

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 780**

**Representatives Butler, Strahorn**

**Cosponsor: Representative Henne**

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**A BILL**

To amend sections 5739.01, 5739.02, and 5751.01 and 1  
to enact section 5709.122 of the Revised Code to 2  
provide that a nonprofit hospital is no longer 3  
exempt from property, sales, and commercial 4  
activity taxes if the hospital takes certain 5  
actions to reduce or cease operations at one of 6  
the hospital's facilities. 7

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

**Section 1.** That sections 5739.01, 5739.02, and 5751.01 be 8  
amended and section 5709.122 of the Revised Code be enacted to 9  
read as follows: 10

**Sec. 5709.122.** (A) Any real property owned by an 11  
ineligible nonprofit hospital agency shall not be considered to 12  
be used exclusively for charitable purposes for the purposes of 13  
section 5709.12 of the Revised Code, and may not be exempted 14  
from taxation, for a period of twenty tax years beginning with 15  
the tax year in which the nonprofit hospital agency takes either 16  
of the actions described in division (B) (1) (a) or (b) of this 17  
section. 18

(B) As used in this section:

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(1) "Ineligible nonprofit hospital agency" means a  
nonprofit hospital agency, as defined in section 140.01 of the  
Revised Code, that takes or has taken either of the following  
actions on or after January 1, 2018:

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(a) The agency demolishes or causes to be demolished an  
existing hospital without first complying with the following  
procedures:

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(i) The agency shall offer the property for sale to the  
municipal corporation in which the property is located or, if  
the municipal corporation declines the offer or if the hospital  
is not located in a municipal corporation, to the county in  
which the hospital is located. The offer of sale shall specify  
that no restrictions will be set forth in the deed of sale  
prohibiting the continued operation of the property as a  
hospital, and shall specify a sale price not exceeding the true  
value in money of the land as listed for taxation excluding the  
value of any buildings, structures, or improvements on the land,  
except that if a good faith estimate of the cost of demolition  
exceeds the true value of the land, the offer shall state a sale  
price of one dollar.

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Within thirty days after receiving such an offer, the  
municipal corporation or county shall accept or decline the  
offer. If a municipal corporation or county does not respond  
within thirty days after receiving the offer, the offer shall be  
considered to have been declined. Within thirty days after an  
offer is declined, the legislative authority of a municipal  
corporation or, if the property is not located in a municipal  
corporation, of a county may adopt a resolution approving or  
disapproving of the demolition. When determining whether to

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approve or disapprove of the demolition, the legislative 49  
authority shall consider, among other factors at its discretion, 50  
the capacity of any new inpatient, emergency room, and other 51  
facilities that could replace the existing hospital. 52

(ii) If an offer of sale under division (B) (1) (a) (i) of 53  
this section is declined by a municipal corporation, a county, 54  
or both, as applicable, and if the legislative authority of the 55  
municipal corporation or county does not adopt a resolution 56  
approving of the demolition, the agency shall offer the property 57  
for sale at a public auction. 58

The agency shall cause notice of the auction to be 59  
published three times, once during each of the three months 60  
beginning after the month in which the legislative authority 61  
either adopted a resolution disapproving of the demolition or 62  
failed to adopt a resolution approving of the demolition. The 63  
notice shall be published in one or more hospital administration 64  
journals of national circulation. The agency shall pay the cost 65  
of publication. 66

The notice shall state the date of the auction and the 67  
obligations required of the winning bidder under this division. 68  
The auction shall occur at least six, but not more than eight, 69  
months after the legislative authority either adopts a 70  
resolution disapproving of the demolition or fails to adopt a 71  
resolution approving of the demolition. 72

The minimum bid at the auction shall equal at least fifty 73  
per cent of the amount for which the property was offered for 74  
sale under division (B) (1) (a) (i) of this section. To qualify to 75  
place a bid, a bidder shall affirm that the bidder will operate 76  
the existing hospital at a capacity that is equal to at least 77  
ninety per cent of the hospital's historical capacity by a date 78

specified in the contract for sale. Such date shall be not more 79  
than five years from the date the contract is entered into. 80

The contract shall state that the municipal corporation or 81  
county is a third-party beneficiary of the contract and that the 82  
winning bidder shall make payments to be held in escrow by the 83  
municipal corporation or county. The amount of the payments 84  
shall equal the amount of current taxes, as defined by section 85  
323.01 of the Revised Code, that would be charged and payable on 86  
all property located in the county and owned by the winning 87  
bidder and, if the winning bidder is a related member of the 88  
agency, on all property in the county owned by the agency, if 89  
that property were not exempted from taxation. Such payments 90  
shall be made on or before each of the days property taxes are 91  
payable without penalty under section 323.12 of the Revised Code 92  
and for each year beginning with the year in which the contract 93  
for sale is entered into and ending with the year in which the 94  
winning bidder begins operating the hospital at ninety per cent 95  
of its historical capacity. A municipal corporation or county 96  
may accept any form of surety for the payment of amounts to be 97  
held in escrow. 98

If the winning bidder begins operating the hospital at or 99  
above ninety per cent of its historical capacity before the 100  
deadline set in the contract, the municipal corporation or 101  
county that holds the payments in escrow shall pay the escrowed 102  
money, including any interest that accrued to that money while 103  
in escrow, to the winning bidder. If the winning bidder fails to 104  
begin operating the hospital at or above ninety per cent of its 105  
historical capacity on or before that deadline, the municipal 106  
corporation or county shall pay the escrowed money and accrued 107  
interest, and any escrowed money remitted thereafter, to the 108  
county treasurer, who shall credit the money to the undivided 109

general tax fund in the county treasury. Within thirty days 110  
after the money is credited to the fund, the county auditor 111  
shall distribute the amount so credited to that fund among the 112  
various taxing units in the county as if the amount had been 113  
levied, collected, and settled as real property taxes. The 114  
amount so distributed to each taxing unit shall not be reduced 115  
by the amounts computed for the district under section 5703.80 116  
of the Revised Code. 117

The terms of the contract shall run with the land and 118  
shall apply to all successors or assigns of the winning bidder 119  
and the agency. 120

(b) The agency alters or causes to be altered a building, 121  
structure, improvement, or fixture constituting any part of an 122  
existing hospital in such a way or to such an extent as to 123  
render the hospital incapable of being operated as a hospital at 124  
the same capacity as the hospital was being operated before the 125  
alteration. 126

"Ineligible nonprofit hospital agency" includes any 127  
nonprofit hospital agency that succeeds to another ineligible 128  
nonprofit hospital agency's interest in property demolished or 129  
altered on or after January 1, 2018, as described in division 130  
(B)(1)(a) or (b) of this section, or that transferred to another 131  
person its interest in a hospital within five years before the 132  
hospital is demolished or altered as described in those 133  
divisions. 134

(2) "Historical capacity" means the average number of 135  
patients that the ineligible nonprofit hospital agency served in 136  
the inpatient and emergency departments of the hospital over a 137  
five-year measurement period. The last day of the measurement 138  
period shall be the later of the following: 139

(a) The first day on which the number of patients that 140  
could be served by those departments is fifty per cent or less 141  
of the number of patients that could be served by those 142  
departments on the same date five years earlier. 143

(b) The date that is ten years before the date on which 144  
the offer for sale of the hospital is made under division (B)(1) 145  
(a)(i) of this section. 146

The measurement period shall include the five years 147  
immediately preceding that end date. 148

(3) "Related member" has the same meaning as in section 149  
5733.042 of the Revised Code. 150

**Sec. 5739.01.** As used in this chapter: 151

(A) "Person" includes individuals, receivers, assignees, 152  
trustees in bankruptcy, estates, firms, partnerships, 153  
associations, joint-stock companies, joint ventures, clubs, 154  
societies, corporations, the state and its political 155  
subdivisions, and combinations of individuals of any form. 156

(B) "Sale" and "selling" include all of the following 157  
transactions for a consideration in any manner, whether 158  
absolutely or conditionally, whether for a price or rental, in 159  
money or by exchange, and by any means whatsoever: 160

(1) All transactions by which title or possession, or 161  
both, of tangible personal property, is or is to be transferred, 162  
or a license to use or consume tangible personal property is or 163  
is to be granted; 164

(2) All transactions by which lodging by a hotel is or is 165  
to be furnished to transient guests; 166

(3) All transactions by which: 167

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| (a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;   | 168<br>169<br>170<br>171  |
| (b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;  | 172<br>173<br>174<br>175<br>176<br>177<br>178   |
| (c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;  | 179<br>180  |
| (d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;   | 181<br>182<br>183<br>184  |
| (e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with | 185<br>186<br>187<br>188<br>189<br>190<br>191<br>192<br>193<br>194<br>195<br>196<br>197 |

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| stock, one corporation owns or controls another if it owns more  | 198 |
| than fifty per cent of the other corporation's common stock with | 199 |
| voting rights.   | 200 |
| (f) Telecommunications service, including prepaid calling        | 201 |
| service, prepaid wireless calling service, or ancillary service, | 202 |
| is or is to be provided, but not including coin-operated         | 203 |
| telephone service;   | 204 |
| (g) Landscaping and lawn care service is or is to be             | 205 |
| provided;  | 206 |
| (h) Private investigation and security service is or is to       | 207 |
| be provided;   | 208 |
| (i) Information services or tangible personal property is        | 209 |
| provided or ordered by means of a nine hundred telephone call;   | 210 |
| (j) Building maintenance and janitorial service is or is         | 211 |
| to be provided;  | 212 |
| (k) Employment service is or is to be provided;                  | 213 |
| (l) Employment placement service is or is to be provided;        | 214 |
| (m) Exterminating service is or is to be provided;               | 215 |
| (n) Physical fitness facility service is or is to be             | 216 |
| provided;  | 217 |
| (o) Recreation and sports club service is or is to be            | 218 |
| provided;  | 219 |
| (p) On and after August 1, 2003, satellite broadcasting          | 220 |
| service is or is to be provided;                                 | 221 |
| (q) On and after August 1, 2003, personal care service is        | 222 |
| or is to be provided to an individual. As used in this division, | 223 |
| "personal care service" includes skin care, the application of   | 224 |



cosmetics, manicuring, pedicuring, hair removal, tattooing, body 225  
piercing, tanning, massage, and other similar services. 226

"Personal care service" does not include a service provided by 227  
or on the order of a licensed physician or licensed 228  
chiropractor, or the cutting, coloring, or styling of an 229  
individual's hair. 230

(r) On and after August 1, 2003, the transportation of 231  
persons by motor vehicle or aircraft is or is to be provided, 232  
when the transportation is entirely within this state, except 233  
for transportation provided by an ambulance service, by a 234  
transit bus, as defined in section 5735.01 of the Revised Code, 235  
and transportation provided by a citizen of the United States 236  
holding a certificate of public convenience and necessity issued 237  
under 49 U.S.C. 41102; 238

(s) On and after August 1, 2003, motor vehicle towing 239  
service is or is to be provided. As used in this division, 240  
"motor vehicle towing service" means the towing or conveyance of 241  
a wrecked, disabled, or illegally parked motor vehicle. 242

(t) On and after August 1, 2003, snow removal service is 243  
or is to be provided. As used in this division, "snow removal 244  
service" means the removal of snow by any mechanized means, but 245  
does not include the providing of such service by a person that 246  
has less than five thousand dollars in sales of such service 247  
during the calendar year. 248

(u) Electronic publishing service is or is to be provided 249  
to a consumer for use in business, except that such transactions 250  
occurring between members of an affiliated group, as defined in 251  
division (B) (3) (e) of this section, are not sales. 252

(4) All transactions by which printed, imprinted, 253

overprinted, lithographic, multilithic, blueprinted, 254  
photostatic, or other productions or reproductions of written or 255  
graphic matter are or are to be furnished or transferred; 256

(5) The production or fabrication of tangible personal 257  
property for a consideration for consumers who furnish either 258  
directly or indirectly the materials used in the production of 259  
fabrication work; and include the furnishing, preparing, or 260  
serving for a consideration of any tangible personal property 261  
consumed on the premises of the person furnishing, preparing, or 262  
serving such tangible personal property. Except as provided in 263  
section 5739.03 of the Revised Code, a construction contract 264  
pursuant to which tangible personal property is or is to be 265  
incorporated into a structure or improvement on and becoming a 266  
part of real property is not a sale of such tangible personal 267  
property. The construction contractor is the consumer of such 268  
tangible personal property, provided that the sale and 269  
installation of carpeting, the sale and installation of 270  
agricultural land tile, the sale and erection or installation of 271  
portable grain bins, or the provision of landscaping and lawn 272  
care service and the transfer of property as part of such 273  
service is never a construction contract. 274

As used in division (B) (5) of this section: 275

(a) "Agricultural land tile" means fired clay or concrete 276  
tile, or flexible or rigid perforated plastic pipe or tubing, 277  
incorporated or to be incorporated into a subsurface drainage 278  
system appurtenant to land used or to be used primarily in 279  
production by farming, agriculture, horticulture, or 280  
floriculture. The term does not include such materials when they 281  
are or are to be incorporated into a drainage system appurtenant 282  
to a building or structure even if the building or structure is 283

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| used or to be used in such production.                           | 284 |
| (b) "Portable grain bin" means a structure that is used or       | 285 |
| to be used by a person engaged in farming or agriculture to      | 286 |
| shelter the person's grain and that is designed to be            | 287 |
| disassembled without significant damage to its component parts.  | 288 |
| (6) All transactions in which all of the shares of stock         | 289 |
| of a closely held corporation are transferred, or an ownership   | 290 |
| interest in a pass-through entity, as defined in section 5733.04 | 291 |
| of the Revised Code, is transferred, if the corporation or pass- | 292 |
| through entity is not engaging in business and its entire assets | 293 |
| consist of boats, planes, motor vehicles, or other tangible      | 294 |
| personal property operated primarily for the use and enjoyment   | 295 |
| of the shareholders or owners;                                   | 296 |
| (7) All transactions in which a warranty, maintenance or         | 297 |
| service contract, or similar agreement by which the vendor of    | 298 |
| the warranty, contract, or agreement agrees to repair or         | 299 |
| maintain the tangible personal property of the consumer is or is | 300 |
| to be provided;  | 301 |
| (8) The transfer of copyrighted motion picture films used        | 302 |
| solely for advertising purposes, except that the transfer of     | 303 |
| such films for exhibition purposes is not a sale;                | 304 |
| (9) On and after August 1, 2003, all transactions by which       | 305 |
| tangible personal property is or is to be stored, except such    | 306 |
| property that the consumer of the storage holds for sale in the  | 307 |
| regular course of business;                                      | 308 |
| (10) All transactions in which "guaranteed auto                  | 309 |
| protection" is provided whereby a person promises to pay to the  | 310 |
| consumer the difference between the amount the consumer receives | 311 |
| from motor vehicle insurance and the amount the consumer owes to | 312 |

a person holding title to or a lien on the consumer's motor 313  
vehicle in the event the consumer's motor vehicle suffers a 314  
total loss under the terms of the motor vehicle insurance policy 315  
or is stolen and not recovered, if the protection and its price 316  
are included in the purchase or lease agreement; 317

(11) (a) Except as provided in division (B) (11) (b) of this 318  
section, on and after October 1, 2009, all transactions by which 319  
health care services are paid for, reimbursed, provided, 320  
delivered, arranged for, or otherwise made available by a 321  
medicaid health insuring corporation pursuant to the 322  
corporation's contract with the state. 323

(b) If the centers for medicare and medicaid services of 324  
the United States department of health and human services 325  
determines that the taxation of transactions described in 326  
division (B) (11) (a) of this section constitutes an impermissible 327  
health care-related tax under the "Social Security Act," section 328  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 329  
the medicaid director shall notify the tax commissioner of that 330  
determination. Beginning with the first day of the month 331  
following that notification, the transactions described in 332  
division (B) (11) (a) of this section are not sales for the 333  
purposes of this chapter or Chapter 5741. of the Revised Code. 334  
The tax commissioner shall order that the collection of taxes 335  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 336  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 337  
for transactions occurring on or after that date. 338

(12) All transactions by which a specified digital product 339  
is provided for permanent use or less than permanent use, 340  
regardless of whether continued payment is required. 341

Except as provided in this section, "sale" and "selling" 342

do not include transfers of interest in leased property where 343  
the original lessee and the terms of the original lease 344  
agreement remain unchanged, or professional, insurance, or 345  
personal service transactions that involve the transfer of 346  
tangible personal property as an inconsequential element, for 347  
which no separate charges are made. 348

(C) "Vendor" means the person providing the service or by 349  
whom the transfer effected or license given by a sale is or is 350  
to be made or given and, for sales described in division (B)(3) 351  
(i) of this section, the telecommunications service vendor that 352  
provides the nine hundred telephone service; if two or more 353  
persons are engaged in business at the same place of business 354  
under a single trade name in which all collections on account of 355  
sales by each are made, such persons shall constitute a single 356  
vendor. 357

Physicians, dentists, hospitals, and veterinarians who are 358  
engaged in selling tangible personal property as received from 359  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 360  
articles, are vendors. Veterinarians who are engaged in 361  
transferring to others for a consideration drugs, the dispensing 362  
of which does not require an order of a licensed veterinarian or 363  
physician under federal law, are vendors. 364

