section 5747.73 of the Revised	1233
Code;	1234
The nonrefundable credit for tuition paid to a	1235
nonchartered nonpublic school under section 5747.75 of the	1236
Revised Code;	1237
The nonrefundable vocational job credit under section	1238
5747.057 of the Revised Code;	1239

The nonrefundable job retention credit under division (B)	1240
of section 5747.058 of the Revised Code;	1241
The enterprise zone credit under section 5709.66 of the	1242
Revised Code;	1243
The credit for beginning farmers who participate in a	1244
financial management program under division (B) of section	1245
5747.77 of the Revised Code;	1246
The credit for commercial vehicle operator training	1247
expenses under section 5747.82 of the Revised Code;	1248
The nonrefundable welcome home Ohio (WHO) program credit	1249
under section 122.633 of the Revised Code;	1250
The credit for selling or renting agricultural assets to	1251
beginning farmers under division (A) of section 5747.77 of the	1252
Revised Code;	1253
The credit for purchases of qualifying grape production	1254
property under section 5747.28 of the Revised Code;	1255
The small business investment credit under section 5747.81	1256
of the Revised Code;	1257
The nonrefundable lead abatement credit under section	1258
5747.26 of the Revised Code;	1259
The opportunity zone investment credit under section	1260
122.84 of the Revised Code;	1261
The enterprise zone credits under section 5709.65 of the	1262
Revised Code;	1263
The research and development credit under section 5747.331	1264
of the Revised Code;	1265
The credit for rehabilitating a historic building under	1266

section 5747.76 of the Revised Code;	1267
The nonrefundable Ohio low-income housing tax credit under	1268
section 5747.83 of the Revised Code;	1269
The nonrefundable affordable single-family home credit	1270
under section 5747.84 of the Revised Code;	1271
The nonresident credit under division (A) of section	1272
5747.05 of the Revised Code;	1273
The credit for a resident's out-of-state income under	1274
division (B) of section 5747.05 of the Revised Code;	1275
The refundable motion picture and Broadway theatrical	1276
production credit under section 5747.66 of the Revised Code;	1277
The refundable credit for film and theater capital	1278
improvement projects under section 5747.67 of the Revised Code;	1279
The refundable jobs creation credit or job retention	1280
credit under division (A) of section 5747.058 of the Revised	1281
Code;	1282
The refundable credit for taxes paid by a qualifying	1283
entity granted under section 5747.059 of the Revised Code;	1284
The refundable credits for taxes paid by a qualifying	1285
pass-through entity granted under division (I) of section	1286
5747.08 of the Revised Code;	1287
The refundable credit under section 5747.80 of the Revised	1288
Code for losses on loans made to the Ohio venture capital	1289
program under sections 150.01 to 150.10 of the Revised Code;	1290
The refundable credit for rehabilitating a historic	1291
building under section 5747.76 of the Revised Code;	1292
The refundable credit under section 5747.39 of the Revised	1293

Code for taxes levied under section 5747.38 of the Revised Code 1294
paid by an electing pass-through entity; 1295

The refundable constitutional commerce credit under 1296
section 5747.053 of the Revised Code. 1297

(B) For any credit, except the refundable credits 1298
enumerated in this section and the credit granted under division 1299
(H) of section 5747.08 of the Revised Code, the amount of the 1300
credit for a taxable year shall not exceed the taxpayer's 1301
aggregate amount of tax due under section 5747.02 of the Revised 1302
Code, after allowing for any other credit that precedes it in 1303
the order required under this section. Any excess amount of a 1304
particular credit may be carried forward if authorized under the 1305
section creating that credit. Nothing in this chapter shall be 1306
construed to allow a taxpayer to claim, directly or indirectly, 1307
a credit more than once for a taxable year. 1308

Sec. 5751.56. A refundable credit is allowed against the 1309
tax imposed by section 5751.02 of the Revised Code for any 1310
taxpayer that has been issued a tax credit certificate under 1311
division (D) (7) of section 122.1712 of the Revised Code. The 1312
credit shall be claimed for the tax period stated in the 1313
certificate and equals the amount stated in the certificate. The 1314
credit shall be claimed in the order required under section 1315
5751.98 of the Revised Code. If the credit amount exceeds the 1316
tax otherwise due under section 5751.02 of the Revised Code 1317
after deducting all other credits in that order, the excess 1318
shall be refunded. 1319

Sec. 5751.98. (A) To provide a uniform procedure for 1320
calculating the amount of tax due under this chapter, a taxpayer 1321
shall claim any credits to which it is entitled in the following 1322
order: 1323

The nonrefundable jobs retention credit under division (B) of section 5751.50 of the Revised Code;	1324 1325
The nonrefundable credit for qualified research expenses under division (B) of section 5751.51 of the Revised Code;	1326 1327
The nonrefundable credit for a borrower's qualified research and development loan payments under division (B) of section 5751.52 of the Revised Code;	1328 1329 1330
The nonrefundable credit for calendar years 2010 to 2029 for unused net operating losses under division (B) of section 5751.53 of the Revised Code;	1331 1332 1333
The refundable motion picture and Broadway theatrical production credit under section 5751.54 of the Revised Code;	1334 1335
The refundable jobs creation credit or job retention credit under division (A) of section 5751.50 of the Revised Code;	1336 1337 1338
The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code;	1339 1340 1341
<u>The refundable constitutional commerce credit under section 5751.56 of the Revised Code.</u>	1342 1343
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax period shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating the credit.	1344 1345 1346 1347 1348 1349
Section 2. That existing sections 107.036, 5739.02, 5747.98, and 5751.98 of the Revised Code are hereby repealed.	1350 1351

Section 3. The amendment by this act of section 5739.02 of	1352
the Revised Code applies beginning on the first day of the first	1353
month beginning on or after the effective date of this section.	1354