(D) (1) "Consumer" means the person for whom the service is 365  
provided, to whom the transfer effected or license given by a 366  
sale is or is to be made or given, to whom the service described 367  
in division (B)(3)(f) or (i) of this section is charged, or to 368  
whom the admission is granted. 369

(2) Physicians, dentists, hospitals, and blood banks 370  
operated by nonprofit institutions and persons licensed to 371  
practice veterinary medicine, surgery, and dentistry are 372

consumers of all tangible personal property and services 373  
purchased by them in connection with the practice of medicine, 374  
dentistry, the rendition of hospital or blood bank service, or 375  
the practice of veterinary medicine, surgery, and dentistry. In 376  
addition to being consumers of drugs administered by them or by 377  
their assistants according to their direction, veterinarians 378  
also are consumers of drugs that under federal law may be 379  
dispensed only by or upon the order of a licensed veterinarian 380  
or physician, when transferred by them to others for a 381  
consideration to provide treatment to animals as directed by the 382  
veterinarian. 383

(3) A person who performs a facility management, or 384  
similar service contract for a contractee is a consumer of all 385  
tangible personal property and services purchased for use in 386  
connection with the performance of such contract, regardless of 387  
whether title to any such property vests in the contractee. The 388  
purchase of such property and services is not subject to the 389  
exception for resale under division (E) of this section. 390

(4) (a) In the case of a person who purchases printed 391  
matter for the purpose of distributing it or having it 392  
distributed to the public or to a designated segment of the 393  
public, free of charge, that person is the consumer of that 394  
printed matter, and the purchase of that printed matter for that 395  
purpose is a sale. 396

(b) In the case of a person who produces, rather than 397  
purchases, printed matter for the purpose of distributing it or 398  
having it distributed to the public or to a designated segment 399  
of the public, free of charge, that person is the consumer of 400  
all tangible personal property and services purchased for use or 401  
consumption in the production of that printed matter. That 402

person is not entitled to claim exemption under division (B) (42) 403  
(f) of section 5739.02 of the Revised Code for any material 404  
incorporated into the printed matter or any equipment, supplies, 405  
or services primarily used to produce the printed matter. 406

(c) The distribution of printed matter to the public or to 407  
a designated segment of the public, free of charge, is not a 408  
sale to the members of the public to whom the printed matter is 409  
distributed or to any persons who purchase space in the printed 410  
matter for advertising or other purposes. 411

(5) A person who makes sales of any of the services listed 412  
in division (B) (3) of this section is the consumer of any 413  
tangible personal property used in performing the service. The 414  
purchase of that property is not subject to the resale exception 415  
under division (E) of this section. 416

(6) A person who engages in highway transportation for 417  
hire is the consumer of all packaging materials purchased by 418  
that person and used in performing the service, except for 419  
packaging materials sold by such person in a transaction 420  
separate from the service. 421

(7) In the case of a transaction for health care services 422  
under division (B) (11) of this section, a medicaid health 423  
insuring corporation is the consumer of such services. The 424  
purchase of such services by a medicaid health insuring 425  
corporation is not subject to the exception for resale under 426  
division (E) of this section or to the exemptions provided under 427  
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 428  
the Revised Code. 429

(E) "Retail sale" and "sales at retail" include all sales, 430  
except those in which the purpose of the consumer is to resell 431

the thing transferred or benefit of the service provided, by a 432  
person engaging in business, in the form in which the same is, 433  
or is to be, received by the person. 434

(F) "Business" includes any activity engaged in by any 435  
person with the object of gain, benefit, or advantage, either 436  
direct or indirect. "Business" does not include the activity of 437  
a person in managing and investing the person's own funds. 438

(G) "Engaging in business" means commencing, conducting, 439  
or continuing in business, and liquidating a business when the 440  
liquidator thereof holds itself out to the public as conducting 441  
such business. Making a casual sale is not engaging in business. 442

(H) (1) (a) "Price," except as provided in divisions (H) (2), 443  
(3), and (4) of this section, means the total amount of 444  
consideration, including cash, credit, property, and services, 445  
for which tangible personal property or services are sold, 446  
leased, or rented, valued in money, whether received in money or 447  
otherwise, without any deduction for any of the following: 448

(i) The vendor's cost of the property sold; 449

(ii) The cost of materials used, labor or service costs, 450  
interest, losses, all costs of transportation to the vendor, all 451  
taxes imposed on the vendor, including the tax imposed under 452  
Chapter 5751. of the Revised Code, and any other expense of the 453  
vendor; 454

(iii) Charges by the vendor for any services necessary to 455  
complete the sale; 456

(iv) On and after August 1, 2003, delivery charges. As 457  
used in this division, "delivery charges" means charges by the 458  
vendor for preparation and delivery to a location designated by 459  
the consumer of tangible personal property or a service, 460



including transportation, shipping, postage, handling, crating, 461  
and packing. 462

(v) Installation charges; 463

(vi) Credit for any trade-in. 464

(b) "Price" includes consideration received by the vendor 465  
from a third party, if the vendor actually receives the 466  
consideration from a party other than the consumer, and the 467  
consideration is directly related to a price reduction or 468  
discount on the sale; the vendor has an obligation to pass the 469  
price reduction or discount through to the consumer; the amount 470  
of the consideration attributable to the sale is fixed and 471  
determinable by the vendor at the time of the sale of the item 472  
to the consumer; and one of the following criteria is met: 473

(i) The consumer presents a coupon, certificate, or other 474  
document to the vendor to claim a price reduction or discount 475  
where the coupon, certificate, or document is authorized, 476  
distributed, or granted by a third party with the understanding 477  
that the third party will reimburse any vendor to whom the 478  
coupon, certificate, or document is presented; 479

(ii) The consumer identifies the consumer's self to the 480  
seller as a member of a group or organization entitled to a 481  
price reduction or discount. A preferred customer card that is 482  
available to any patron does not constitute membership in such a 483  
group or organization. 484

(iii) The price reduction or discount is identified as a 485  
third party price reduction or discount on the invoice received 486  
by the consumer, or on a coupon, certificate, or other document 487  
presented by the consumer. 488

(c) "Price" does not include any of the following: 489

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| (i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;   | 490<br>491<br>492   |
| (ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;  | 493<br>494<br>495<br>496  |
| (iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.   | 497<br>498<br>499<br>500<br>501<br>502                                    |
| (iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.   | 503<br>504<br>505<br>506<br>507   |
| (v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card. | 508<br>509<br>510<br>511<br>512<br>513<br>514<br>515<br>516<br>517<br>518 |

(2) In the case of a sale of any new motor vehicle by a 519  
new motor vehicle dealer, as defined in section 4517.01 of the 520  
Revised Code, in which another motor vehicle is accepted by the 521  
dealer as part of the consideration received, "price" has the 522  
same meaning as in division (H)(1) of this section, reduced by 523  
the credit afforded the consumer by the dealer for the motor 524  
vehicle received in trade. 525

(3) In the case of a sale of any watercraft or outboard 526  
motor by a watercraft dealer licensed in accordance with section 527  
1547.543 of the Revised Code, in which another watercraft, 528  
watercraft and trailer, or outboard motor is accepted by the 529  
dealer as part of the consideration received, "price" has the 530  
same meaning as in division (H)(1) of this section, reduced by 531  
the credit afforded the consumer by the dealer for the 532  
watercraft, watercraft and trailer, or outboard motor received 533  
in trade. As used in this division, "watercraft" includes an 534  
outdrive unit attached to the watercraft. 535

(4) In the case of transactions for health care services 536  
under division (B)(11) of this section, "price" means the amount 537  
of managed care premiums received each month by a medicaid 538  
health insuring corporation. 539

(I) "Receipts" means the total amount of the prices of the 540  
sales of vendors, provided that the dollar value of gift cards 541  
distributed pursuant to an awards, loyalty, or promotional 542  
program, and cash discounts allowed and taken on sales at the 543  
time they are consummated are not included, minus any amount 544  
deducted as a bad debt pursuant to section 5739.121 of the 545  
Revised Code. "Receipts" does not include the sale price of 546  
property returned or services rejected by consumers when the 547  
full sale price and tax are refunded either in cash or by 548

credit. 549

(J) "Place of business" means any location at which a 550  
person engages in business. 551

(K) "Premises" includes any real property or portion 552  
thereof upon which any person engages in selling tangible 553  
personal property at retail or making retail sales and also 554  
includes any real property or portion thereof designated for, or 555  
devoted to, use in conjunction with the business engaged in by 556  
such person. 557

(L) "Casual sale" means a sale of an item of tangible 558  
personal property that was obtained by the person making the 559  
sale, through purchase or otherwise, for the person's own use 560  
and was previously subject to any state's taxing jurisdiction on 561  
its sale or use, and includes such items acquired for the 562  
seller's use that are sold by an auctioneer employed directly by 563  
the person for such purpose, provided the location of such sales 564  
is not the auctioneer's permanent place of business. As used in 565  
this division, "permanent place of business" includes any 566  
location where such auctioneer has conducted more than two 567  
auctions during the year. 568

(M) "Hotel" means every establishment kept, used, 569  
maintained, advertised, or held out to the public to be a place 570  
where sleeping accommodations are offered to guests, in which 571  
five or more rooms are used for the accommodation of such 572  
guests, whether the rooms are in one or several structures, 573  
except as otherwise provided in division (G) of section 5739.09 574  
of the Revised Code. 575

(N) "Transient guests" means persons occupying a room or 576  
rooms for sleeping accommodations for less than thirty 577

consecutive days. 578

(O) "Making retail sales" means the effecting of 579  
transactions wherein one party is obligated to pay the price and 580  
the other party is obligated to provide a service or to transfer 581  
title to or possession of the item sold. "Making retail sales" 582  
does not include the preliminary acts of promoting or soliciting 583  
the retail sales, other than the distribution of printed matter 584  
which displays or describes and prices the item offered for 585  
sale, nor does it include delivery of a predetermined quantity 586  
of tangible personal property or transportation of property or 587  
personnel to or from a place where a service is performed. 588

(P) "Used directly in the rendition of a public utility 589  
service" means that property that is to be incorporated into and 590  
will become a part of the consumer's production, transmission, 591  
transportation, or distribution system and that retains its 592  
classification as tangible personal property after such 593  
incorporation; fuel or power used in the production, 594  
transmission, transportation, or distribution system; and 595  
tangible personal property used in the repair and maintenance of 596  
the production, transmission, transportation, or distribution 597  
system, including only such motor vehicles as are specially 598  
designed and equipped for such use. Tangible personal property 599  
and services used primarily in providing highway transportation 600  
for hire are not used directly in the rendition of a public 601  
utility service. In this definition, "public utility" includes a 602  
citizen of the United States holding, and required to hold, a 603  
certificate of public convenience and necessity issued under 49 604  
U.S.C. 41102. 605

(Q) "Refining" means removing or separating a desirable 606  
product from raw or contaminated materials by distillation or 607

physical, mechanical, or chemical processes. 608

(R) "Assembly" and "assembling" mean attaching or fitting 609  
together parts to form a product, but do not include packaging a 610  
product. 611

(S) "Manufacturing operation" means a process in which 612  
materials are changed, converted, or transformed into a 613  
different state or form from which they previously existed and 614  
includes refining materials, assembling parts, and preparing raw 615  
materials and parts by mixing, measuring, blending, or otherwise 616  
committing such materials or parts to the manufacturing process. 617  
"Manufacturing operation" does not include packaging. 618

(T) "Fiscal officer" means, with respect to a regional 619  
transit authority, the secretary-treasurer thereof, and with 620  
respect to a county that is a transit authority, the fiscal 621  
officer of the county transit board if one is appointed pursuant 622  
to section 306.03 of the Revised Code or the county auditor if 623  
the board of county commissioners operates the county transit 624  
system. 625

(U) "Transit authority" means a regional transit authority 626  
created pursuant to section 306.31 of the Revised Code or a 627  
county in which a county transit system is created pursuant to 628  
section 306.01 of the Revised Code. For the purposes of this 629  
chapter, a transit authority must extend to at least the entire 630  
area of a single county. A transit authority that includes 631  
territory in more than one county must include all the area of 632  
the most populous county that is a part of such transit 633  
authority. County population shall be measured by the most 634  
recent census taken by the United States census bureau. 635

(V) "Legislative authority" means, with respect to a 636

regional transit authority, the board of trustees thereof, and 637  
with respect to a county that is a transit authority, the board 638  
of county commissioners. 639

(W) "Territory of the transit authority" means all of the 640  
area included within the territorial boundaries of a transit 641  
authority as they from time to time exist. Such territorial 642  
boundaries must at all times include all the area of a single 643  
county or all the area of the most populous county that is a 644  
part of such transit authority. County population shall be 645  
measured by the most recent census taken by the United States 646  
census bureau. 647

(X) "Providing a service" means providing or furnishing 648  
anything described in division (B) (3) of this section for 649  
consideration. 650

(Y) (1) (a) "Automatic data processing" means processing of 651  
others' data, including keypunching or similar data entry 652  
services together with verification thereof, or providing access 653  
to computer equipment for the purpose of processing data. 654

(b) "Computer services" means providing services 655  
consisting of specifying computer hardware configurations and 656  
evaluating technical processing characteristics, computer 657  
programming, and training of computer programmers and operators, 658  
provided in conjunction with and to support the sale, lease, or 659  
operation of taxable computer equipment or systems. 660

(c) "Electronic information services" means providing 661  
access to computer equipment by means of telecommunications 662  
equipment for the purpose of either of the following: 663

(i) Examining or acquiring data stored in or accessible to 664  
the computer equipment; 665

(ii) Placing data into the computer equipment to be 666  
retrieved by designated recipients with access to the computer 667  
equipment. 668

For transactions occurring on or after the effective date 669  
of the amendment of this section by H.B. 157 of the 127th 670  
general assembly, December 21, 2007, "electronic information 671  
services" does not include electronic publishing as defined in 672  
division (LLL) of this section. 673

(d) "Automatic data processing, computer services, or 674  
electronic information services" shall not include personal or 675  
professional services. 676

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 677  
section, "personal and professional services" means all services 678  
other than automatic data processing, computer services, or 679  
electronic information services, including but not limited to: 680

(a) Accounting and legal services such as advice on tax 681  
matters, asset management, budgetary matters, quality control, 682  
information security, and auditing and any other situation where 683  
the service provider receives data or information and studies, 684  
alters, analyzes, interprets, or adjusts such material; 685

(b) Analyzing business policies and procedures; 686

(c) Identifying management information needs; 687

(d) Feasibility studies, including economic and technical 688  
analysis of existing or potential computer hardware or software 689  
needs and alternatives; 690

(e) Designing policies, procedures, and custom software 691  
for collecting business information, and determining how data 692  
should be summarized, sequenced, formatted, processed, 693



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| controlled, and reported so that it will be meaningful to management;  | 694<br>695                                    |
| (f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;  | 696<br>697<br>698                             |
| (g) Testing of business procedures;  | 699   |
| (h) Training personnel in business procedure applications;   | 700   |
| (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium; | 701<br>702<br>703<br>704<br>705<br>706<br>707 |
| (j) Providing debt collection services by any oral, written, graphic, or electronic means;   | 708<br>709                                    |
| (k) Providing digital advertising services.  | 710   |
| The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.  | 711<br>712                                    |
| (Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:   | 713<br>714<br>715                             |
| (1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;  | 716<br>717<br>718<br>719<br>720               |

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z) (1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z) (1) or (2) of this section.

(AA) (1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

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| (c) Tangible personal property;   | 750  |
| (d) Advertising, including directory advertising;   | 751  |
| (e) Billing and collection services provided to third parties;  | 752<br>753   |
| (f) Internet access service;  | 754  |
| (g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3; | 755<br>756<br>757<br>758<br>759<br>760<br>761<br>762 |
| (h) Ancillary service;  | 763  |
| (i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.  | 764<br>765   |
| (2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:   | 766<br>767<br>768<br>769<br>770<br>771               |
| (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.  | 772<br>773<br>774<br>775<br>776                      |
| (b) "Detailed telecommunications billing service" means an  | 777  |

ancillary service of separately stating information pertaining 778  
to individual calls on a customer's billing statement. 779

(c) "Directory assistance" means an ancillary service of 780  
providing telephone number or address information. 781

(d) "Vertical service" means an ancillary service that is 782  
offered in connection with one or more telecommunications 783  
services, which offers advanced calling features that allow 784  
customers to identify callers and manage multiple calls and call 785  
connections, including conference bridging service. 786

(e) "Voice mail service" means an ancillary service that 787  
enables the customer to store, send, or receive recorded 788  
messages. "Voice mail service" does not include any vertical 789  
services that the customer may be required to have in order to 790  
utilize the voice mail service. 791

(3) "900 service" means an inbound toll telecommunications 792  
service purchased by a subscriber that allows the subscriber's 793  
customers to call in to the subscriber's prerecorded 794  
announcement or live service, and which is typically marketed 795  
under the name "900 service" and any subsequent numbers 796  
designated by the federal communications commission. "900 797  
service" does not include the charge for collection services 798  
provided by the seller of the telecommunications service to the 799  
subscriber, or services or products sold by the subscriber to 800  
the subscriber's customer. 801

(4) "Prepaid calling service" means the right to access 802  
exclusively telecommunications services, which must be paid for 803  
in advance and which enables the origination of calls using an 804  
access number or authorization code, whether manually or 805  
electronically dialed, and that is sold in predetermined units 806

or dollars of which the number declines with use in a known 807  
amount. 808

(5) "Prepaid wireless calling service" means a 809  
telecommunications service that provides the right to utilize 810  
mobile telecommunications service as well as other non- 811  
telecommunications services, including the download of digital 812  
products delivered electronically, and content and ancillary 813  
services, that must be paid for in advance and that is sold in 814  
predetermined units or dollars of which the number declines with 815  
use in a known amount. 816

(6) "Value-added non-voice data service" means a 817  
telecommunications service in which computer processing 818  
applications are used to act on the form, content, code, or 819  
protocol of the information or data primarily for a purpose 820  
other than transmission, conveyance, or routing. 821

(7) "Coin-operated telephone service" means a 822  
telecommunications service paid for by inserting money into a 823  
telephone accepting direct deposits of money to operate. 824

(8) "Customer" has the same meaning as in section 5739.034 825  
of the Revised Code. 826

(BB) "Laundry and dry cleaning services" means removing 827  
soil or dirt from towels, linens, articles of clothing, or other 828  
fabric items that belong to others and supplying towels, linens, 829  
articles of clothing, or other fabric items. "Laundry and dry 830  
cleaning services" does not include the provision of self- 831  
service facilities for use by consumers to remove soil or dirt 832  
from towels, linens, articles of clothing, or other fabric 833  
items. 834

(CC) "Magazines distributed as controlled circulation 835

publications" means magazines containing at least twenty-four 836  
pages, at least twenty-five per cent editorial content, issued 837  
at regular intervals four or more times a year, and circulated 838  
without charge to the recipient, provided that such magazines 839  
are not owned or controlled by individuals or business concerns 840  
which conduct such publications as an auxiliary to, and 841  
essentially for the advancement of the main business or calling 842  
of, those who own or control them. 843

(DD) "Landscaping and lawn care service" means the 844  
services of planting, seeding, sodding, removing, cutting, 845  
trimming, pruning, mulching, aerating, applying chemicals, 846  
watering, fertilizing, and providing similar services to 847  
establish, promote, or control the growth of trees, shrubs, 848  
flowers, grass, ground cover, and other flora, or otherwise 849  
maintaining a lawn or landscape grown or maintained by the owner 850  
for ornamentation or other nonagricultural purpose. However, 851  
"landscaping and lawn care service" does not include the 852  
providing of such services by a person who has less than five 853  
thousand dollars in sales of such services during the calendar 854  
year. 855

(EE) "Private investigation and security service" means 856  
the performance of any activity for which the provider of such 857  
service is required to be licensed pursuant to Chapter 4749. of 858  
the Revised Code, or would be required to be so licensed in 859  
performing such services in this state, and also includes the 860  
services of conducting polygraph examinations and of monitoring 861  
or overseeing the activities on or in, or the condition of, the 862  
consumer's home, business, or other facility by means of 863  
electronic or similar monitoring devices. "Private investigation 864  
and security service" does not include special duty services 865  
provided by off-duty police officers, deputy sheriffs, and other 866

peace officers regularly employed by the state or a political 867  
subdivision. 868

(FF) "Information services" means providing conversation, 869  
giving consultation or advice, playing or making a voice or 870  
other recording, making or keeping a record of the number of 871  
callers, and any other service provided to a consumer by means 872  
of a nine hundred telephone call, except when the nine hundred 873  
telephone call is the means by which the consumer makes a 874  
contribution to a recognized charity. 875

(GG) "Research and development" means designing, creating, 876  
or formulating new or enhanced products, equipment, or 877  
manufacturing processes, and also means conducting scientific or 878  
technological inquiry and experimentation in the physical 879  
sciences with the goal of increasing scientific knowledge which 880  
may reveal the bases for new or enhanced products, equipment, or 881  
manufacturing processes. 882

(HH) "Qualified research and development equipment" means 883  
capitalized tangible personal property, and leased personal 884  
property that would be capitalized if purchased, used by a 885  
person primarily to perform research and development. Tangible 886  
personal property primarily used in testing, as defined in 887  
division (A) (4) of section 5739.011 of the Revised Code, or used 888  
for recording or storing test results, is not qualified research 889  
and development equipment unless such property is primarily used 890  
by the consumer in testing the product, equipment, or 891  
manufacturing process being created, designed, or formulated by 892  
the consumer in the research and development activity or in 893  
recording or storing such test results. 894

(II) "Building maintenance and janitorial service" means 895  
cleaning the interior or exterior of a building and any tangible 896

personal property located therein or thereon, including any 897  
services incidental to such cleaning for which no separate 898  
charge is made. However, "building maintenance and janitorial 899  
service" does not include the providing of such service by a 900  
person who has less than five thousand dollars in sales of such 901  
service during the calendar year. As used in this division, 902  
"cleaning" does not include sanitation services necessary for an 903  
establishment described in 21 U.S.C. 608 to comply with rules 904  
and regulations adopted pursuant to that section. 905

(JJ) "Employment service" means providing or supplying 906  
personnel, on a temporary or long-term basis, to perform work or 907  
labor under the supervision or control of another, when the 908  
personnel so provided or supplied receive their wages, salary, 909  
or other compensation from the provider or supplier of the 910  
employment service or from a third party that provided or 911  
supplied the personnel to the provider or supplier. "Employment 912  
service" does not include: 913

(1) Acting as a contractor or subcontractor, where the 914  
personnel performing the work are not under the direct control 915  
of the purchaser. 916

(2) Medical and health care services. 917

(3) Supplying personnel to a purchaser pursuant to a 918  
contract of at least one year between the service provider and 919  
the purchaser that specifies that each employee covered under 920  
the contract is assigned to the purchaser on a permanent basis. 921

(4) Transactions between members of an affiliated group, 922  
as defined in division (B) (3) (e) of this section. 923

(5) Transactions where the personnel so provided or 924  
supplied by a provider or supplier to a purchaser of an 925



employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar

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| organization.   | 956   |
| (OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production. | 957<br>958<br>959<br>960<br>961<br>962<br>963 |
| (PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.  | 964<br>965<br>966<br>967                      |
| (QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.   | 968<br>969<br>970<br>971<br>972               |
| (RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.  | 973<br>974<br>975<br>976<br>977<br>978        |
| (SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.                                     | 979<br>980<br>981<br>982<br>983<br>984        |

(TT) "Professional racing team" means a person that 985  
employs at least twenty full-time employees for the purpose of 986  
conducting a motor vehicle racing business for profit. The 987  
person must conduct the business with the purpose of racing one 988  
or more motor racing vehicles in at least ten competitive 989  
professional racing events each year that comprise all or part 990  
of a motor racing series sanctioned by one or more motor racing 991  
sanctioning organizations. A "motor racing vehicle" means a 992  
vehicle for which the chassis, engine, and parts are designed 993  
exclusively for motor racing, and does not include a stock or 994  
production model vehicle that may be modified for use in racing. 995  
For the purposes of this division: 996

(1) A "competitive professional racing event" is a motor 997  
vehicle racing event sanctioned by one or more motor racing 998  
sanctioning organizations, at which aggregate cash prizes in 999  
excess of eight hundred thousand dollars are awarded to the 1000  
competitors. 1001

(2) "Full-time employee" means an individual who is 1002  
employed for consideration for thirty-five or more hours a week, 1003  
or who renders any other standard of service generally accepted 1004  
by custom or specified by contract as full-time employment. 1005

(UU) (1) "Lease" or "rental" means any transfer of the 1006  
possession or control of tangible personal property for a fixed 1007  
or indefinite term, for consideration. "Lease" or "rental" 1008  
includes future options to purchase or extend, and agreements 1009  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1010  
trailers where the amount of consideration may be increased or 1011  
decreased by reference to the amount realized upon the sale or 1012  
disposition of the property. "Lease" or "rental" does not 1013  
include: 1014

(a) A transfer of possession or control of tangible 1015  
personal property under a security agreement or a deferred 1016  
payment plan that requires the transfer of title upon completion 1017  
of the required payments; 1018

(b) A transfer of possession or control of tangible 1019  
personal property under an agreement that requires the transfer 1020  
of title upon completion of required payments and payment of an 1021  
option price that does not exceed the greater of one hundred 1022  
dollars or one per cent of the total required payments; 1023

(c) Providing tangible personal property along with an 1024  
operator for a fixed or indefinite period of time, if the 1025  
operator is necessary for the property to perform as designed. 1026  
For purposes of this division, the operator must do more than 1027  
maintain, inspect, or set up the tangible personal property. 1028

(2) "Lease" and "rental," as defined in division (UU) of 1029  
this section, shall not apply to leases or rentals that exist 1030  
before June 26, 2003. 1031

(3) "Lease" and "rental" have the same meaning as in 1032  
division (UU) (1) of this section regardless of whether a 1033  
transaction is characterized as a lease or rental under 1034  
generally accepted accounting principles, the Internal Revenue 1035  
Code, Title XIII of the Revised Code, or other federal, state, 1036  
or local laws. 1037

(VV) "Mobile telecommunications service" has the same 1038  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 1039  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 1040  
amended, and, on and after August 1, 2003, includes related fees 1041  
and ancillary services, including universal service fees, 1042  
detailed billing service, directory assistance, service 1043

initiation, voice mail service, and vertical services, such as 1044  
caller ID and three-way calling. 1045

(WW) "Certified service provider" has the same meaning as 1046  
in section 5740.01 of the Revised Code. 1047

(XX) "Satellite broadcasting service" means the 1048  
distribution or broadcasting of programming or services by 1049  
satellite directly to the subscriber's receiving equipment 1050  
without the use of ground receiving or distribution equipment, 1051  
except the subscriber's receiving equipment or equipment used in 1052  
the uplink process to the satellite, and includes all service 1053  
and rental charges, premium channels or other special services, 1054  
installation and repair service charges, and any other charges 1055  
having any connection with the provision of the satellite 1056  
broadcasting service. 1057

(YY) "Tangible personal property" means personal property 1058  
that can be seen, weighed, measured, felt, or touched, or that 1059  
is in any other manner perceptible to the senses. For purposes 1060  
of this chapter and Chapter 5741. of the Revised Code, "tangible 1061  
personal property" includes motor vehicles, electricity, water, 1062  
gas, steam, and prewritten computer software. 1063

(ZZ) "Municipal gas utility" means a municipal corporation 1064  
that owns or operates a system for the distribution of natural 1065  
gas. 1066

(AAA) "Computer" means an electronic device that accepts 1067  
information in digital or similar form and manipulates it for a 1068  
result based on a sequence of instructions. 1069

(BBB) "Computer software" means a set of coded 1070  
instructions designed to cause a computer or automatic data 1071  
processing equipment to perform a task. 1072

(CCC) "Delivered electronically" means delivery of 1073  
computer software from the seller to the purchaser by means 1074  
other than tangible storage media. 1075

(DDD) "Prewritten computer software" means computer 1076  
software, including prewritten upgrades, that is not designed 1077  
and developed by the author or other creator to the 1078  
specifications of a specific purchaser. The combining of two or 1079  
more prewritten computer software programs or prewritten 1080  
portions thereof does not cause the combination to be other than 1081  
prewritten computer software. "Prewritten computer software" 1082  
includes software designed and developed by the author or other 1083  
creator to the specifications of a specific purchaser when it is 1084  
sold to a person other than the purchaser. If a person modifies 1085  
or enhances computer software of which the person is not the 1086  
author or creator, the person shall be deemed to be the author 1087  
or creator only of such person's modifications or enhancements. 1088  
Prewritten computer software or a prewritten portion thereof 1089  
that is modified or enhanced to any degree, where such 1090  
modification or enhancement is designed and developed to the 1091  
specifications of a specific purchaser, remains prewritten 1092  
computer software; provided, however, that where there is a 1093  
reasonable, separately stated charge or an invoice or other 1094  
statement of the price given to the purchaser for the 1095  
modification or enhancement, the modification or enhancement 1096  
shall not constitute prewritten computer software. 1097

(EEE) (1) "Food" means substances, whether in liquid, 1098  
concentrated, solid, frozen, dried, or dehydrated form, that are 1099  
sold for ingestion or chewing by humans and are consumed for 1100  
their taste or nutritional value. "Food" does not include 1101  
alcoholic beverages, dietary supplements, soft drinks, or 1102  
tobacco. 1103

|   |  |
|---|--|
| (2) As used in division (EEE)(1) of this section:   | 1104   |
| (a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.  | 1105<br>1106<br>1107   |
| (b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients: | 1108<br>1109<br>1110<br>1111<br>1112<br>1113<br>1114<br>1115<br>1116<br>1117 |
| (i) A vitamin;  | 1118   |
| (ii) A mineral;   | 1119   |
| (iii) An herb or other botanical;   | 1120   |
| (iv) An amino acid;   | 1121   |
| (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;  | 1122<br>1123   |
| (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.  | 1124<br>1125<br>1126   |
| (c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.   | 1127<br>1128<br>1129<br>1130<br>1131   |

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 1132  
1133

(FFF) "Drug" means a compound, substance, or preparation, 1134  
and any component of a compound, substance, or preparation, 1135  
other than food, dietary supplements, or alcoholic beverages 1136  
that is recognized in the official United States pharmacopoeia, 1137  
official homeopathic pharmacopoeia of the United States, or 1138  
official national formulary, and supplements to them; is 1139  
intended for use in the diagnosis, cure, mitigation, treatment, 1140  
or prevention of disease; or is intended to affect the structure 1141  
or any function of the body. 1142

(GGG) "Prescription" means an order, formula, or recipe 1143  
issued in any form of oral, written, electronic, or other means 1144  
of transmission by a duly licensed practitioner authorized by 1145  
the laws of this state to issue a prescription. 1146

(HHH) "Durable medical equipment" means equipment, 1147  
including repair and replacement parts for such equipment, that 1148  
can withstand repeated use, is primarily and customarily used to 1149  
serve a medical purpose, generally is not useful to a person in 1150  
the absence of illness or injury, and is not worn in or on the 1151  
body. "Durable medical equipment" does not include mobility 1152  
enhancing equipment. 1153

(III) "Mobility enhancing equipment" means equipment, 1154  
including repair and replacement parts for such equipment, that 1155  
is primarily and customarily used to provide or increase the 1156  
ability to move from one place to another and is appropriate for 1157  
use either in a home or a motor vehicle, that is not generally 1158  
used by persons with normal mobility, and that does not include 1159  
any motor vehicle or equipment on a motor vehicle normally 1160  
provided by a motor vehicle manufacturer. "Mobility enhancing 1161



equipment" does not include durable medical equipment. 1162

(JJJ) "Prosthetic device" means a replacement, corrective, 1163  
or supportive device, including repair and replacement parts for 1164  
the device, worn on or in the human body to artificially replace 1165  
a missing portion of the body, prevent or correct physical 1166  
deformity or malfunction, or support a weak or deformed portion 1167  
of the body. As used in this division, before July 1, 2019, 1168  
"prosthetic device" does not include corrective eyeglasses, 1169  
contact lenses, or dental prosthesis. On or after July 1, 2019, 1170  
"prosthetic device" does not include dental prosthesis but does 1171  
include corrective eyeglasses or contact lenses. 1172

(KKK) (1) "Fractional aircraft ownership program" means a 1173  
program in which persons within an affiliated group sell and 1174  
manage fractional ownership program aircraft, provided that at 1175  
least one hundred airworthy aircraft are operated in the program 1176  
and the program meets all of the following criteria: 1177

(a) Management services are provided by at least one 1178  
program manager within an affiliated group on behalf of the 1179  
fractional owners. 1180

(b) Each program aircraft is owned or possessed by at 1181  
least one fractional owner. 1182

(c) Each fractional owner owns or possesses at least a 1183  
one-sixteenth interest in at least one fixed-wing program 1184  
aircraft. 1185

(d) A dry-lease aircraft interchange arrangement is in 1186  
effect among all of the fractional owners. 1187

(e) Multi-year program agreements are in effect regarding 1188  
the fractional ownership, management services, and dry-lease 1189  
aircraft interchange arrangement aspects of the program. 1190

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| (2) As used in division (KKK) (1) of this section:   | 1191   |
| (a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.  | 1192<br>1193   |
| (b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK) (1) (e) of this section.  | 1194<br>1195<br>1196<br>1197   |
| (c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.  | 1198<br>1199<br>1200<br>1201<br>1202<br>1203<br>1204   |
| (d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK) (1) (e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program. | 1205<br>1206<br>1207<br>1208<br>1209<br>1210<br>1211<br>1212<br>1213<br>1214<br>1215<br>1216<br>1217<br>1218 |
| (e) "Program manager" means the person that offers   | 1219   |

management services to fractional owners pursuant to a 1220  
management services agreement under division (KKK) (1) (e) of this 1221  
section. 1222

(LLL) "Electronic publishing" means providing access to 1223  
one or more of the following primarily for business customers, 1224  
including the federal government or a state government or a 1225  
political subdivision thereof, to conduct research: news; 1226  
business, financial, legal, consumer, or credit materials; 1227  
editorials, columns, reader commentary, or features; photos or 1228  
images; archival or research material; legal notices, identity 1229  
verification, or public records; scientific, educational, 1230  
instructional, technical, professional, trade, or other literary 1231  
materials; or other similar information which has been gathered 1232  
and made available by the provider to the consumer in an 1233  
electronic format. Providing electronic publishing includes the 1234  
functions necessary for the acquisition, formatting, editing, 1235  
storage, and dissemination of data or information that is the 1236  
subject of a sale. 1237

(MMM) "Medicaid health insuring corporation" means a 1238  
health insuring corporation that holds a certificate of 1239  
authority under Chapter 1751. of the Revised Code and is under 1240  
contract with the department of medicaid pursuant to section 1241  
5167.10 of the Revised Code. 1242

(NNN) "Managed care premium" means any premium, 1243  
capitation, or other payment a medicaid health insuring 1244  
corporation receives for providing or arranging for the 1245  
provision of health care services to its members or enrollees 1246  
residing in this state. 1247

(OOO) "Captive deer" means deer and other cervidae that 1248  
have been legally acquired, or their offspring, that are 1249

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| privately owned for agricultural or farming purposes.            | 1250 |
| (PPP) "Gift card" means a document, card, certificate, or        | 1251 |
| other record, whether tangible or intangible, that may be        | 1252 |
| redeemed by a consumer for a dollar value when making a purchase | 1253 |
| of tangible personal property or services.                       | 1254 |
| (QQQ) "Specified digital product" means an electronically        | 1255 |
| transferred digital audiovisual work, digital audio work, or     | 1256 |
| digital book.  | 1257 |
| As used in division (QQQ) of this section:                       | 1258 |
| (1) "Digital audiovisual work" means a series of related         | 1259 |
| images that, when shown in succession, impart an impression of   | 1260 |
| motion, together with accompanying sounds, if any.               | 1261 |
| (2) "Digital audio work" means a work that results from          | 1262 |
| the fixation of a series of musical, spoken, or other sounds,    | 1263 |
| including digitized sound files that are downloaded onto a       | 1264 |
| device and that may be used to alert the customer with respect   | 1265 |
| to a communication.  | 1266 |
| (3) "Digital book" means a work that is generally                | 1267 |
| recognized in the ordinary and usual sense as a book.            | 1268 |
| (4) "Electronically transferred" means obtained by the           | 1269 |
| purchaser by means other than tangible storage media.            | 1270 |
| (RRR) "Digital advertising services" means providing             | 1271 |
| access, by means of telecommunications equipment, to computer    | 1272 |
| equipment that is used to enter, upload, download, review,       | 1273 |
| manipulate, store, add, or delete data for the purpose of        | 1274 |
| electronically displaying, delivering, placing, or transferring  | 1275 |
| promotional advertisements to potential customers about products | 1276 |
| or services or about industry or business brands.                | 1277 |

(SSS) "Ineligible nonprofit hospital agency" has the same 1278  
meaning as in section 5709.122 of the Revised Code. 1279

**Sec. 5739.02.** For the purpose of providing revenue with 1280  
which to meet the needs of the state, for the use of the general 1281  
revenue fund of the state, for the purpose of securing a 1282  
thorough and efficient system of common schools throughout the 1283  
state, for the purpose of affording revenues, in addition to 1284  
those from general property taxes, permitted under 1285  
constitutional limitations, and from other sources, for the 1286  
support of local governmental functions, and for the purpose of 1287  
reimbursing the state for the expense of administering this 1288  
chapter, an excise tax is hereby levied on each retail sale made 1289  
in this state. 1290

(A) (1) The tax shall be collected as provided in section 1291  
5739.025 of the Revised Code. The rate of the tax shall be five 1292  
and three-fourths per cent. The tax applies and is collectible 1293  
when the sale is made, regardless of the time when the price is 1294  
paid or delivered. 1295

(2) In the case of the lease or rental, with a fixed term 1296  
of more than thirty days or an indefinite term with a minimum 1297  
period of more than thirty days, of any motor vehicles designed 1298  
by the manufacturer to carry a load of not more than one ton, 1299  
watercraft, outboard motor, or aircraft, or of any tangible 1300  
personal property, other than motor vehicles designed by the 1301  
manufacturer to carry a load of more than one ton, to be used by 1302  
the lessee or renter primarily for business purposes, the tax 1303  
shall be collected by the vendor at the time the lease or rental 1304  
is consummated and shall be calculated by the vendor on the 1305  
basis of the total amount to be paid by the lessee or renter 1306  
under the lease agreement. If the total amount of the 1307

consideration for the lease or rental includes amounts that are 1308  
not calculated at the time the lease or rental is executed, the 1309  
tax shall be calculated and collected by the vendor at the time 1310  
such amounts are billed to the lessee or renter. In the case of 1311  
an open-end lease or rental, the tax shall be calculated by the 1312  
vendor on the basis of the total amount to be paid during the 1313  
initial fixed term of the lease or rental, and for each 1314  
subsequent renewal period as it comes due. As used in this 1315  
division, "motor vehicle" has the same meaning as in section 1316  
4501.01 of the Revised Code, and "watercraft" includes an 1317  
outdrive unit attached to the watercraft. 1318

A lease with a renewal clause and a termination penalty or 1319  
similar provision that applies if the renewal clause is not 1320  
exercised is presumed to be a sham transaction. In such a case, 1321  
the tax shall be calculated and paid on the basis of the entire 1322  
length of the lease period, including any renewal periods, until 1323  
the termination penalty or similar provision no longer applies. 1324  
The taxpayer shall bear the burden, by a preponderance of the 1325  
evidence, that the transaction or series of transactions is not 1326  
a sham transaction. 1327

(3) Except as provided in division (A) (2) of this section, 1328  
in the case of a sale, the price of which consists in whole or 1329  
in part of the lease or rental of tangible personal property, 1330  
the tax shall be measured by the installments of that lease or 1331  
rental. 1332

(4) In the case of a sale of a physical fitness facility 1333  
service or recreation and sports club service, the price of 1334  
which consists in whole or in part of a membership for the 1335  
receipt of the benefit of the service, the tax applicable to the 1336  
sale shall be measured by the installments thereof. 1337

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| (B) The tax does not apply to the following:   | 1338   |
| (1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;   | 1339<br>1340<br>1341<br>1342   |
| (2) Sales of food for human consumption off the premises where sold;   | 1343<br>1344   |
| (3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;   | 1345<br>1346<br>1347   |
| (4) Sales of newspapers and sales or transfers of magazines distributed as controlled circulation publications;  | 1348<br>1349   |
| (5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;  | 1350<br>1351<br>1352<br>1353   |
| (6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state; | 1354<br>1355<br>1356<br>1357<br>1358<br>1359<br>1360<br>1361<br>1362<br>1363 |
| (7) Sales of natural gas by a natural gas company or municipal gas utility, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is   | 1364<br>1365<br>1366   |

delivered to consumers through pipes or conduits, and all sales 1367  
of communications services by a telegraph company, all terms as 1368  
defined in section 5727.01 of the Revised Code, and sales of 1369  
electricity delivered through wires; 1370

(8) Casual sales by a person, or auctioneer employed 1371  
directly by the person to conduct such sales, except as to such 1372  
sales of motor vehicles, watercraft or outboard motors required 1373  
to be titled under section 1548.06 of the Revised Code, 1374  
watercraft documented with the United States coast guard, 1375  
snowmobiles, and all-purpose vehicles as defined in section 1376  
4519.01 of the Revised Code; 1377

(9) (a) Sales of services or tangible personal property, 1378  
other than motor vehicles, mobile homes, and manufactured homes, 1379  
by churches, organizations exempt from taxation under section 1380  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 1381  
organizations operated exclusively for charitable purposes as 1382  
defined in division (B) (12) of this section, provided that the 1383  
number of days on which such tangible personal property or 1384  
services, other than items never subject to the tax, are sold 1385  
does not exceed six in any calendar year, except as otherwise 1386  
provided in division (B) (9) (b) of this section. If the number of 1387  
days on which such sales are made exceeds six in any calendar 1388  
year, the church or organization shall be considered to be 1389  
engaged in business and all subsequent sales by it shall be 1390  
subject to the tax. In counting the number of days, all sales by 1391  
groups within a church or within an organization shall be 1392  
considered to be sales of that church or organization. 1393

(b) The limitation on the number of days on which tax- 1394  
exempt sales may be made by a church or organization under 1395  
division (B) (9) (a) of this section does not apply to sales made 1396



by student clubs and other groups of students of a primary or 1397  
secondary school, or a parent-teacher association, booster 1398  
group, or similar organization that raises money to support or 1399  
fund curricular or extracurricular activities of a primary or 1400  
secondary school. 1401

(c) Divisions (B) (9) (a) and (b) of this section do not 1402  
apply to sales by a noncommercial educational radio or 1403  
television broadcasting station or by an ineligible nonprofit 1404  
hospital agency. 1405

(10) Sales not within the taxing power of this state under 1406  
the Constitution or laws of the United States or the 1407  
Constitution of this state; 1408

(11) Except for transactions that are sales under division 1409  
(B) (3) (r) of section 5739.01 of the Revised Code, the 1410  
transportation of persons or property, unless the transportation 1411  
is by a private investigation and security service; 1412

(12) Sales of tangible personal property or services to 1413  
churches, to organizations exempt from taxation under section 1414  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 1415  
nonprofit organizations operated exclusively for charitable 1416  
purposes in this state, no part of the net income of which 1417  
inures to the benefit of any private shareholder or individual, 1418  
and no substantial part of the activities of which consists of 1419  
carrying on propoganda or otherwise attempting to influence 1420  
legislation; sales to offices administering one or more homes 1421  
for the aged or one or more hospital facilities exempt under 1422  
section 140.08 of the Revised Code; and sales to organizations 1423  
described in division (D) of section 5709.12 of the Revised 1424  
Code. 1425

"Charitable purposes" means the relief of poverty; the 1426  
improvement of health through the alleviation of illness, 1427  
disease, or injury; the operation of an organization exclusively 1428  
for the provision of professional, laundry, printing, and 1429  
purchasing services to hospitals or charitable institutions; the 1430  
operation of a home for the aged, as defined in section 5701.13 1431  
of the Revised Code; the operation of a radio or television 1432  
broadcasting station that is licensed by the federal 1433  
communications commission as a noncommercial educational radio 1434  
or television station; the operation of a nonprofit animal 1435  
adoption service or a county humane society; the promotion of 1436  
education by an institution of learning that maintains a faculty 1437  
of qualified instructors, teaches regular continuous courses of 1438  
study, and confers a recognized diploma upon completion of a 1439  
specific curriculum; the operation of a parent-teacher 1440  
association, booster group, or similar organization primarily 1441  
engaged in the promotion and support of the curricular or 1442  
extracurricular activities of a primary or secondary school; the 1443  
operation of a community or area center in which presentations 1444  
in music, dramatics, the arts, and related fields are made in 1445  
order to foster public interest and education therein; the 1446  
production of performances in music, dramatics, and the arts; or 1447  
the promotion of education by an organization engaged in 1448  
carrying on research in, or the dissemination of, scientific and 1449  
technological knowledge and information primarily for the 1450  
public. 1451

Nothing in this division shall be deemed to exempt sales 1452  
to any organization for use in the operation or carrying on of a 1453  
trade or business, or sales to a home for the aged for use in 1454  
the operation of independent living facilities as defined in 1455  
division (A) of section 5709.12 of the Revised Code. 1456

Division (B) (12) of this section does not apply to sales 1457  
to an ineligible nonprofit hospital agency. 1458

(13) Building and construction materials and services sold 1459  
to construction contractors for incorporation into a structure 1460  
or improvement to real property under a construction contract 1461  
with this state or a political subdivision of this state, or 1462  
with the United States government or any of its agencies; 1463  
building and construction materials and services sold to 1464  
construction contractors for incorporation into a structure or 1465  
improvement to real property that are accepted for ownership by 1466  
this state or any of its political subdivisions, or by the 1467  
United States government or any of its agencies at the time of 1468  
completion of the structures or improvements; building and 1469  
construction materials sold to construction contractors for 1470  
incorporation into a horticulture structure or livestock 1471  
structure for a person engaged in the business of horticulture 1472  
or producing livestock; building materials and services sold to 1473  
a construction contractor for incorporation into a house of 1474  
public worship or religious education, or a building used 1475  
exclusively for charitable purposes under a construction 1476  
contract with an organization whose purpose is as described in 1477  
division (B) (12) of this section; building materials and 1478  
services sold to a construction contractor for incorporation 1479  
into a building under a construction contract with an 1480  
organization exempt from taxation under section 501(c) (3) of the 1481  
Internal Revenue Code of 1986 when the building is to be used 1482  
exclusively for the organization's exempt purposes; building and 1483  
construction materials sold for incorporation into the original 1484  
construction of a sports facility under section 307.696 of the 1485  
Revised Code; building and construction materials and services 1486  
sold to a construction contractor for incorporation into real 1487

property outside this state if such materials and services, when 1488  
sold to a construction contractor in the state in which the real 1489  
property is located for incorporation into real property in that 1490  
state, would be exempt from a tax on sales levied by that state; 1491  
building and construction materials for incorporation into a 1492  
transportation facility pursuant to a public-private agreement 1493  
entered into under sections 5501.70 to 5501.83 of the Revised 1494  
Code; and, until one calendar year after the construction of a 1495  
convention center that qualifies for property tax exemption 1496  
under section 5709.084 of the Revised Code is completed, 1497  
building and construction materials and services sold to a 1498  
construction contractor for incorporation into the real property 1499  
comprising that convention center; 1500

(14) Sales of ships or vessels or rail rolling stock used 1501  
or to be used principally in interstate or foreign commerce, and 1502  
repairs, alterations, fuel, and lubricants for such ships or 1503  
vessels or rail rolling stock; 1504

(15) Sales to persons primarily engaged in any of the 1505  
activities mentioned in division (B) (42) (a), (g), or (h) of this 1506  
section, to persons engaged in making retail sales, or to 1507  
persons who purchase for sale from a manufacturer tangible 1508  
personal property that was produced by the manufacturer in 1509  
accordance with specific designs provided by the purchaser, of 1510  
packages, including material, labels, and parts for packages, 1511  
and of machinery, equipment, and material for use primarily in 1512  
packaging tangible personal property produced for sale, 1513  
including any machinery, equipment, and supplies used to make 1514  
labels or packages, to prepare packages or products for 1515  
labeling, or to label packages or products, by or on the order 1516  
of the person doing the packaging, or sold at retail. "Packages" 1517  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1518

bindings, wrappings, and other similar devices and containers, 1519  
but does not include motor vehicles or bulk tanks, trailers, or 1520  
similar devices attached to motor vehicles. "Packaging" means 1521  
placing in a package. Division (B) (15) of this section does not 1522  
apply to persons engaged in highway transportation for hire. 1523

(16) Sales of food to persons using supplemental nutrition 1524  
assistance program benefits to purchase the food. As used in 1525  
this division, "food" has the same meaning as in 7 U.S.C. 2012 1526  
and federal regulations adopted pursuant to the Food and 1527  
Nutrition Act of 2008. 1528

(17) Sales to persons engaged in farming, agriculture, 1529  
horticulture, or floriculture, of tangible personal property for 1530  
use or consumption primarily in the production by farming, 1531  
agriculture, horticulture, or floriculture of other tangible 1532  
personal property for use or consumption primarily in the 1533  
production of tangible personal property for sale by farming, 1534  
agriculture, horticulture, or floriculture; or material and 1535  
parts for incorporation into any such tangible personal property 1536  
for use or consumption in production; and of tangible personal 1537  
property for such use or consumption in the conditioning or 1538  
holding of products produced by and for such use, consumption, 1539  
or sale by persons engaged in farming, agriculture, 1540  
horticulture, or floriculture, except where such property is 1541  
incorporated into real property; 1542

(18) Sales of drugs for a human being that may be 1543  
dispensed only pursuant to a prescription; insulin as recognized 1544  
in the official United States pharmacopoeia; urine and blood 1545  
testing materials when used by diabetics or persons with 1546  
hypoglycemia to test for glucose or acetone; hypodermic syringes 1547  
and needles when used by diabetics for insulin injections; 1548

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| epoetin alfa when purchased for use in the treatment of persons  | 1549 |
| with medical disease; hospital beds when purchased by hospitals, | 1550 |
| nursing homes, or other medical facilities; and medical oxygen   | 1551 |
| and medical oxygen-dispensing equipment when purchased by        | 1552 |
| hospitals, nursing homes, or other medical facilities;           | 1553 |
| (19) Sales of prosthetic devices, durable medical                | 1554 |
| equipment for home use, or mobility enhancing equipment, when    | 1555 |
| made pursuant to a prescription and when such devices or         | 1556 |
| equipment are for use by a human being.                          | 1557 |
| (20) Sales of emergency and fire protection vehicles and         | 1558 |
| equipment to nonprofit organizations for use solely in providing | 1559 |
| fire protection and emergency services, including trauma care    | 1560 |
| and emergency medical services, for political subdivisions of    | 1561 |
| the state;   | 1562 |
| (21) Sales of tangible personal property manufactured in         | 1563 |
| this state, if sold by the manufacturer in this state to a       | 1564 |
| retailer for use in the retail business of the retailer outside  | 1565 |
| of this state and if possession is taken from the manufacturer   | 1566 |
| by the purchaser within this state for the sole purpose of       | 1567 |
| immediately removing the same from this state in a vehicle owned | 1568 |
| by the purchaser;  | 1569 |
| (22) Sales of services provided by the state or any of its       | 1570 |
| political subdivisions, agencies, instrumentalities,             | 1571 |
| institutions, or authorities, or by governmental entities of the | 1572 |
| state or any of its political subdivisions, agencies,            | 1573 |
| instrumentalities, institutions, or authorities;                 | 1574 |
| (23) Sales of motor vehicles to nonresidents of this state       | 1575 |
| under the circumstances described in division (B) of section     | 1576 |
| 5739.029 of the Revised Code;                                    | 1577 |

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| (24) Sales to persons engaged in the preparation of eggs         | 1578 |
| for sale of tangible personal property used or consumed directly | 1579 |
| in such preparation, including such tangible personal property   | 1580 |
| used for cleaning, sanitizing, preserving, grading, sorting, and | 1581 |
| classifying by size; packages, including material and parts for  | 1582 |
| packages, and machinery, equipment, and material for use in      | 1583 |
| packaging eggs for sale; and handling and transportation         | 1584 |
| equipment and parts therefor, except motor vehicles licensed to  | 1585 |
| operate on public highways, used in intraplant or interplant     | 1586 |
| transfers or shipment of eggs in the process of preparation for  | 1587 |
| sale, when the plant or plants within or between which such      | 1588 |
| transfers or shipments occur are operated by the same person.    | 1589 |
| "Packages" includes containers, cases, baskets, flats, fillers,  | 1590 |
| filler flats, cartons, closure materials, labels, and labeling   | 1591 |
| materials, and "packaging" means placing therein.                | 1592 |
| (25) (a) Sales of water to a consumer for residential use;       | 1593 |
| (b) Sales of water by a nonprofit corporation engaged            | 1594 |
| exclusively in the treatment, distribution, and sale of water to | 1595 |
| consumers, if such water is delivered to consumers through pipes | 1596 |
| or tubing.   | 1597 |
| (26) Fees charged for inspection or reinspection of motor        | 1598 |
| vehicles under section 3704.14 of the Revised Code;              | 1599 |
| (27) Sales to persons licensed to conduct a food service         | 1600 |
| operation pursuant to section 3717.43 of the Revised Code, of    | 1601 |
| tangible personal property primarily used directly for the       | 1602 |
| following:   | 1603 |
| (a) To prepare food for human consumption for sale;              | 1604 |
| (b) To preserve food that has been or will be prepared for       | 1605 |
| human consumption for sale by the food service operator, not     | 1606 |

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| including tangible personal property used to display food for selection by the consumer;  | 1607<br>1608                                 |
| (c) To clean tangible personal property used to prepare or serve food for human consumption for sale.   | 1609<br>1610                                 |
| (28) Sales of animals by nonprofit animal adoption services or county humane societies;   | 1611<br>1612                                 |
| (29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;   | 1613<br>1614<br>1615<br>1616                 |
| (30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;   | 1617<br>1618<br>1619                         |
| (31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;  | 1620<br>1621<br>1622                         |
| (32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property; | 1623<br>1624<br>1625<br>1626<br>1627<br>1628 |
| (33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;  | 1629<br>1630<br>1631<br>1632<br>1633         |
| (34) Sales to a telecommunications service vendor, mobile   | 1634   |



telecommunications service vendor, or satellite broadcasting 1635  
service vendor of tangible personal property and services used 1636  
directly and primarily in transmitting, receiving, switching, or 1637  
recording any interactive, one- or two-way electromagnetic 1638  
communications, including voice, image, data, and information, 1639  
through the use of any medium, including, but not limited to, 1640  
poles, wires, cables, switching equipment, computers, and record 1641  
storage devices and media, and component parts for the tangible 1642  
personal property. The exemption provided in this division shall 1643  
be in lieu of all other exemptions under division (B) (42) (a) or 1644  
(n) of this section to which the vendor may otherwise be 1645  
entitled, based upon the use of the thing purchased in providing 1646  
the telecommunications, mobile telecommunications, or satellite 1647  
broadcasting service. 1648

(35) (a) Sales where the purpose of the consumer is to use 1649  
or consume the things transferred in making retail sales and 1650  
consisting of newspaper inserts, catalogues, coupons, flyers, 1651  
gift certificates, or other advertising material that prices and 1652  
describes tangible personal property offered for retail sale. 1653

(b) Sales to direct marketing vendors of preliminary 1654  
materials such as photographs, artwork, and typesetting that 1655  
will be used in printing advertising material; and of printed 1656  
matter that offers free merchandise or chances to win sweepstake 1657  
prizes and that is mailed to potential customers with 1658  
advertising material described in division (B) (35) (a) of this 1659  
section; 1660

(c) Sales of equipment such as telephones, computers, 1661  
facsimile machines, and similar tangible personal property 1662  
primarily used to accept orders for direct marketing retail 1663  
sales. 1664

(d) Sales of automatic food vending machines that preserve 1665  
food with a shelf life of forty-five days or less by 1666  
refrigeration and dispense it to the consumer. 1667

For purposes of division (B) (35) of this section, "direct 1668  
marketing" means the method of selling where consumers order 1669  
tangible personal property by United States mail, delivery 1670  
service, or telecommunication and the vendor delivers or ships 1671  
the tangible personal property sold to the consumer from a 1672  
warehouse, catalogue distribution center, or similar fulfillment 1673  
facility by means of the United States mail, delivery service, 1674  
or common carrier. 1675

(36) Sales to a person engaged in the business of 1676  
horticulture or producing livestock of materials to be 1677  
incorporated into a horticulture structure or livestock 1678  
structure; 1679

(37) Sales of personal computers, computer monitors, 1680  
computer keyboards, modems, and other peripheral computer 1681  
equipment to an individual who is licensed or certified to teach 1682  
in an elementary or a secondary school in this state for use by 1683  
that individual in preparation for teaching elementary or 1684  
secondary school students; 1685

(38) Sales to a professional racing team of any of the 1686  
following: 1687

(a) Motor racing vehicles; 1688

(b) Repair services for motor racing vehicles; 1689

(c) Items of property that are attached to or incorporated 1690  
in motor racing vehicles, including engines, chassis, and all 1691  
other components of the vehicles, and all spare, replacement, 1692  
and rebuilt parts or components of the vehicles; except not 1693

including tires, consumable fluids, paint, and accessories 1694  
consisting of instrumentation sensors and related items added to 1695  
the vehicle to collect and transmit data by means of telemetry 1696  
and other forms of communication. 1697

(39) Sales of used manufactured homes and used mobile 1698  
homes, as defined in section 5739.0210 of the Revised Code, made 1699  
on or after January 1, 2000; 1700

(40) Sales of tangible personal property and services to a 1701  
provider of electricity used or consumed directly and primarily 1702  
in generating, transmitting, or distributing electricity for use 1703  
by others, including property that is or is to be incorporated 1704  
into and will become a part of the consumer's production, 1705  
transmission, or distribution system and that retains its 1706  
classification as tangible personal property after 1707  
incorporation; fuel or power used in the production, 1708  
transmission, or distribution of electricity; energy conversion 1709  
equipment as defined in section 5727.01 of the Revised Code; and 1710  
tangible personal property and services used in the repair and 1711  
maintenance of the production, transmission, or distribution 1712  
system, including only those motor vehicles as are specially 1713  
designed and equipped for such use. The exemption provided in 1714  
this division shall be in lieu of all other exemptions in 1715  
division (B) (42) (a) or (n) of this section to which a provider 1716  
of electricity may otherwise be entitled based on the use of the 1717  
tangible personal property or service purchased in generating, 1718  
transmitting, or distributing electricity. 1719

(41) Sales to a person providing services under division 1720  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 1721  
personal property and services used directly and primarily in 1722  
providing taxable services under that section. 1723

(42) Sales where the purpose of the purchaser is to do any 1724  
of the following: 1725

(a) To incorporate the thing transferred as a material or 1726  
a part into tangible personal property to be produced for sale 1727  
by manufacturing, assembling, processing, or refining; or to use 1728  
or consume the thing transferred directly in producing tangible 1729  
personal property for sale by mining, including, without 1730  
limitation, the extraction from the earth of all substances that 1731  
are classed geologically as minerals, or directly in the 1732  
rendition of a public utility service, except that the sales tax 1733  
levied by this section shall be collected upon all meals, 1734  
drinks, and food for human consumption sold when transporting 1735  
persons. This paragraph does not exempt from "retail sale" or 1736  
"sales at retail" the sale of tangible personal property that is 1737  
to be incorporated into a structure or improvement to real 1738  
property. 1739

(b) To hold the thing transferred as security for the 1740  
performance of an obligation of the vendor; 1741

(c) To resell, hold, use, or consume the thing transferred 1742  
as evidence of a contract of insurance; 1743

(d) To use or consume the thing directly in commercial 1744  
fishing; 1745

(e) To incorporate the thing transferred as a material or 1746  
a part into, or to use or consume the thing transferred directly 1747  
in the production of, magazines distributed as controlled 1748  
circulation publications; 1749

(f) To use or consume the thing transferred in the 1750  
production and preparation in suitable condition for market and 1751  
sale of printed, imprinted, overprinted, lithographic, 1752

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| multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;  | 1753<br>1754   |
| (g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;  | 1755<br>1756<br>1757   |
| (h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;   | 1758<br>1759<br>1760<br>1761<br>1762<br>1763   |
| (i) To use the thing transferred as qualified research and development equipment;   | 1764<br>1765   |
| (j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section. | 1766<br>1767<br>1768<br>1769<br>1770<br>1771<br>1772<br>1773<br>1774<br>1775<br>1776<br>1777<br>1778 |
| (k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible  | 1779<br>1780<br>1781   |

personal property sold or by a vendor of a warranty, maintenance 1782  
or service contract, or similar agreement the provision of which 1783  
is defined as a sale under division (B) (7) of section 5739.01 of 1784  
the Revised Code; 1785

(l) To use or consume the thing transferred in the 1786  
production of a newspaper for distribution to the public; 1787

(m) To use tangible personal property to perform a service 1788  
listed in division (B) (3) of section 5739.01 of the Revised 1789  
Code, if the property is or is to be permanently transferred to 1790  
the consumer of the service as an integral part of the 1791  
performance of the service; 1792

(n) To use or consume the thing transferred primarily in 1793  
producing tangible personal property for sale by farming, 1794  
agriculture, horticulture, or floriculture. Persons engaged in 1795  
rendering farming, agriculture, horticulture, or floriculture 1796  
services for others are deemed engaged primarily in farming, 1797  
agriculture, horticulture, or floriculture. This paragraph does 1798  
not exempt from "retail sale" or "sales at retail" the sale of 1799  
tangible personal property that is to be incorporated into a 1800  
structure or improvement to real property. 1801

(o) To use or consume the thing transferred in acquiring, 1802  
formatting, editing, storing, and disseminating data or 1803  
information by electronic publishing; 1804

(p) To provide the thing transferred to the owner or 1805  
lessee of a motor vehicle that is being repaired or serviced, if 1806  
the thing transferred is a rented motor vehicle and the 1807  
purchaser is reimbursed for the cost of the rented motor vehicle 1808  
by a manufacturer, warrantor, or provider of a maintenance, 1809  
service, or other similar contract or agreement, with respect to 1810

the motor vehicle that is being repaired or serviced; 1811

(q) To use or consume the thing transferred directly in 1812  
production of crude oil and natural gas for sale. Persons 1813  
engaged in rendering production services for others are deemed 1814  
engaged in production. 1815

As used in division (B) (42) (q) of this section, 1816  
"production" means operations and tangible personal property 1817  
directly used to expose and evaluate an underground reservoir 1818  
that may contain hydrocarbon resources, prepare the wellbore for 1819  
production, and lift and control all substances yielded by the 1820  
reservoir to the surface of the earth. 1821

(i) For the purposes of division (B) (42) (q) of this 1822  
section, the "thing transferred" includes, but is not limited 1823  
to, any of the following: 1824

(I) Services provided in the construction of permanent 1825  
access roads, services provided in the construction of the well 1826  
site, and services provided in the construction of temporary 1827  
impoundments; 1828

(II) Equipment and rigging used for the specific purpose 1829  
of creating with integrity a wellbore pathway to underground 1830  
reservoirs; 1831

(III) Drilling and workover services used to work within a 1832  
subsurface wellbore, and tangible personal property directly 1833  
used in providing such services; 1834

(IV) Casing, tubulars, and float and centralizing 1835  
equipment; 1836

(V) Trailers to which production equipment is attached; 1837

(VI) Well completion services, including cementing of 1838

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| casing, and tangible personal property directly used in          | 1839 |
| providing such services;   | 1840 |
| (VII) Wireline evaluation, mud logging, and perforation          | 1841 |
| services, and tangible personal property directly used in        | 1842 |
| providing such services;   | 1843 |
| (VIII) Reservoir stimulation, hydraulic fracturing, and          | 1844 |
| acidizing services, and tangible personal property directly used | 1845 |
| in providing such services, including all material pumped        | 1846 |
| downhole;  | 1847 |
| (IX) Pressure pumping equipment;                                 | 1848 |
| (X) Artificial lift systems equipment;                           | 1849 |
| (XI) Wellhead equipment and well site equipment used to          | 1850 |
| separate, stabilize, and control hydrocarbon phases and produced | 1851 |
| water;   | 1852 |
| (XII) Tangible personal property directly used to control        | 1853 |
| production equipment.  | 1854 |
| (ii) For the purposes of division (B) (42) (q) of this           | 1855 |
| section, the "thing transferred" does not include any of the     | 1856 |
| following:   | 1857 |
| (I) Tangible personal property used primarily in the             | 1858 |
| exploration and production of any mineral resource regulated     | 1859 |
| under Chapter 1509. of the Revised Code other than oil or gas;   | 1860 |
| (II) Tangible personal property used primarily in storing,       | 1861 |
| holding, or delivering solutions or chemicals used in well       | 1862 |
| stimulation as defined in section 1509.01 of the Revised Code;   | 1863 |
| (III) Tangible personal property used primarily in               | 1864 |
| preparing, installing, or reclaiming foundations for drilling or | 1865 |



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| pumping equipment or well stimulation material tanks;               | 1866 |
| (IV) Tangible personal property used primarily in                   | 1867 |
| transporting, delivering, or removing equipment to or from the      | 1868 |
| well site or storing such equipment before its use at the well      | 1869 |
| site;   | 1870 |
| (V) Tangible personal property used primarily in gathering          | 1871 |
| operations occurring off the well site, including gathering         | 1872 |
| pipelines transporting hydrocarbon gas or liquids away from a       | 1873 |
| crude oil or natural gas production facility;                       | 1874 |
| (VI) Tangible personal property that is to be incorporated          | 1875 |
| into a structure or improvement to real property;                   | 1876 |
| (VII) Well site fencing, lighting, or security systems;             | 1877 |
| (VIII) Communication devices or services;                           | 1878 |
| (IX) Office supplies;   | 1879 |
| (X) Trailers used as offices or lodging;                            | 1880 |
| (XI) Motor vehicles of any kind;                                    | 1881 |
| (XII) Tangible personal property used primarily for the             | 1882 |
| storage of drilling byproducts and fuel not used for production;    | 1883 |
| (XIII) Tangible personal property used primarily as a               | 1884 |
| safety device;  | 1885 |
| (XIV) Data collection or monitoring devices;                        | 1886 |
| (XV) Access ladders, stairs, or platforms attached to               | 1887 |
| storage tanks.  | 1888 |
| The enumeration of tangible personal property in division           | 1889 |
| (B) (42) (q) (ii) of this section is not intended to be exhaustive, | 1890 |
| and any tangible personal property not so enumerated shall not      | 1891 |

necessarily be construed to be a "thing transferred" for the 1892  
purposes of division (B) (42) (q) of this section. 1893

The commissioner shall adopt and promulgate rules under 1894  
sections 119.01 to 119.13 of the Revised Code that the 1895  
commissioner deems necessary to administer division (B) (42) (q) 1896  
of this section. 1897

As used in division (B) (42) of this section, "thing" 1898  
includes all transactions included in divisions (B) (3) (a), (b), 1899  
and (e) of section 5739.01 of the Revised Code. 1900

(43) Sales conducted through a coin operated device that 1901  
activates vacuum equipment or equipment that dispenses water, 1902  
whether or not in combination with soap or other cleaning agents 1903  
or wax, to the consumer for the consumer's use on the premises 1904  
in washing, cleaning, or waxing a motor vehicle, provided no 1905  
other personal property or personal service is provided as part 1906  
of the transaction. 1907

(44) Sales of replacement and modification parts for 1908  
engines, airframes, instruments, and interiors in, and paint 1909  
for, aircraft used primarily in a fractional aircraft ownership 1910  
program, and sales of services for the repair, modification, and 1911  
maintenance of such aircraft, and machinery, equipment, and 1912  
supplies primarily used to provide those services. 1913

(45) Sales of telecommunications service that is used 1914  
directly and primarily to perform the functions of a call 1915  
center. As used in this division, "call center" means any 1916  
physical location where telephone calls are placed or received 1917  
in high volume for the purpose of making sales, marketing, 1918  
customer service, technical support, or other specialized 1919  
business activity, and that employs at least fifty individuals 1920

that engage in call center activities on a full-time basis, or 1921  
sufficient individuals to fill fifty full-time equivalent 1922  
positions. 1923

(46) Sales by a telecommunications service vendor of 900 1924  
service to a subscriber. This division does not apply to 1925  
information services, as defined in division (FF) of section 1926  
5739.01 of the Revised Code. 1927

(47) Sales of value-added non-voice data service. This 1928  
division does not apply to any similar service that is not 1929  
otherwise a telecommunications service. 1930

(48) (a) Sales of machinery, equipment, and software to a 1931  
qualified direct selling entity for use in a warehouse or 1932  
distribution center primarily for storing, transporting, or 1933  
otherwise handling inventory that is held for sale to 1934  
independent salespersons who operate as direct sellers and that 1935  
is held primarily for distribution outside this state; 1936

(b) As used in division (B) (48) (a) of this section: 1937

(i) "Direct seller" means a person selling consumer 1938  
products to individuals for personal or household use and not 1939  
from a fixed retail location, including selling such product at 1940  
in-home product demonstrations, parties, and other one-on-one 1941  
selling. 1942

(ii) "Qualified direct selling entity" means an entity 1943  
selling to direct sellers at the time the entity enters into a 1944  
tax credit agreement with the tax credit authority pursuant to 1945  
section 122.17 of the Revised Code, provided that the agreement 1946  
was entered into on or after January 1, 2007. Neither 1947  
contingencies relevant to the granting of, nor later 1948  
developments with respect to, the tax credit shall impair the 1949

status of the qualified direct selling entity under division (B) 1950  
(48) of this section after execution of the tax credit agreement 1951  
by the tax credit authority. 1952

(c) Division (B) (48) of this section is limited to 1953  
machinery, equipment, and software first stored, used, or 1954  
consumed in this state within the period commencing June 24, 1955  
2008, and ending on the date that is five years after that date. 1956

(49) Sales of materials, parts, equipment, or engines used 1957  
in the repair or maintenance of aircraft or avionics systems of 1958  
such aircraft, and sales of repair, remodeling, replacement, or 1959  
maintenance services in this state performed on aircraft or on 1960  
an aircraft's avionics, engine, or component materials or parts. 1961  
As used in division (B) (49) of this section, "aircraft" means 1962  
aircraft of more than six thousand pounds maximum certified 1963  
takeoff weight or used exclusively in general aviation. 1964

(50) Sales of full flight simulators that are used for 1965  
pilot or flight-crew training, sales of repair or replacement 1966  
parts or components, and sales of repair or maintenance services 1967  
for such full flight simulators. "Full flight simulator" means a 1968  
replica of a specific type, or make, model, and series of 1969  
aircraft cockpit. It includes the assemblage of equipment and 1970  
computer programs necessary to represent aircraft operations in 1971  
ground and flight conditions, a visual system providing an out- 1972  
of-the-cockpit view, and a system that provides cues at least 1973  
equivalent to those of a three-degree-of-freedom motion system, 1974  
and has the full range of capabilities of the systems installed 1975  
in the device as described in appendices A and B of part 60 of 1976  
chapter 1 of title 14 of the Code of Federal Regulations. 1977

(51) Any transfer or lease of tangible personal property 1978  
between the state and JobsOhio in accordance with section 1979

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| 4313.02 of the Revised Code.                                     | 1980 |
| (52) (a) Sales to a qualifying corporation.                      | 1981 |
| (b) As used in division (B) (52) of this section:                | 1982 |
| (i) "Qualifying corporation" means a nonprofit corporation       | 1983 |
| organized in this state that leases from an eligible county      | 1984 |
| land, buildings, structures, fixtures, and improvements to the   | 1985 |
| land that are part of or used in a public recreational facility  | 1986 |
| used by a major league professional athletic team or a class A   | 1987 |
| to class AAA minor league affiliate of a major league            | 1988 |
| professional athletic team for a significant portion of the      | 1989 |
| team's home schedule, provided the following apply:              | 1990 |
| (I) The facility is leased from the eligible county              | 1991 |
| pursuant to a lease that requires substantially all of the       | 1992 |
| revenue from the operation of the business or activity conducted | 1993 |
| by the nonprofit corporation at the facility in excess of        | 1994 |
| operating costs, capital expenditures, and reserves to be paid   | 1995 |
| to the eligible county at least once per calendar year.          | 1996 |
| (II) Upon dissolution and liquidation of the nonprofit           | 1997 |
| corporation, all of its net assets are distributable to the      | 1998 |
| board of commissioners of the eligible county from which the     | 1999 |
| corporation leases the facility.                                 | 2000 |
| (ii) "Eligible county" has the same meaning as in section        | 2001 |
| 307.695 of the Revised Code.                                     | 2002 |
| (53) Sales to or by a cable service provider, video              | 2003 |
| service provider, or radio or television broadcast station       | 2004 |
| regulated by the federal government of cable service or          | 2005 |
| programming, video service or programming, audio service or      | 2006 |
| programming, or electronically transferred digital audiovisual   | 2007 |
| or audio work. As used in division (B) (53) of this section,     | 2008 |

"cable service" and "cable service provider" have the same 2009  
meanings as in section 1332.01 of the Revised Code, and "video 2010  
service," "video service provider," and "video programming" have 2011  
the same meanings as in section 1332.21 of the Revised Code. 2012

(54) Sales of investment metal bullion and investment 2013  
coins. "Investment metal bullion" means any bullion described in 2014  
section 408(m)(3)(B) of the Internal Revenue Code, regardless of 2015  
whether that bullion is in the physical possession of a trustee. 2016  
"Investment coin" means any coin composed primarily of gold, 2017  
silver, platinum, or palladium. 2018

(55) Sales of a digital audio work electronically 2019  
transferred for delivery through use of a machine, such as a 2020  
juke box, that does all of the following: 2021

(a) Accepts direct payments to operate; 2022

(b) Automatically plays a selected digital audio work for 2023  
a single play upon receipt of a payment described in division 2024  
(B)(55)(a) of this section; 2025

(c) Operates exclusively for the purpose of playing 2026  
digital audio works in a commercial establishment. 2027

(56)(a) Sales of the following occurring on the first 2028  
Friday of August and the following Saturday and Sunday of each 2029  
year, beginning in 2018: 2030

(i) An item of clothing, the price of which is seventy- 2031  
five dollars or less; 2032

(ii) An item of school supplies, the price of which is 2033  
twenty dollars or less; 2034

(iii) An item of school instructional material, the price 2035  
of which is twenty dollars or less. 2036

(b) As used in division (B) (56) of this section: 2037

(i) "Clothing" means all human wearing apparel suitable 2038  
for general use. "Clothing" includes, but is not limited to, 2039  
aprons, household and shop; athletic supporters; baby receiving 2040  
blankets; bathing suits and caps; beach capes and coats; belts 2041  
and suspenders; boots; coats and jackets; costumes; diapers, 2042  
children and adult, including disposable diapers; ~~ear muffs~~ 2043  
earmuffs; footlets; formal wear; garters and garter belts; 2044  
girdles; gloves and mittens for general use; hats and caps; 2045  
hosiery; insoles for shoes; lab coats; neckties; overshoes; 2046  
pantyhose; rainwear; rubber pants; sandals; scarves; shoes and 2047  
shoe laces; slippers; sneakers; socks and stockings; steel-toed 2048  
shoes; underwear; uniforms, athletic and nonathletic; and 2049  
wedding apparel. "Clothing" does not include items purchased for 2050  
use in a trade or business; clothing accessories or equipment; 2051  
protective equipment; sports or recreational equipment; belt 2052  
buckles sold separately; costume masks sold separately; patches 2053  
and emblems sold separately; sewing equipment and supplies 2054  
including, but not limited to, knitting needles, patterns, pins, 2055  
scissors, sewing machines, sewing needles, tape measures, and 2056  
thimbles; and sewing materials that become part of "clothing" 2057  
including, but not limited to, buttons, fabric, lace, thread, 2058  
yarn, and zippers. 2059

(ii) "School supplies" means items commonly used by a 2060  
student in a course of study. "School supplies" includes only 2061  
the following items: binders; book bags; calculators; cellophane 2062  
tape; blackboard chalk; compasses; composition books; crayons; 2063  
erasers; folders, expandable, pocket, plastic, and manila; glue, 2064  
paste, and paste sticks; highlighters; index cards; index card 2065  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 2066  
loose-leaf ruled notebook paper, copy paper, graph paper, 2067

tracing paper, manila paper, colored paper, poster board, and 2068  
construction paper; pencil boxes and other school supply boxes; 2069  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 2070  
and writing tablets. "School supplies" does not include any item 2071  
purchased for use in a trade or business. 2072

(iii) "School instructional material" means written 2073  
material commonly used by a student in a course of study as a 2074  
reference and to learn the subject being taught. "School 2075  
instructional material" includes only the following items: 2076  
reference books, reference maps and globes, textbooks, and 2077  
workbooks. "School instructional material" does not include any 2078  
material purchased for use in a trade or business. 2079

(C) For the purpose of the proper administration of this 2080  
chapter, and to prevent the evasion of the tax, it is presumed 2081  
that all sales made in this state are subject to the tax until 2082  
the contrary is established. 2083

(D) The levy of this tax on retail sales of recreation and 2084  
sports club service shall not prevent a municipal corporation 2085  
from levying any tax on recreation and sports club dues or on 2086  
any income generated by recreation and sports club dues. 2087

(E) The tax collected by the vendor from the consumer 2088  
under this chapter is not part of the price, but is a tax 2089  
collection for the benefit of the state, and of counties levying 2090  
an additional sales tax pursuant to section 5739.021 or 5739.026 2091  
of the Revised Code and of transit authorities levying an 2092  
additional sales tax pursuant to section 5739.023 of the Revised 2093  
Code. Except for the discount authorized under section 5739.12 2094  
of the Revised Code and the effects of any rounding pursuant to 2095  
section 5703.055 of the Revised Code, no person other than the 2096  
state or such a county or transit authority shall derive any 2097



benefit from the collection or payment of the tax levied by this 2098  
section or section 5739.021, 5739.023, or 5739.026 of the 2099  
Revised Code. 2100

**Sec. 5751.01.** As used in this chapter: 2101

(A) "Person" means, but is not limited to, individuals, 2102  
combinations of individuals of any form, receivers, assignees, 2103  
trustees in bankruptcy, firms, companies, joint-stock companies, 2104  
business trusts, estates, partnerships, limited liability 2105  
partnerships, limited liability companies, associations, joint 2106  
ventures, clubs, societies, for-profit corporations, S 2107  
corporations, qualified subchapter S subsidiaries, qualified 2108  
subchapter S trusts, trusts, entities that are disregarded for 2109  
federal income tax purposes, and any other entities. 2110

(B) "Consolidated elected taxpayer" means a group of two 2111  
or more persons treated as a single taxpayer for purposes of 2112  
this chapter as the result of an election made under section 2113  
5751.011 of the Revised Code. 2114

(C) "Combined taxpayer" means a group of two or more 2115  
persons treated as a single taxpayer for purposes of this 2116  
chapter under section 5751.012 of the Revised Code. 2117

(D) "Taxpayer" means any person, or any group of persons 2118  
in the case of a consolidated elected taxpayer or combined 2119  
taxpayer treated as one taxpayer, required to register or pay 2120  
tax under this chapter. "Taxpayer" does not include excluded 2121  
persons. 2122

(E) "Excluded person" means any of the following: 2123

(1) Any person with not more than one hundred fifty 2124  
thousand dollars of taxable gross receipts during the calendar 2125  
year. Division (E) (1) of this section does not apply to a person 2126

that is a member of a consolidated elected taxpayer; 2127

(2) A public utility that paid the excise tax imposed by 2128  
section 5727.24 or 5727.30 of the Revised Code based on one or 2129  
more measurement periods that include the entire tax period 2130  
under this chapter, except that a public utility that is a 2131  
combined company is a taxpayer with regard to the following 2132  
gross receipts: 2133

(a) Taxable gross receipts directly attributed to a public 2134  
utility activity, but not directly attributed to an activity 2135  
that is subject to the excise tax imposed by section 5727.24 or 2136  
5727.30 of the Revised Code; 2137

(b) Taxable gross receipts that cannot be directly 2138  
attributed to any activity, multiplied by a fraction whose 2139  
numerator is the taxable gross receipts described in division 2140  
(E) (2) (a) of this section and whose denominator is the total 2141  
taxable gross receipts that can be directly attributed to any 2142  
activity; 2143

(c) Except for any differences resulting from the use of 2144  
an accrual basis method of accounting for purposes of 2145  
determining gross receipts under this chapter and the use of the 2146  
cash basis method of accounting for purposes of determining 2147  
gross receipts under section 5727.24 of the Revised Code, the 2148  
gross receipts directly attributed to the activity of a natural 2149  
gas company shall be determined in a manner consistent with 2150  
division (D) of section 5727.03 of the Revised Code. 2151

As used in division (E) (2) of this section, "combined 2152  
company" and "public utility" have the same meanings as in 2153  
section 5727.01 of the Revised Code. 2154

(3) A financial institution, as defined in section 5726.01 2155

of the Revised Code, that paid the tax imposed by section 2156  
5726.02 of the Revised Code based on one or more taxable years 2157  
that include the entire tax period under this chapter; 2158

(4) A person directly or indirectly owned by one or more 2159  
financial institutions, as defined in section 5726.01 of the 2160  
Revised Code, that paid the tax imposed by section 5726.02 of 2161  
the Revised Code based on one or more taxable years that include 2162  
the entire tax period under this chapter. 2163

For the purposes of division (E) (4) of this section, a 2164  
person owns another person under the following circumstances: 2165

(a) In the case of corporations issuing capital stock, one 2166  
corporation owns another corporation if it owns fifty per cent 2167  
or more of the other corporation's capital stock with current 2168  
voting rights; 2169

(b) In the case of a limited liability company, one person 2170  
owns the company if that person's membership interest, as 2171  
defined in section 1705.01 of the Revised Code, is fifty per 2172  
cent or more of the combined membership interests of all persons 2173  
owning such interests in the company; 2174

(c) In the case of a partnership, trust, or other 2175  
unincorporated business organization other than a limited 2176  
liability company, one person owns the organization if, under 2177  
the articles of organization or other instrument governing the 2178  
affairs of the organization, that person has a beneficial 2179  
interest in the organization's profits, surpluses, losses, or 2180  
distributions of fifty per cent or more of the combined 2181  
beneficial interests of all persons having such an interest in 2182  
the organization. 2183

(5) A domestic insurance company or foreign insurance 2184

company, as defined in section 5725.01 of the Revised Code, that 2185  
paid the insurance company premiums tax imposed by section 2186  
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 2187  
insurance company whose gross premiums are subject to tax under 2188  
section 3905.36 of the Revised Code based on one or more 2189  
measurement periods that include the entire tax period under 2190  
this chapter; 2191

(6) A person that solely facilitates or services one or 2192  
more securitizations of phase-in-recovery property pursuant to a 2193  
final financing order as those terms are defined in section 2194  
4928.23 of the Revised Code. For purposes of this division, 2195  
"securitization" means transferring one or more assets to one or 2196  
more persons and then issuing securities backed by the right to 2197  
receive payment from the asset or assets so transferred. 2198

(7) Except as otherwise provided in this division, a pre- 2199  
income tax trust as defined in division (FF) (4) of section 2200  
5747.01 of the Revised Code and any pass-through entity of which 2201  
such pre-income tax trust owns or controls, directly, 2202  
indirectly, or constructively through related interests, more 2203  
than five per cent of the ownership or equity interests. If the 2204  
pre-income tax trust has made a qualifying pre-income tax trust 2205  
election under division (FF) (3) of section 5747.01 of the 2206  
Revised Code, then the trust and the pass-through entities of 2207  
which it owns or controls, directly, indirectly, or 2208  
constructively through related interests, more than five per 2209  
cent of the ownership or equity interests, shall not be excluded 2210  
persons for purposes of the tax imposed under section 5751.02 of 2211  
the Revised Code. 2212

(8) Nonprofit organizations or the , other than ineligible 2213  
nonprofit hospital agencies as defined in section 5709.122 of 2214

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| <u>the Revised Code;</u>  | 2215   |
| <u>(9) The</u> state and its agencies, instrumentalities, or<br>political subdivisions.   | 2216<br>2217   |
| (F) Except as otherwise provided in divisions (F) (2), (3),<br>and (4) of this section, "gross receipts" means the total amount<br>realized by a person, without deduction for the cost of goods<br>sold or other expenses incurred, that contributes to the<br>production of gross income of the person, including the fair<br>market value of any property and any services received, and any<br>debt transferred or forgiven as consideration. | 2218<br>2219<br>2220<br>2221<br>2222<br>2223<br>2224 |
| (1) The following are examples of gross receipts:   | 2225   |
| (a) Amounts realized from the sale, exchange, or other<br>disposition of the taxpayer's property to or with another;  | 2226<br>2227   |
| (b) Amounts realized from the taxpayer's performance of<br>services for another;  | 2228<br>2229   |
| (c) Amounts realized from another's use or possession of<br>the taxpayer's property or capital;   | 2230<br>2231   |
| (d) Any combination of the foregoing amounts.   | 2232   |
| (2) "Gross receipts" excludes the following amounts:  | 2233   |
| (a) Interest income except interest on credit sales;  | 2234   |
| (b) Dividends and distributions from corporations, and<br>distributive or proportionate shares of receipts and income from<br>a pass-through entity as defined under section 5733.04 of the<br>Revised Code;  | 2235<br>2236<br>2237<br>2238                         |
| (c) Receipts from the sale, exchange, or other disposition<br>of an asset described in section 1221 or 1231 of the Internal<br>Revenue Code, without regard to the length of time the person  | 2239<br>2240<br>2241                                 |

held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

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

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

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

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements

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| received by or for an individual for medical or education        | 2272 |
| expenses, health insurance premiums, or employee expenses, or on | 2273 |
| account of a dependent care spending account, legal services     | 2274 |
| plan, any cafeteria plan described in section 125 of the         | 2275 |
| Internal Revenue Code, or any similar employee reimbursement;    | 2276 |
| (h) Proceeds received from the issuance of the taxpayer's        | 2277 |
| own stock, options, warrants, puts, or calls, or from the sale   | 2278 |
| of the taxpayer's treasury stock;                                | 2279 |
| (i) Proceeds received on the account of payments from            | 2280 |
| insurance policies, except those proceeds received for the loss  | 2281 |
| of business revenue;   | 2282 |
| (j) Gifts or charitable contributions received; membership       | 2283 |
| dues received by trade, professional, homeowners', or            | 2284 |
| condominium associations; and payments received for educational  | 2285 |
| courses, meetings, meals, or similar payments to a trade,        | 2286 |
| professional, or other similar association; and fundraising      | 2287 |
| receipts received by any person when any excess receipts are     | 2288 |
| donated or used exclusively for charitable purposes;             | 2289 |
| (k) Damages received as the result of litigation in excess       | 2290 |
| of amounts that, if received without litigation, would be gross  | 2291 |
| receipts;  | 2292 |
| (l) Property, money, and other amounts received or               | 2293 |
| acquired by an agent on behalf of another in excess of the       | 2294 |
| agent's commission, fee, or other remuneration;                  | 2295 |
| (m) Tax refunds, other tax benefit recoveries, and               | 2296 |
| reimbursements for the tax imposed under this chapter made by    | 2297 |
| entities that are part of the same combined taxpayer or          | 2298 |
| consolidated elected taxpayer group, and reimbursements made by  | 2299 |
| entities that are not members of a combined taxpayer or          | 2300 |

consolidated elected taxpayer group that are required to be made 2301  
for economic parity among multiple owners of an entity whose tax 2302  
obligation under this chapter is required to be reported and 2303  
paid entirely by one owner, pursuant to the requirements of 2304  
sections 5751.011 and 5751.012 of the Revised Code; 2305

(n) Pension reversions; 2306

(o) Contributions to capital; 2307

(p) Sales or use taxes collected as a vendor or an out-of- 2308  
state seller on behalf of the taxing jurisdiction from a 2309  
consumer or other taxes the taxpayer is required by law to 2310  
collect directly from a purchaser and remit to a local, state, 2311  
or federal tax authority; 2312

(q) In the case of receipts from the sale of cigarettes or 2313  
tobacco products by a wholesale dealer, retail dealer, 2314  
distributor, manufacturer, or seller, all as defined in section 2315  
5743.01 of the Revised Code, an amount equal to the federal and 2316  
state excise taxes paid by any person on or for such cigarettes 2317  
or tobacco products under subtitle E of the Internal Revenue 2318  
Code or Chapter 5743. of the Revised Code; 2319

(r) In the case of receipts from the sale, transfer, 2320  
exchange, or other disposition of motor fuel as "motor fuel" is 2321  
defined in section 5736.01 of the Revised Code, an amount equal 2322  
to the value of the motor fuel, including federal and state 2323  
motor fuel excise taxes and receipts from billing or invoicing 2324  
the tax imposed under section 5736.02 of the Revised Code to 2325  
another person; 2326

(s) In the case of receipts from the sale of beer or 2327  
intoxicating liquor, as defined in section 4301.01 of the 2328  
Revised Code, by a person holding a permit issued under Chapter 2329



4301. or 4303. of the Revised Code, an amount equal to federal 2330  
and state excise taxes paid by any person on or for such beer or 2331  
intoxicating liquor under subtitle E of the Internal Revenue 2332  
Code or Chapter 4301. or 4305. of the Revised Code; 2333

(t) Receipts realized by a new motor vehicle dealer or 2334  
used motor vehicle dealer, as defined in section 4517.01 of the 2335  
Revised Code, from the sale or other transfer of a motor 2336  
vehicle, as defined in that section, to another motor vehicle 2337  
dealer for the purpose of resale by the transferee motor vehicle 2338  
dealer, but only if the sale or other transfer was based upon 2339  
the transferee's need to meet a specific customer's preference 2340  
for a motor vehicle; 2341

(u) Receipts from a financial institution described in 2342  
division (E) (3) of this section for services provided to the 2343  
financial institution in connection with the issuance, 2344  
processing, servicing, and management of loans or credit 2345  
accounts, if such financial institution and the recipient of 2346  
such receipts have at least fifty per cent of their ownership 2347  
interests owned or controlled, directly or constructively 2348  
through related interests, by common owners; 2349

(v) Receipts realized from administering anti-neoplastic 2350  
drugs and other cancer chemotherapy, biologicals, therapeutic 2351  
agents, and supportive drugs in a physician's office to patients 2352  
with cancer; 2353

(w) Funds received or used by a mortgage broker that is 2354  
not a dealer in intangibles, other than fees or other 2355  
consideration, pursuant to a table-funding mortgage loan or 2356  
warehouse-lending mortgage loan. Terms used in division (F) (2) 2357  
(w) of this section have the same meanings as in section 1322.01 2358  
of the Revised Code, except "mortgage broker" means a person 2359

assisting a buyer in obtaining a mortgage loan for a fee or 2360  
other consideration paid by the buyer or a lender, or a person 2361  
engaged in table-funding or warehouse-lending mortgage loans 2362  
that are first lien mortgage loans. 2363

(x) Property, money, and other amounts received by a 2364  
professional employer organization, as defined in section 2365  
4125.01 of the Revised Code, from a client employer, as defined 2366  
in that section, in excess of the administrative fee charged by 2367  
the professional employer organization to the client employer; 2368

(y) In the case of amounts retained as commissions by a 2369  
permit holder under Chapter 3769. of the Revised Code, an amount 2370  
equal to the amounts specified under that chapter that must be 2371  
paid to or collected by the tax commissioner as a tax and the 2372  
amounts specified under that chapter to be used as purse money; 2373

(z) Qualifying distribution center receipts. 2374

(i) For purposes of division (F) (2) (z) of this section: 2375

(I) "Qualifying distribution center receipts" means 2376  
receipts of a supplier from qualified property that is delivered 2377  
to a qualified distribution center, multiplied by a quantity 2378  
that equals one minus the Ohio delivery percentage. If the 2379  
qualified distribution center is a refining facility, "supplier" 2380  
includes all dealers, brokers, processors, sellers, vendors, 2381  
cosigners, and distributors of qualified property. 2382

(II) "Qualified property" means tangible personal property 2383  
delivered to a qualified distribution center that is shipped to 2384  
that qualified distribution center solely for further shipping 2385  
by the qualified distribution center to another location in this 2386  
state or elsewhere or, in the case of gold, silver, platinum, or 2387  
palladium delivered to a refining facility solely for refining 2388

to a grade and fineness acceptable for delivery to a registered 2389  
commodities exchange. "Further shipping" includes storing and 2390  
repackaging property into smaller or larger bundles, so long as 2391  
the property is not subject to further manufacturing or 2392  
processing. "Refining" is limited to extracting impurities from 2393  
gold, silver, platinum, or palladium through smelting or some 2394  
other process at a refining facility. 2395

(III) "Qualified distribution center" means a warehouse, a 2396  
facility similar to a warehouse, or a refining facility in this 2397  
state that, for the qualifying year, is operated by a person 2398  
that is not part of a combined taxpayer group and that has a 2399  
qualifying certificate. All warehouses or facilities similar to 2400  
warehouses that are operated by persons in the same taxpayer 2401  
group and that are located within one mile of each other shall 2402  
be treated as one qualified distribution center. All refining 2403  
facilities that are operated by persons in the same taxpayer 2404  
group and that are located in the same or adjacent counties may 2405  
be treated as one qualified distribution center. 2406

(IV) "Qualifying year" means the calendar year to which 2407  
the qualifying certificate applies. 2408

(V) "Qualifying period" means the period of the first day 2409  
of July of the second year preceding the qualifying year through 2410  
the thirtieth day of June of the year preceding the qualifying 2411  
year. 2412

(VI) "Qualifying certificate" means the certificate issued 2413  
by the tax commissioner after the operator of a distribution 2414  
center files an annual application with the commissioner. The 2415  
application and annual fee shall be filed and paid for each 2416  
qualified distribution center on or before the first day of 2417  
September before the qualifying year or within forty-five days 2418

after the distribution center opens, whichever is later. 2419

The applicant must substantiate to the commissioner's 2420  
satisfaction that, for the qualifying period, all persons 2421  
operating the distribution center have more than fifty per cent 2422  
of the cost of the qualified property shipped to a location such 2423  
that it would be situated outside this state under the provisions 2424  
of division (E) of section 5751.033 of the Revised Code. The 2425  
applicant must also substantiate that the distribution center 2426  
cumulatively had costs from its suppliers equal to or exceeding 2427  
five hundred million dollars during the qualifying period. (For 2428  
purposes of division (F)(2)(z)(i)(VI) of this section, 2429  
"supplier" excludes any person that is part of the consolidated 2430  
elected taxpayer group, if applicable, of the operator of the 2431  
qualified distribution center.) The commissioner may require the 2432  
applicant to have an independent certified public accountant 2433  
certify that the calculation of the minimum thresholds required 2434  
for a qualified distribution center by the operator of a 2435  
distribution center has been made in accordance with generally 2436  
accepted accounting principles. The commissioner shall issue or 2437  
deny the issuance of a certificate within sixty days after the 2438  
receipt of the application. A denial is subject to appeal under 2439  
section 5717.02 of the Revised Code. If the operator files a 2440  
timely appeal under section 5717.02 of the Revised Code, the 2441  
operator shall be granted a qualifying certificate effective for 2442  
the remainder of the qualifying year or until the appeal is 2443  
finalized, whichever is earlier. If the operator does not 2444  
prevail in the appeal, the operator shall pay the ineligible 2445  
operator's supplier tax liability. 2446

(VII) "Ohio delivery percentage" means the proportion of 2447  
the total property delivered to a destination inside Ohio from 2448  
the qualified distribution center during the qualifying period 2449

compared with total deliveries from such distribution center 2450  
everywhere during the qualifying period. 2451

(VIII) "Refining facility" means one or more buildings 2452  
located in a county in the Appalachian region of this state as 2453  
defined by section 107.21 of the Revised Code and utilized for 2454  
refining or smelting gold, silver, platinum, or palladium to a 2455  
grade and fineness acceptable for delivery to a registered 2456  
commodities exchange. 2457

(IX) "Registered commodities exchange" means a board of 2458  
trade, such as New York mercantile exchange, inc. or commodity 2459  
exchange, inc., designated as a contract market by the commodity 2460  
futures trading commission under the "Commodity Exchange Act," 7 2461  
U.S.C. 1 et seq., as amended. 2462

(X) "Ineligible operator's supplier tax liability" means 2463  
an amount equal to the tax liability of all suppliers of a 2464  
distribution center had the distribution center not been issued 2465  
a qualifying certificate for the qualifying year. Ineligible 2466  
operator's supplier tax liability shall not include interest or 2467  
penalties. The tax commissioner shall determine an ineligible 2468  
operator's supplier tax liability based on information that the 2469  
commissioner may request from the operator of the distribution 2470  
center. An operator shall provide a list of all suppliers of the 2471  
distribution center and the corresponding costs of qualified 2472  
property for the qualifying year at issue within sixty days of a 2473  
request by the commissioner under this division. 2474

(ii) (I) If the distribution center is new and was not open 2475  
for the entire qualifying period, the operator of the 2476  
distribution center may request that the commissioner grant a 2477  
qualifying certificate. If the certificate is granted and it is 2478  
later determined that more than fifty per cent of the qualified 2479

property during that year was not shipped to a location such 2480  
that it would be situated outside of this state under the 2481  
provisions of division (E) of section 5751.033 of the Revised 2482  
Code or if it is later determined that the person that operates 2483  
the distribution center had average monthly costs from its 2484  
suppliers of less than forty million dollars during that year, 2485  
then the operator of the distribution center shall pay the 2486  
ineligible operator's supplier tax liability. (For purposes of 2487  
division (F) (2) (z) (ii) of this section, "supplier" excludes any 2488  
person that is part of the consolidated elected taxpayer group, 2489  
if applicable, of the operator of the qualified distribution 2490  
center.) 2491

(II) The commissioner may grant a qualifying certificate 2492  
to a distribution center that does not qualify as a qualified 2493  
distribution center for an entire qualifying period if the 2494  
operator of the distribution center demonstrates that the 2495  
business operations of the distribution center have changed or 2496  
will change such that the distribution center will qualify as a 2497  
qualified distribution center within thirty-six months after the 2498  
date the operator first applies for a certificate. If, at the 2499  
end of that thirty-six-month period, the business operations of 2500  
the distribution center have not changed such that the 2501  
distribution center qualifies as a qualified distribution 2502  
center, the operator of the distribution center shall pay the 2503  
ineligible operator's supplier tax liability for each year that 2504  
the distribution center received a certificate but did not 2505  
qualify as a qualified distribution center. For each year the 2506  
distribution center receives a certificate under division (F) (2) 2507  
(z) (ii) (II) of this section, the distribution center shall pay 2508  
all applicable fees required under division (F) (2) (z) of this 2509  
section and shall submit an updated business plan showing the 2510

progress the distribution center made toward qualifying as a 2511  
qualified distribution center during the preceding year. 2512

(III) An operator may appeal a determination under 2513  
division (F) (2) (z) (ii) (I) or (II) of this section that the 2514  
ineligible operator is liable for the operator's supplier tax 2515  
liability as a result of not qualifying as a qualified 2516  
distribution center, as provided in section 5717.02 of the 2517  
Revised Code. 2518

(iii) When filing an application for a qualifying 2519  
certificate under division (F) (2) (z) (i) (VI) of this section, the 2520  
operator of a qualified distribution center also shall provide 2521  
documentation, as the commissioner requires, for the 2522  
commissioner to ascertain the Ohio delivery percentage. The 2523  
commissioner, upon issuing the qualifying certificate, also 2524  
shall certify the Ohio delivery percentage. The operator of the 2525  
qualified distribution center may appeal the commissioner's 2526  
certification of the Ohio delivery percentage in the same manner 2527  
as an appeal is taken from the denial of a qualifying 2528  
certificate under division (F) (2) (z) (i) (VI) of this section. 2529

(iv) (I) In the case where the distribution center is new 2530  
and not open for the entire qualifying period, the operator 2531  
shall make a good faith estimate of an Ohio delivery percentage 2532  
for use by suppliers in their reports of taxable gross receipts 2533  
for the remainder of the qualifying period. The operator of the 2534  
facility shall disclose to the suppliers that such Ohio delivery 2535  
percentage is an estimate and is subject to recalculation. By 2536  
the due date of the next application for a qualifying 2537  
certificate, the operator shall determine the actual Ohio 2538  
delivery percentage for the estimated qualifying period and 2539  
proceed as provided in division (F) (2) (z) (iii) of this section 2540

with respect to the calculation and recalculation of the Ohio 2541  
delivery percentage. The supplier is required to file, within 2542  
sixty days after receiving notice from the operator of the 2543  
qualified distribution center, amended reports for the impacted 2544  
calendar quarter or quarters or calendar year, whichever the 2545  
case may be. Any additional tax liability or tax overpayment 2546  
shall be subject to interest but shall not be subject to the 2547  
imposition of any penalty so long as the amended returns are 2548  
timely filed. 2549

(II) The operator of a distribution center that receives a 2550  
qualifying certificate under division (F) (2) (z) (ii) (II) of this 2551  
section shall make a good faith estimate of the Ohio delivery 2552  
percentage that the operator estimates will apply to the 2553  
distribution center at the end of the thirty-six-month period 2554  
after the operator first applied for a qualifying certificate 2555  
under that division. The result of the estimate shall be 2556  
multiplied by a factor of one and seventy-five one-hundredths. 2557  
The product of that calculation shall be the Ohio delivery 2558  
percentage used by suppliers in their reports of taxable gross 2559  
receipts for each qualifying year that the distribution center 2560  
receives a qualifying certificate under division (F) (2) (z) (ii) 2561  
(II) of this section, except that, if the product is less than 2562  
five per cent, the Ohio delivery percentage used shall be five 2563  
per cent and that, if the product exceeds forty-nine per cent, 2564  
the Ohio delivery percentage used shall be forty-nine per cent. 2565

(v) Qualifying certificates and Ohio delivery percentages 2566  
issued by the commissioner shall be open to public inspection 2567  
and shall be timely published by the commissioner. A supplier 2568  
relying in good faith on a certificate issued under this 2569  
division shall not be subject to tax on the qualifying 2570  
distribution center receipts under division (F) (2) (z) of this 2571



section. An operator receiving a qualifying certificate is 2572  
liable for the ineligible operator's supplier tax liability for 2573  
each year the operator received a certificate but did not 2574  
qualify as a qualified distribution center. 2575

(vi) The annual fee for a qualifying certificate shall be 2576  
one hundred thousand dollars for each qualified distribution 2577  
center. If a qualifying certificate is not issued, the annual 2578  
fee is subject to refund after the exhaustion of all appeals 2579  
provided for in division (F) (2) (z) (i) (VI) of this section. The 2580  
first one hundred thousand dollars of the annual application 2581  
fees collected each calendar year shall be credited to the 2582  
revenue enhancement fund. The remainder of the annual 2583  
application fees collected shall be distributed in the same 2584  
manner required under section 5751.20 of the Revised Code. 2585

(vii) The tax commissioner may require that adequate 2586  
security be posted by the operator of the distribution center on 2587  
appeal when the commissioner disagrees that the applicant has 2588  
met the minimum thresholds for a qualified distribution center 2589  
as set forth in division (F) (2) (z) of this section. 2590

(aa) Receipts of an employer from payroll deductions 2591  
relating to the reimbursement of the employer for advancing 2592  
moneys to an unrelated third party on an employee's behalf; 2593

(bb) Cash discounts allowed and taken; 2594

(cc) Returns and allowances; 2595

(dd) Bad debts from receipts on the basis of which the tax 2596  
imposed by this chapter was paid in a prior quarterly tax 2597  
payment period. For the purpose of this division, "bad debts" 2598  
means any debts that have become worthless or uncollectible 2599  
between the preceding and current quarterly tax payment periods, 2600

have been uncollected for at least six months, and that may be 2601  
claimed as a deduction under section 166 of the Internal Revenue 2602  
Code and the regulations adopted under that section, or that 2603  
could be claimed as such if the taxpayer kept its accounts on 2604  
the accrual basis. "Bad debts" does not include repossessed 2605  
property, uncollectible amounts on property that remains in the 2606  
possession of the taxpayer until the full purchase price is 2607  
paid, or expenses in attempting to collect any account 2608  
receivable or for any portion of the debt recovered; 2609

(ee) Any amount realized from the sale of an account 2610  
receivable to the extent the receipts from the underlying 2611  
transaction giving rise to the account receivable were included 2612  
in the gross receipts of the taxpayer; 2613

(ff) Any receipts directly attributed to a transfer 2614  
agreement or to the enterprise transferred under that agreement 2615  
under section 4313.02 of the Revised Code. 2616

(gg) (i) As used in this division: 2617

(I) "Qualified uranium receipts" means receipts from the 2618  
sale, exchange, lease, loan, production, processing, or other 2619  
disposition of uranium within a uranium enrichment zone 2620  
certified by the tax commissioner under division (F) (2) (gg) (ii) 2621  
of this section. "Qualified uranium receipts" does not include 2622  
any receipts with a situs in this state outside a uranium 2623  
enrichment zone certified by the tax commissioner under division 2624  
(F) (2) (gg) (ii) of this section. 2625

(II) "Uranium enrichment zone" means all real property 2626  
that is part of a uranium enrichment facility licensed by the 2627  
United States nuclear regulatory commission and that was or is 2628  
owned or controlled by the United States department of energy or 2629

its successor. 2630

(ii) Any person that owns, leases, or operates real or 2631  
tangible personal property constituting or located within a 2632  
uranium enrichment zone may apply to the tax commissioner to 2633  
have the uranium enrichment zone certified for the purpose of 2634  
excluding qualified uranium receipts under division (F) (2) (gg) 2635  
of this section. The application shall include such information 2636  
that the tax commissioner prescribes. Within sixty days after 2637  
receiving the application, the tax commissioner shall certify 2638  
the zone for that purpose if the commissioner determines that 2639  
the property qualifies as a uranium enrichment zone as defined 2640  
in division (F) (2) (gg) of this section, or, if the tax 2641  
commissioner determines that the property does not qualify, the 2642  
commissioner shall deny the application or request additional 2643  
information from the applicant. If the tax commissioner denies 2644  
an application, the commissioner shall state the reasons for the 2645  
denial. The applicant may appeal the denial of an application to 2646  
the board of tax appeals pursuant to section 5717.02 of the 2647  
Revised Code. If the applicant files a timely appeal, the tax 2648  
commissioner shall conditionally certify the applicant's 2649  
property. The conditional certification shall expire when all of 2650  
the applicant's appeals are exhausted. Until final resolution of 2651  
the appeal, the applicant shall retain the applicant's records 2652  
in accordance with section 5751.12 of the Revised Code, 2653  
notwithstanding any time limit on the preservation of records 2654  
under that section. 2655

(hh) In the case of amounts collected by a licensed casino 2656  
operator from casino gaming, amounts in excess of the casino 2657  
operator's gross casino revenue. In this division, "casino 2658  
operator" and "casino gaming" have the meanings defined in 2659  
section 3772.01 of the Revised Code, and "gross casino revenue" 2660

has the meaning defined in section 5753.01 of the Revised Code. 2661

(ii) Receipts realized from the sale of agricultural 2662  
commodities by an agricultural commodity handler, both as 2663  
defined in section 926.01 of the Revised Code, that is licensed 2664  
by the director of agriculture to handle agricultural 2665  
commodities in this state. 2666

(jj) Qualifying integrated supply chain receipts. 2667

As used in division (F)(2)(jj) of this section: 2668

(i) "Qualifying integrated supply chain receipts" means 2669  
receipts of a qualified integrated supply chain vendor from the 2670  
sale of qualified property delivered to, or integrated supply 2671  
chain services provided to, another qualified integrated supply 2672  
chain vendor or to a retailer that is a member of the integrated 2673  
supply chain. "Qualifying integrated supply chain receipts" does 2674  
not include receipts of a person that is not a qualified 2675  
integrated supply chain vendor from the sale of raw materials to 2676  
a member of an integrated supply chain, or receipts of a member 2677  
of an integrated supply chain from the sale of qualified 2678  
property or integrated supply chain services to a person that is 2679  
not a member of the integrated supply chain. 2680

(ii) "Qualified property" means any of the following: 2681

(I) Component parts used to hold, contain, package, or 2682  
dispense qualified products, excluding equipment; 2683

(II) Work-in-process inventory that will become, comprise, 2684  
or form a component part of a qualified product capable of being 2685  
sold at retail, excluding equipment, machinery, furniture, and 2686  
fixtures; 2687

(III) Finished goods inventory that is a qualified product 2688

capable of being sold at retail in the inventory's present form. 2689

(iii) "Qualified integrated supply chain vendor" means a 2690  
person that is a member of an integrated supply chain and that 2691  
provides integrated supply chain services within a qualified 2692  
integrated supply chain district to a retailer that is a member 2693  
of the integrated supply chain or to another qualified 2694  
integrated supply chain vendor that is located within the same 2695  
such district as the person but does not share a common owner 2696  
with that person. 2697

(iv) "Qualified product" means a personal care, health, or 2698  
beauty product or an aromatic product, including a candle. 2699  
"Qualified product" does not include a drug that may be 2700  
dispensed only pursuant to a prescription, durable medical 2701  
equipment, mobility enhancing equipment, or a prosthetic device, 2702  
as those terms are defined in section 5739.01 of the Revised 2703  
Code. 2704

(v) "Integrated supply chain" means two or more qualified 2705  
integrated supply chain vendors certified on the most recent 2706  
list certified to the tax commissioner under this division that 2707  
systematically collaborate and coordinate business operations 2708  
with a retailer on the flow of tangible personal property from 2709  
material sourcing through manufacturing, assembly, packaging, 2710  
and delivery to the retailer to improve long-term financial 2711  
performance of each vendor and the supply chain that includes 2712  
the retailer. 2713

For the purpose of the certification required under this 2714  
division, the reporting person for each retailer, on or before 2715  
the first day of October of each year, shall certify to the tax 2716  
commissioner a list of the qualified integrated supply chain 2717  
vendors providing or receiving integrated supply chain services 2718

within a qualified integrated supply chain district for the 2719  
ensuing calendar year. On or before the following first day of 2720  
November, the commissioner shall issue a certificate to the 2721  
retailer and to each vendor certified to the commissioner on 2722  
that list. The certificate shall include the names of the 2723  
retailer and of the qualified integrated supply chain vendors. 2724

The retailer shall notify the commissioner of any changes 2725  
to the list, including additions to or subtractions from the 2726  
list or changes in the name or legal entity of vendors certified 2727  
on the list, within sixty days after the date the retailer 2728  
becomes aware of the change. Within thirty days after receiving 2729  
that notification, the commissioner shall issue a revised 2730  
certificate to the retailer and to each vendor certified on the 2731  
list. The revised certificate shall include the effective date 2732  
of the change. 2733

Each recipient of a certificate issued pursuant to this 2734  
division shall maintain a copy of the certificate for four years 2735  
from the date the certificate was received. 2736

(vi) "Integrated supply chain services" means procuring 2737  
raw materials or manufacturing, processing, refining, 2738  
assembling, packaging, or repackaging tangible personal property 2739  
that will become finished goods inventory capable of being sold 2740  
at retail by a retailer that is a member of an integrated supply 2741  
chain. 2742

(vii) "Retailer" means a person primarily engaged in 2743  
making retail sales and any member of that person's consolidated 2744  
elected taxpayer group or combined taxpayer group, whether or 2745  
not that member is primarily engaged in making retail sales. 2746

(viii) "Qualified integrated supply chain district" means 2747

the parcel or parcels of land from which a retailer's integrated 2748  
supply chain that existed on September 29, 2015, provides or 2749  
receives integrated supply chain services, and to which all of 2750  
the following apply: 2751

(I) The parcel or parcels are located wholly in a county 2752  
having a population of greater than one hundred sixty-five 2753  
thousand but less than one hundred seventy thousand based on the 2754  
2010 federal decennial census. 2755

(II) The parcel or parcels are located wholly in the 2756  
corporate limits of a municipal corporation with a population 2757  
greater than seven thousand five hundred and less than eight 2758  
thousand based on the 2010 federal decennial census that is 2759  
partly located in the county described in division (F)(2)(jj) 2760  
(viii)(I) of this section, as those corporate limits existed on 2761  
September 29, 2015. 2762

(III) The aggregate acreage of the parcel or parcels 2763  
equals or exceeds one hundred acres. 2764

(kk) In the case of a railroad company described in 2765  
division (D)(9) of section 5727.01 of the Revised Code that 2766  
purchases dyed diesel fuel directly from a supplier as defined 2767  
by section 5736.01 of the Revised Code, an amount equal to the 2768  
product of the number of gallons of dyed diesel fuel purchased 2769  
directly from such a supplier multiplied by the average 2770  
wholesale price for a gallon of diesel fuel as determined under 2771  
section 5736.02 of the Revised Code for the period during which 2772  
the fuel was purchased multiplied by a fraction, the numerator 2773  
of which equals the rate of tax levied by section 5736.02 of the 2774  
Revised Code less the rate of tax computed in section 5751.03 of 2775  
the Revised Code, and the denominator of which equals the rate 2776  
of tax computed in section 5751.03 of the Revised Code. 2777

(ll) Receipts realized by an out-of-state disaster 2778  
business from disaster work conducted in this state during a 2779  
disaster response period pursuant to a qualifying solicitation 2780  
received by the business. Terms used in ~~this~~ division (F) (2) (ll) 2781  
of this section have the same meanings as in section 5703.94 of 2782  
the Revised Code. 2783

(mm) Any receipts for which the tax imposed by this 2784  
chapter is prohibited by the constitution or laws of the United 2785  
States or the constitution of this state. 2786

(3) In the case of a taxpayer when acting as a real estate 2787  
broker, "gross receipts" includes only the portion of any fee 2788  
for the service of a real estate broker, or service of a real 2789  
estate salesperson associated with that broker, that is retained 2790  
by the broker and not paid to an associated real estate 2791  
salesperson or another real estate broker. For the purposes of 2792  
this division, "real estate broker" and "real estate 2793  
salesperson" have the same meanings as in section 4735.01 of the 2794  
Revised Code. 2795

(4) A taxpayer's method of accounting for gross receipts 2796  
for a tax period shall be the same as the taxpayer's method of 2797  
accounting for federal income tax purposes for the taxpayer's 2798  
federal taxable year that includes the tax period. If a 2799  
taxpayer's method of accounting for federal income tax purposes 2800  
changes, its method of accounting for gross receipts under this 2801  
chapter shall be changed accordingly. 2802

(G) "Taxable gross receipts" means gross receipts situated 2803  
to this state under section 5751.033 of the Revised Code. 2804

(H) A person has "substantial nexus with this state" if 2805  
any of the following applies. The person: 2806



|  |                                      |
|--|--------------------------------------|
| (1) Owns or uses a part or all of its capital in this state;   | 2807<br>2808                         |
| (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;   | 2809<br>2810                         |
| (3) Has bright-line presence in this state;  | 2811                                 |
| (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.  | 2812<br>2813<br>2814                 |
| (I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:   | 2815<br>2816<br>2817                 |
| (1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge. | 2818<br>2819<br>2820<br>2821<br>2822 |
| (2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:  | 2823<br>2824<br>2825                 |
| (a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;   | 2826<br>2827                         |
| (b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and  | 2828<br>2829<br>2830                 |
| (c) Any amount the person pays for services performed in this state on its behalf by another.  | 2831<br>2832                         |
| (3) Has during the calendar year taxable gross receipts of   | 2833                                 |

at least five hundred thousand dollars. 2834

(4) Has at any time during the calendar year within this 2835  
state at least twenty-five per cent of the person's total 2836  
property, total payroll, or total gross receipts. 2837

(5) Is domiciled in this state as an individual or for 2838  
corporate, commercial, or other business purposes. 2839

(J) "Tangible personal property" has the same meaning as 2840  
in section 5739.01 of the Revised Code. 2841

(K) "Internal Revenue Code" means the Internal Revenue 2842  
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 2843  
used in this chapter that is not otherwise defined has the same 2844  
meaning as when used in a comparable context in the laws of the 2845  
United States relating to federal income taxes unless a 2846  
different meaning is clearly required. Any reference in this 2847  
chapter to the Internal Revenue Code includes other laws of the 2848  
United States relating to federal income taxes. 2849

(L) "Calendar quarter" means a three-month period ending 2850  
on the thirty-first day of March, the thirtieth day of June, the 2851  
thirtieth day of September, or the thirty-first day of December. 2852

(M) "Tax period" means the calendar quarter or calendar 2853  
year on the basis of which a taxpayer is required to pay the tax 2854  
imposed under this chapter. 2855

(N) "Calendar year taxpayer" means a taxpayer for which 2856  
the tax period is a calendar year. 2857

(O) "Calendar quarter taxpayer" means a taxpayer for which 2858  
the tax period is a calendar quarter. 2859

(P) "Agent" means a person authorized by another person to 2860  
act on its behalf to undertake a transaction for the other, 2861

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|--|--|
| including any of the following:  | 2862   |
| (1) A person receiving a fee to sell financial instruments;  | 2863<br>2864   |
| (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;   | 2865<br>2866<br>2867                                 |
| (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;   | 2868<br>2869   |
| (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;  | 2870<br>2871   |
| (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.   | 2872<br>2873   |
| (Q) "Received" includes amounts accrued under the accrual method of accounting.  | 2874<br>2875   |
| (R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group. | 2876<br>2877<br>2878<br>2879<br>2880<br>2881<br>2882 |
| <b>Section 2.</b> That existing sections 5739.01, 5739.02, and 5751.01 of the Revised Code are hereby repealed.  | 2883<br>2884   |
| <b>Section 3.</b> Section 5739.02 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 49, Sub. H.B. 430, and Sub. S.B. 226, all of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised   | 2885<br>2886<br>2887<br>2888<br>2889                 |

|   |      |
|---|------|
| Code that amendments are to be harmonized if reasonably capable | 2890 |
| of simultaneous operation, finds that the composite is the      | 2891 |
| resulting version of the section in effect prior to the         | 2892 |
| effective date of the section as presented in this act.         | 2893 |